House of Commons
Justice Committee

The role of the
Probation Service

Eighth Report of Session 2010–12

Volume II
Oral and written evidence

Additional written evidence is contained in Volume III, available on the Committee website at www.parliament.uk/justicecom

Ordered by the House of Commons
to be printed 12 July 2011
Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General’s Office, the Treasury Solicitor’s Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

Current membership

Rt Hon Sir Alan Beith (Liberal Democrat, Berwick-upon-Tweed) (Chair)
Mr Robert Buckland (Conservative, South Swindon)
Jeremy Corbyn (Labour, Islington North)
Christopher Evans (Labour/Co-operative, Islwyn)
Mrs Helen Grant (Conservative, Maidstone and The Weald)
Ben Gummer (Conservative, Ipswich)
Mr Elfyn Llwyd (Plaid Cymru, Dwyfor Meirionnydd)
Claire Perry (Conservative, Devizes)
Yasmin Qureshi (Labour, Bolton South East)
Mrs Linda Riordan (Labour/Co-operative, Halifax)
Elizabeth Truss (Conservative, South West Norfolk)
Karl Turner (Labour, Kingston upon Hull East)

The following Members were also members of the Committee during the Parliament:
Jessica Lee (Conservative, Erewash); Anna Soubry (Conservative, Broxtowe; and Mrs Siân James (Labour, Swansea East).

Powers
The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication
The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at www.parliament.uk/justicecttee. A list of Reports of the Committee in the present Parliament is at the back of this volume.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume. Additional written evidence may be published on the internet only.

Committee staff
The current staff of the Committee are Tom Goldsmith (Clerk), Emma Graham (Second Clerk), Hannah Stewart (Committee Legal Specialist), Gemma Buckland (Committee Specialist), Ana Ferreira (Senior Committee Assistant), Anna Browning (Committee Assistant), Henry Ayi-Hyde (Committee Support Assistant), and Nick Davies (Committee Media Officer).

Contacts
Correspondence should be addressed to the Clerk of the Justice Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 8196 and the email address is justicecom@parliament.uk
Witnesses

Tuesday 12 October 2010  
Daniel Mitchell, Brett Hawksley, Angela Prince and Daniel Coriat, Revolving Doors national service user forum; and Tina Braithwaite, Director of service user involvement, Revolving Doors Agency.

Tuesday 2 November 2010  
Mark Mitchell, Institute of Criminal Justice Studies, University of Portsmouth; Barrie Crook, Chief Executive, Hampshire Probation Trust and Learning and Development lead for Probation Chiefs Association; and Leslie Thompson, Director, North West Training Consortium.

Robin Wilkinson, Director, NOMS Human Resources; and Alan Woods OBE, Chief Executive, Skills for Justice.

Tuesday 8 March 2011  
Professor Martin Chalkley, University of Dundee; Genevieve Knight, Policy Studies Institute; Jen Byrne, A4E; and Toby Eccles, Social Finance.

Helen Edwards CBE, and Luke Edwards, Ministry of Justice; and Ian Porée, National Offender Management Service

Tuesday 29 March 2011  
Andrew Bridges CBE, HM Chief Inspector of Probation.

Wednesday 11 May 2011  
Sebert Cox, Chair, and Christine Lawrie, Chief Executive, Probation Association; Sue Hall, Chair, Probation Chiefs Association; and Tessa Webb, Deputy Lead for Public Protection and lead for Big Society for the Probation Chiefs Association.

Tuesday 17 May 2011  
Jonathan Ledger, General Secretary, Napo; and Matthew Lay, Chair, Probation Committee, UNISON.

Wednesday 18 May 2011  
Clive Martin, Director, Clinks; Rob Smith, Chief Executive, Youth Support Services; Chris Wright, Chief Operating Officer, Catch22; and Andrew Neilson, Assistant Director, Howard League for Penal Reform.

Monday 23 May 2011  
Martin Narey, Former Chief Executive, NOMS, 2004–05.
Tuesday 24 May 2011

Sonia Crozier, Chief Executive, John Steele, Chair, and Leighe Rogers, Operational Director, Surrey and Sussex Probation Trust; and Linda Beanlands, Brighton and Hove City Council.

Graham Bartlett, Chief Superintendent, Sussex Police; Lisa Dando, Brighton Women’s Centre; Jason Mahoney, Hastings and Rother Primary Care Trust; and Claire Brown JP, Magistrate and Chair of Sussex Central Bench.

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Tuesday 7 June 2011

John Thornhill, Magistrates’ Association; and Councillor Mehboob Khan, Local Government Association.

Jane Coyle, Director, Blue Bay Support Services; Roger Hill, Director, Community and Partnerships, Sodexo; and Peter Neden, Corporate Development Director, G4S

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Wednesday 8 June 2011

Professor Ken Pease OBE, Manchester Business School; Professor Hazel Kemshall, De Montfort University; and Professor Carol Hedderman, University of Leicester.

Mr David Chantler, Chief Executive, West Mercia Probation; Mr John Long, Assistant Chief Constable, Avon and Somerset Police; and Mr John Quick, Assistant Chief Officer, Merseyside Probation Trust.

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Tuesday 14 June 2011

Mr Crispin Blunt MP, Parliamentary Under-Secretary of State, Ministry of Justice; Colin Allars, Director, Probation and Contracted Services; and Martin Copsey, Head of Community Commissioning, NOMS.

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### List of printed written evidence

1. Revolving Doors Agency  
2. Probation Chiefs Association  
3. Mark Mitchell, University of Portsmouth  
4. Professor Martin Chalkley  
5. A4e  
6. Transition to Adulthood (T2A)  
7. Ministry of Justice  
8. Probation Association  
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10. UNISON  
11. Clinks  
12. Catch22  
13. Howard League for Penal Reform  
14. Surrey and Sussex Probation Trust  
15. Magistrates’ Association Judicial Policy and Practice  
16. Blue Bay Support Services  
17. G4S Care and Justice Services (UK) Limited  
18. Professor Hazel Kemshall  
19. Professor Hazel Kemshall and Dr Brian Stout  
20. Robin Wilkinson, Director HR, NOMS  
21. Professor Ken Pease, Professor of Criminology, Manchester Business School

### List of additional written evidence

(published in Volume III on the Committee’s website www.parliament.uk/justicecom)

1. Jill Stuchfield JP, Mid North Essex  
2. C B McGown  
3. Mr Will Watson  
4. Staffordshire and West Midlands Probation Trust  
5. Raymond Ashley JP  
6. Confederation of British Industry (CBI)  
7. Mike Guilfoyle  
8. The Griffins Society  
9. Local Crime Community Sentence National Steering Group Probation Association  
10. Hertfordshire Probation Trust  
11. Make Justice Work  
12. Bench and the Probation Liaison Committee Chairmen in Northumbria
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Taken before the Justice Committee  

on Tuesday 12 October 2010

Members present:

Sir Alan Beith (Chair)
Mr Robert Buckland
Christopher Evans
Mrs Helen Grant
Mrs Siân C James
Mr Elfyn Llwyd
Claire Perry
Yasmin Qureshi
Mrs Linda Riordan
Anna Soubry
Karl Turner

Examination of Witnesses

Witnesses: Daniel Mitchell, Revolving Doors Agency national service user forum, Brett Hawksley, Revolving Doors Agency national service user forum, Angela Prince, Revolving Doors Agency national service user forum, Daniel Coriat, Revolving Doors Agency national service user forum, and Tina Braithwaite, Director of service user involvement, Revolving Doors Agency, gave evidence.

Q1 Chair: Good morning, and welcome Mr Hawksley, Mr Coriat, Ms Prince, Mr Mitchell and Ms Braithwaite. We are really grateful to you for coming along to help us with our work on the probation service, which we see as having a very important place in future strategy to deal with crime. You have all, in different ways, had some experience of it so we are anxious to learn from you about what you actually think of it. Feel absolutely free to respond and to indicate if you want to come in because somebody may say something you do not even agree with and you want to give your own particular point of view or they may miss something out which you think is important. Different members of the Committee will put questions to you on different subjects, but I would just like to start by seeing if anyone would like to tell me, when they first walked into their first appointment, what they thought it was all like to start by seeing if anyone would like to tell me, what it was all about and what it was like. Any offers? 

Brett Hawksley: I will go first.

Q2 Chair: Yes, so what do you think?

Brett Hawksley: Obviously, at first, for me, it was really daunting. You hear lots of things about probation but for me myself, when I first went into probation, I was told about my licence, about what it was all about, what I would have to do, what would happen if I didn’t do it, and, for me, I thought that it was quite an information overload. I thought there was too much information for me to take on board and it took quite a while for me to understand totally exactly what I had to do. So that was my experience.

Q3 Chair: What did you think it was for? Did you see it as part of the punishment or did you see it as something else?

Daniel Mitchell: As far as I understood, I was given a probation order for six months so I could stay within the community. I would be assigned a key worker, keep to appointments, and, instead of going to prison, it was a way of being able to stay within the community, work with my key worker on some of the issues that had brought me to prison in the first place and go through with my probation officer how—

Q4 Chair: So had you served a prison sentence?

Daniel Mitchell: No, I hadn’t so this was the very next step. So, if you like, I was lucky to have been given a probation order, if you like—that is how I looked at it—before actually going into prison.

Q5 Chair: Do you think you have been treated lightly or that this was a last chance saloon?

Daniel Mitchell: I thought that if I was going to prison then I just didn’t see that as rehabilitation at all. I would just have seen that as me going to prison and that would be it, whereas I thought, “Actually, I’m being given a chance to do a probation order.” No, I don’t see it as lucky, but as just more of a chance to deal with the problems that I was going through rather than going into prison and not dealing with them.

Q6 Anna Soubry: Had you been on remand? Were you on remand before you got your order?

Daniel Mitchell: No.

Angela Prince: Mine was totally different because I actually had been to prison. I got six years, but I did three years in prison so I was on probation and still am on probation for another six months. So it was different for me. I wasn’t scared to go because my licence was just not to leave the country, but I had to work with a probation officer. Basically, I think that everything I basically did for myself really. What they could do for me, I could do that for myself.

Q7 Chair: So if you had not had the probation order, if you had not had that, would you have changed your behaviour?

Angela Prince: Yes, I would have done it myself because I think, as an individual, it is for you to make that change. If you don’t want to make that change, that probation officer can’t make you make that change, whatever they say. It’s up to you if you want to make that change. If you don’t want to change, if
you want to keep reoffending, that is what you are going to do.

Q8 Chair: But aren’t we, as the public and the public we represent, entitled to know through the probation service that somebody is checking whether you are making a change in your behaviour?

Angela Prince: Well, from my experience, I don’t really think they bother. Half the time, it was just like they are just doing a job and they are getting paid for it and that is how I saw it.

Q9 Claire Perry: May I ask on that point, Ms Prince, was your appointment or were your appointments about a process—you kind of ticked off boxes—or was somebody actually working with you to address the specific issues that you were dealing with?

Angela Prince: This is something we talked about yesterday. It’s like, I didn’t see any papers they were ticking and basically that’s all it was about. Personally, I would have said it all myself. There was nothing that made me think that they’re helping me.

Q10 Claire Perry: Would anyone else have a comment on that?

Daniel Mitchell: Yes, I would. I’ve had a couple of probation orders and I’ve had ones from one end of the spectrum to the other. I’ve had one where I’ve actually built up a rapport with somebody and they’ve actually looked into my needs and actually built, you know, the probation order around the needs of myself to help me get better and that has actually got me to the stage where I’m at now. But I’ve also been given appointments where I’ve gone in, “Hi, I’ve signed in.” “The key worker is ready to see you.” You go on into the room. “Hi, what have you been up to this week?”, “Oh, nothing much”. “Okay, thanks, sign this bit of paper, get your bus money back, and off you go.” Done. It is easier for the probation officer to do it that way and it depends on the person on the order, what they are willing to gain out of the probation. If that’s easier for them then they are going to be happy to do that as well.

Q11 Mrs Grant: Can I just ask both. Prior to being ordered to do probation, did you have any explanation of what it would entail, what the expectation was on you and what it was all about, or were you standing there, you were ordered to do probation and that was it, and at least it wasn’t prison?

Angela Prince: All mine used to say was that I had to turn up once a week to probation once I was released. Then, if you’d been good, then I would turn up once a month, but my licence was just not to leave the country and I feel that all that they wanted to see was me every week.

Q12 Mrs Grant: Did you know what probation was, though?

Daniel Mitchell: You generally hear from your solicitor what you are going to be facing when you go into court. So they will say, “Okay, well, the possibility is that you might have a sentence or you might get probation so this will entail…” then you’ll be told what the probation is.

Q13 Mr Llwyd: I think there is a theme developing here. Brett said that in his first interview, it was an information overload, implying that it was rather rushed. Daniel said it is ticking the boxes. Could it be that the whole process is being rushed and you are not spending enough time with the appropriate officer?

Daniel Coriat: For me, yes, there was an essence of a hurried sort of procedure. They did tick all the boxes for me but, at the same time, there was an effort on the part of the probation officer to form a relationship with me. So there was that side of it too, yes.

Q14 Mrs James: Did you get the impression that they had many clients to see?

Daniel Coriat: Yes.

Q15 Mrs James: And that on some occasions, it was a relief if they could deal with somebody quickly and then they had more time to deal maybe with a person with more severe problems?

Daniel Coriat: Yeah, I felt that they were rushing to pass me on to someone else or they were obviously concerned about their next appointment. There was that essence to it, yeah.

Q16 Yasmin Qureshi: Ms Prince, I was going to ask you, and obviously Mr Mitchell and Mr Hawksley, if you can briefly tell us, how would you have liked the probation service to deal with you and what do you think they could have done that could have helped you?

Daniel Mitchell: I think if you are asking me what I think an ideal probation service would be—Yasmin Qureshi: Yes, why not.

Daniel Mitchell: They definitely need to look more into—the people who get put on the orders have multiple needs. So there could be a number of reasons which brought that person to be on the order, whether it’s drug offences or mental health. My experience is that the probation officer isn’t equipped to deal with all these different needs. So in a more ideal world then they would be able to or at least be able to signpost you and have more information and, like the gentleman said there, maybe a bit more time to spend with us and find out what is actually going on. So that’s my view on what would be a bit more ideal.

Angela Prince: When you first get to go to probation, I think that one thing I don’t think they do is they don’t read your file. So, when you come to them, I know what’s wrong with me. So they should automatically know, well, what is it I need, because you get a file and you read about that person. I don’t think they read my file because I used to be under mental health and everything and they didn’t know anything about that—nothing at all.

Q17 Yasmin Qureshi: Were you on licence?

Angela Prince: Yeah, for three years. I’m still there. I’ve got six months left at probation.

Q18 Anna Soubry: I just wanted to establish where everybody is coming from in this respect. Mr Mitchell hadn’t been on remand, but you have had two what I call DTTOs.
Brett Hawksley: They were at that time, yeah. One was a DTTO and one was a six-month probation.

Q19 Anna Soubry: Right, but you have been on two separate orders; is that right?
Daniel Mitchell: I have, yes, in different areas as well.

Q20 Anna Soubry: Yes, and from Angela’s point of view, you had served a custodial sentence and then were you released on licence?
Angela Prince: Yes.

Q21 Anna Soubry: So yours was part of your supervision as a requirement of your licence?
Angela Prince: Yes.

Q22 Anna Soubry: Which arguably is different from when you stand up in court. You have had your pre-sentence report so you have got an inclination of what is coming. You have been released from prison; so it is a follow-through service.
Angela Prince: Yes, but they still do pre-sentencing reports and sentence planning and things like that for when I come out, which is sent to my probation officer. Nine times out of 10 they come and visit you in prison before you are released, but even though they visit you in prison, when you get back to see them in the office, it is a whole new different experience. I just felt like, “Everything I said to you while I was in prison, you can’t remember.”

Q23 Anna Soubry: I just wanted to establish this because you are one of those people who should have been seen properly and extensively in prison. Are you saying you weren’t or was it the fact that you didn’t have the same person and you didn’t have the continuity of service?
Angela Prince: No, I’m lucky because I’ve still got the same young lady I’ve always had, but—don’t get me wrong, she is a very nice lady—she more became like a friend, like she’d say, “Do you want to come over for a cup of tea?” or, “Shall we go out this weekend?” instead of, like, “As my probation officer, I want you to help me.” So, the way I decided to do things was I just went and did things myself and came back and reported what I did that week.

Q24 Anna Soubry: And just with Brett, you’ve been on orders, but have you been on remand?
Brett Hawksley: Yes. I’ve been on sentence and released. I think different to Angela. I think that it’s important to have a good rapport with the probation officer and I think that your probation should start not when you get released on your licence, but I think it should start from the moment you get this prison sentence. I think there should be contact from then until you are released and then on your licence.

Q25 Anna Soubry: And how long was your sentence, just so we have an idea?
Brett Hawksley: Four years.

Q26 Anna Soubry: So you got four. You served two years and then two years on licence.
Brett Hawksley: That’s right, yeah.

Q27 Anna Soubry: And Daniel?
Daniel Coriat: Yeah, I did a two-year community order which I carried out in an approved premises because I was homeless. The condition was that I remained drug-free and there were curfews attached to the order, but I had to carry the whole order out in an approved premises, the bail hostel, because I was homeless. That was one reason, but I think that they wanted to punish me in that way as well.

Chair: We have moved actually to the point where I want to bring Mr Evans in.

Q28 Chris Evans: This is a question for all four of you. How good is your relationship with your present probation officer at the moment?
Brett Hawksley: Mine is excellent.

Q29 Chris Evans: It is excellent. Why is that, though?
Brett Hawksley: Excellent for the reason being very flexible because there are times when other things have come up that would benefit you in rehabilitation, but some probation officers would be like, “You can’t do that because it is going to clash with the appointment.” So my probation officer is flexible and there is a good relationship. There is no personality clash. So, I’m not, you know, dreading to go and see my probation officer. So, in that respect, because it is a good relationship, I will ask for things that I want, whereas if there wasn’t a good relationship there I’d be wanting to ask somebody else, sort of thing, and that’s not available anyway.

Q30 Chris Evans: Can I call you Angela?
Angela Prince: Yes.

Q31 Chris Evans: Angela, you said that you felt that your probation officer was more like a friend. Why was that such a bad thing? I’m just a bit confused what are you actually looking for? I’ve had stuff with people saying, “I felt my probation officer was too judgmental in many cases.” Now, I would have thought that the flip side of that was that they need to be a friend and there needs to be some sort of relationship really. You made that sound like it was a bad thing in some ways.

Angela Prince: I’m not saying it’s a bad thing, but I just look at it as, “You’re there to help me.” It is like, “I’m a mentor. I’m a voluntary worker. I’m there for you. I’m not there to really be your friend, but I’m there to support you”, and that is what I wanted to feel from her. She’s a very nice person, as I said, but I wanted to feel that from her. As Brett said, she is very flexible. I’m a mother of four children and I live so far from my probation officer. Sometimes it is difficult for me because I have got to pull my little girl with me and then my little girl will say, “Mummy, what’s this place?”, and I don’t really want to explain to her what this place is and things like that. If I phone her and say, “Can I make it tomorrow?” or something, she’s very flexible like that because I’ve got kids. I just find that I don’t feel like—how can I explain it?
Daniel Mitchell: I think where the confusion is is that there needs to be a level of authority.
Angela Prince: Yeah, that’s it.
Daniel Mitchell: Because if you’re actually looking for that rehabilitation, if that person is going to be that lax and he can just walk in there, it’s like the order just tends to slip away. If you have a certain level of authority—and obviously that is going to be different for each person—then you might need that to finish your order.

Q32 Chris Evans: Is it important to respect the person who is your probation officer?
Angela Prince: Yes, it is.
Daniel Mitchell: Definitely.
Angela Prince: And for them to respect you as well.

Q33 Mrs Grant: Angela, can I just ask you, is she very young? Is it a personality issue or is she just a kid that is sort of out of university?
Angela Prince: Yes, she’s young. She’s half my age.
Mrs Grant: That is probably a lot to do with it.
Angela Prince: She is half my age, yeah.

Q34 Mrs Grant: So about 22 or 23, or 19 or 15?
Angela Prince: She is 24 and I am 45.
Anna Soubry: You see, that is the wrong matching up, isn’t it?
Chair: Order, order, Mr. Evans has a question.

Q35 Chris Evans: Daniel, I have been through the form. It says in the biography that we have here that you have been through four different probation officers. What has been the problem there if you don’t mind me asking?
Daniel Coriat: Yeah, well, what happened was that I carried out the first part of my community order in Manchester because that is where I was sentenced and then I wanted to come back to London because I have lived in London so they transferred me to London. I saw a probation officer and I did form a relationship with him. For me, it was the first time that I did probation, so it was important that I formed a good relationship with him but, in many ways, I saw him as a bit of a role model because I needed that. I mean, I was pretty desperate. I had been homeless for so long and had lots of trouble with the police so it was a relief for me to have someone to kind of support me. So I looked up to him in that way. You know, there were ups and downs and eventually I was passed over to another probation officer and then two others after that so, yeah, there was no consistency in it and I found that was a bit negative towards me because I was putting a lot of effort into rehabilitating myself. I was trying to find my feet again and to have so many different probation officers who didn’t really understand my issues at the time was confusing.

Q36 Chris Evans: If the chemistry is not there, how easy is it for you to change your probation officer?
Daniel Coriat: I think it is difficult. Personally, I didn’t have the courage to ask. If I wanted a new probation officer I wouldn’t ask, but I think it is quite a difficult procedure to change a probation officer. I don’t know.

Q37 Chris Evans: Do you think that is an issue—that it should be easier—if it is just not working, to go and put your hand up and say that it is not working?
Daniel Coriat: Yes. I think people should have a right to say if they want a different probation officer.
Brett Hawksley: Can I just say something? I think it is different for different probation officers, because one probation in Leicester will let you change officer but the other one won’t. Just touching on the same thing, I can’t believe how different every probation is in England. I thought that they would all have the same guidelines in every single probation, but they ain’t—they are all run differently.

Q38 Chair: So you have spotted significant differences in the different probation services you have been under.
Brett Hawksley: Yeah.

Q39 Chair: What sort of things?
Brett Hawksley: They are all doing completely different things. Like, in Leicester, we are doing a lot of changes within the probation that are done by the service users. There was a lot of peer-mentoring. You know, we have done it so the probation office that we are at, the service users have got it so we can change that officer if there is a personality clash. It is not because you don’t like the person; it is just a personality clash. We have changed our probation waiting area so that it is user-friendly for kids. There is a TV in there with information. Other probation offices won’t do that. Other probation offices won’t have flexibility on your appointments and there are numerous other things as well. Every probation office is just absolutely different and I thought it was all the same.

Q40 Chris Evans: Can I just end with asking each of you what is the best experience of probation and what has been the worst?
Daniel Coriat: For me, my best experience was going out for a coffee with my first probation officer and the worst experience would be the lack of consistency—the changing of probation officer.
Angela Prince: My first good experience is the probation officer who I have got now because she is flexible. I think the worst experience is the toilets. You have got to share it. If you have got kids, the kids use the same toilet, the men use the same toilet and we are using the same toilet. The facilities are not there.

Q41 Chair: Is that in a city office?
Angela Prince: Yes.

Q42 Anna Soubry: Are you two both under the same probation service?
Angela Prince: Different offices.

Q43 Anna Soubry: But it is as simple as that?
Angela Prince: Yes.
Anna Soubry: Okay.
Daniel Mitchell: My best would be that I was actually managing to get myself into some voluntary work and the probation office recognised this. So they moved me from a weekly appointment to a fortnightly. My
Mrs James: And you have daily telephone calls.
Brett Hawksley: Yeah, it was really strict.

Mrs James: And you have to be there when the police call.
Brett Hawksley: It was too much. It was really difficult. For me, it felt like they were setting me up to fail because I just looked at what I had to do and I thought, “I can’t do this”; you know.

Q52 Chair: Is there not a role for that kind of intensive measure in some cases? You are simply saying that it was not appropriate to your circumstances.

Brett Hawksley: Everybody I know that has been on that has not completed it. I myself thought that it was too harsh and it was just too much for me and because I could not work and I wanted to work, and I was really struggling financially, I thought the best place for me was back inside so I did something to make sure that I went back.

Q53 Chair: You actually did that.
Brett Hawksley: Yes.

Q54 Chair: So you actually did something because you wanted to get back.
Brett Hawksley: I did something to make sure that I went back, yes.

Q55 Claire Perry: I wanted to pick up on what I think is an extremely important point that you made. Mr. Hawksley, about work and the inability to work. I would love to know whether witnesses are encouraged to work during the period when they are under probation care and what has been that experience. You were basically told that you could not get a job and you were not allowed to apply for a job until you had completed your six-month POP programme. Has that been the experience of the other witnesses today? Are you working? Are you encouraged to find work during this probation process?

Angela Prince: No.
Daniel Mitchell: No.

Q56 Chair: You were not working or you were not encouraged to work?
Daniel Mitchell: Neither. I was not working and I was not—that did not come into it.

Q57 Claire Perry: The rehabilitation did not include an attempt to get you into work.
Daniel Mitchell: No, I think there would be more things that needed to be addressed before work.

Q58 Claire Perry: Did you feel that you were ready to work? Could you have worked?

Angela Prince: I think you could work if you wanted to, but I think it is a decision that you make for yourself. I think that because I have a criminal record now, I decided to do the mentoring and a lot of voluntary work to get my education back up. The only thing is that, I think, if you have been good, then while you have been on probation, because the licence is
different—I have got six months left—I would have liked them to go back to court to say, “This person did this, that, this. Can you put that six months on hold?” or something so that now I can go out and look for a full-time job, because I do not want to be explaining to my boss, “Oh, I’m sorry, but I’ve got six months’ probation left. I have got to pop out just to sign the paper and come back.” I don’t want to do that. So I have put that on hold and will keep doing the voluntary work until after six months.

Daniel Coriat: I wasn’t encouraged to work at all. If I had said to them that I would like to work, they would have found that rather ambiguous. That is how I see it. I was encouraged to engage with the local services like mental health, the drug team and people like that.

Q59 Yasmin Qureshi: Can I just briefly ask about the procedure? Once you have been found guilty or you have entered a guilty plea and the matter is adjourned for a probation report or a community service report to be prepared, sometimes, as you know, the courts have what is called a stand-down report, that is done on the day or the fast delivery ones. I just wanted to ask firstly whether any of you had been subject to what is called a stand-down report, which is done on the day?

Daniel Mitchell: I have, yes.

Q60 Yasmin Qureshi: Did you find that as something that was the right thing to do or do you think that—

Daniel Mitchell: I think you can tell by the way you are asking it is an unmanageable thing to do on the day, to go in and, like I say, I was given five minutes. That was my worst experience—to have the sentence passed on what I spoke to the probation officer about on the day.

Q61 Mr Buckland: Daniel, that is a very important point that you make. Were the options explained to you because it was a fast delivery report that they were doing for you, which means that the judge had already excluded custody as an option, hadn’t he? Had that been explained to you before you were interviewed because that is what it means? Basically, when it is done quickly, the benefit in terms of your point of view is that the court has already said, “We are not going to send you to prison, but we need to look at another option in terms of the community order or otherwise.” That is what it means. Was that explained to you?

Daniel Mitchell: No.

Anna Soubry: That is why you got it.

Daniel Mitchell: Yeah.

Q62 Mrs James: I wanted to turn to offending behaviour programmes, because we have taken evidence previously which said that it is very, very difficult to get on the appropriate courses and appropriate programmes. I am also coming across prisoners in my constituency who identify a programme when they are in prison and then cannot get on it and don’t have that continuity then when they leave prison. Would you like to tell me a little bit about your experiences of offending behaviour programmes?

Angela Prince: Mine was done in prison and I found it very helpful—most of the programmes I went on anyway. I think the only downfall of it is that, when you have such a long sentence and you have done those programmes early in your sentence, when you leave prison now, probably half of that has already gone out of your head. They should be while you are on probation. I think they should make like a little retouch programme which you can actually do in probation so that you can remember half the stuff that was taught to you. That is the only thing. Now I have come out of prison, that is all left at the prison doors. I have not re-done anything.

Q63 Mrs James: Right, so there has been no continuity.

Angela Prince: None whatsoever.

Brett Hawksley: I totally agree, because the courses that I was put on at the beginning of my four-year sentence were done right at the beginning of the sentence and, like what Angela was saying, by the time you get released, most of those key skill keys that you were taught you kind of forget so I think that courses should be done upon release and not while in custody. There should be some kind of rehabilitation in custody but not these courses. They should be done on release, I think, apart from obviously for offences of anger—a course for violence. Obviously you should do the anger management in there, you know.

Q64 Chair: Are you saying that anger management courses should also not be until release?

Brett Hawksley: No, I was just explaining that obviously if your crime is through violence then you should do anger management in there, but, you know, I think the majority of the courses should be done on release or towards the end of the sentence.

Q65 Mrs James: And what about the difficulties of getting on things like treatment for drug and alcohol programmes—those particular ones?

Brett Hawksley: I have never experienced a problem with getting on a course.

Q66 Mrs James: Okay, anybody else?

Daniel Mitchell: I was given what was called a DTTO at the time. I breached the order. I wasn’t able to manage it. Six or seven months later, I was speaking to probation again about maybe giving me another chance to go for rehabilitation, but I was told that because I had had my one chance, if you like, then that was it and I was not eligible, if you like, to go away to do another order.

Q67 Mrs James: So that in effect then delayed your progress in a way.

Daniel Mitchell: Definitely, yes, whereas I would see other people and they perhaps may be given another chance to go ahead and do something else, you know?

Mrs James: Daniel?

Daniel Coriat: My experience is that, when I have engaged with drug teams, it has taken three or four months before they have actually started working with
Q68 Mrs James: So it is questions of continuity that you are raising all the time.
Daniel Coriat: Yes.

Q69 Mrs James: This is just a quick one because I know that other people want to ask questions. CRB checks—I assume you have all been CRB-checked. How quickly did they come through?
Brett Hawksley: Sorry, what is a CRB check?

Q70 Mrs James: Criminal Records Bureau. You know, if you are going to do voluntary work, as Angela has done, you would have then been CRB-checked from the Criminal Records Bureau.
Angela Prince: It depends though you can get short ones for CRB and then you can get a full one. They know because you are mentoring. Obviously, they knew what I did, but it was a short one because it was only like this mentoring.

Q71 Mrs James: So there were no recognisable delays.
Daniel Mitchell: No, they are up to a year. CRB checks can take for ever.

Q72 Mrs James: So really you could have lost your opportunity in that time, couldn't you?
Daniel Mitchell: Yes.
Mrs James: That is what I am finding.

Q73 Claire Perry: May I ask about the experiences? It sounds like, between the panel, you have done quite a lot of rehabilitation courses. What happens if you fall off a course? As I think you mentioned, Mr Mitchell, nothing happens until six months later.
Daniel Mitchell: I think we spoke about flexibility. It will be down to how you are with your officer, how you have done and how you are doing while you are on probation. It is out of your hands. So it is down to them whether they feel that you have another chance. “All right, so you didn’t do too well that time, but you seem to have made some progress so maybe we can try again”, or you could be in a position, “No, you’ve had your chance. So custody is your next option.”
Brett Hawksley: I think it is different for what sentence you are on. If you are on a sentence that is not parole, if you don’t complete your course then you will be asked to do it upon release through probation, but if you are on a parole sentence and if you fall out halfway through then you will have the CARATs worker and you will have a personal officer assigned to you and between them they will get you back on to the course, probably the next one or the one after, but you would have to do it before you are released actually on parole.

Q74 Mrs Grant: But can I just ask you this. You were saying that with your MAP or POP, these two different descriptions, it was too hard and it was so hard that you did something else to make sure that you went back into prison. Why was it too hard?
Brett Hawksley: Because they wanted me to go there Monday to Friday. I couldn’t work. I had the police officers coming round to me.

Q75 Claire Perry: How many times Monday to Friday? Was it once a day or twice a day?
Brett Hawksley: Once a day. On one day, it was twice a day. Amongst seeing them every single day, there were courses that I had to do. I had to see the police officers as well. There was, like, sometimes three or four people in that day that I had to see and having the police come round to my own property, which in my area it is not good for the police to be knocking on your door, you know. You get a kind of bad name, sort of thing. It was just too difficult for me to do and because where I came from, which was in prison, I feel that prison is too easy.

Q76 Chair: Sorry, you feel? I just missed it then.
Claire Perry: It is too easy.
Brett Hawksley: Too easy, yes.

Q77 Claire Perry: So you felt that this was harder than prison.
Brett Hawksley: I thought I was better off in prison because I had an easy time there. So I thought I would be better there because then, if I went back to prison, I could finish the rest of my sentence, come out and I would have no supervision.

Q78 Chair: It is a very interesting point that you make because in one of our previous reports we have said that members of the public just tend to assume that prison is the really tough thing from your standpoint and that anything outside prison, non-custodial, that is easy, that is just being let off, but what you have just said is the opposite of that.
Brett Hawksley: It depends on the individual. It is different for different people. Some people have a really hard time—well, the majority of people do have a hard time—but myself, I found it really easy, definitely.

Q79 Mr Buckland: It really goes back to Sir Alan’s first fundamental point. We tend to sub-divide sentences and we look at prison as a punishment and then probation as we used to call it, community orders as we now call it, as some alternative to a punishment. Would you accept that punishment is actually an important element of a community order?
Daniel Mitchell: It definitely is. I would just like to say that I found myself in society having to deal with multiple needs and I have been and got myself arrested on purpose to go back to prison, whether it is easier or whether it is harder. I had to make that decision because I did not know, whether I was on an order, what services to turn to. So I actually went out and got myself arrested because it did not matter whether it was a little amount, you know, the smallest amount. At least I know when I go into prison I am...
going to get some kind of help, whether from the CARATs worker, officer, you know.

Q80 Mr Buckland: Mr Mitchell, what you are saying really is that what you wanted on a community order was some element of challenge from your probation officer, not to confront you all the time—
Daniel Mitchell: No, I understand.

Q81 Mr Buckland: But to say, “Look, you have got a problem. This is what you need to do to try to challenge your problem and deal with it. Let us face up to it. Let us not all be fluffy and have a cup of tea. Let us actually talk brass tacks here.” That is part of the punishment, isn’t it, getting you to own up to the causes or the background to all of this and you then moving on and dealing with it.
Daniel Mitchell: Yes. Involved with that as well would be the people who are there to help you out. If you have a mental health issue then they can signpost you there. That is what worked for me the last time. They had these different areas set up so when they needed to signpost me they knew where to signpost me. These guys were ready to pick me up, ready to work with me. “Okay, you have got an accommodation issue”; “Okay, you have got a mental health issue.” It is not just that you go out and offend. They look at all of these and then the ball starts rolling. That is why, you know, things are a lot better for me now because those different areas were taken into consideration.

Q82 Anna Soubry: Was that a different probation service? Was that a different area?
Daniel Mitchell: Than?
Anna Soubry: Than where you had been before?
Daniel Mitchell: Yes.

Q83 Anna Soubry: Because why hadn’t you had it before?
Daniel Mitchell: Yes, it was a different area.
Anna Soubry: I think that is what I meant.
Daniel Mitchell: Yes, it was a different area, yes.

Q84 Anna Soubry: So it was a different area with better services than the previous area which you dealt with; is that fair?
Daniel Mitchell: Yes.

Q85 Yasmin Qureshi: I just want to ask Mr Mitchell and Mr Hawksley this. I think you have both had the DTTO orders—the drug treatment orders.
Brett Hawksley: I have not had a DTTO.

Q86 Yasmin Qureshi: Sorry, I have misread the information I have got. Mr Mitchell, you had two of them. How useful were they in actually getting rid of your drug addiction problem?
Daniel Mitchell: They didn’t work. They didn’t do anything for me.

Q87 Yasmin Qureshi: They didn’t do anything.
Daniel Mitchell: No. I was sent away to a detox centre and I was back within my local area within a week. It was not suitable for myself for how I needed to rehabilitate myself. The DTTO did not work. So then when I was brought back to court, because obviously it was a breach, I was given a community order where I would go to a day group and attend that. That worked better for me, but the first one failed because one size does not fit all, you know. There are different things.

Q88 Mr Llwyd: Could I go back to what Mr. Hawksley said earlier on about the failure to complete the Prolific Offender Programme. When you were on that five-day programme, what were you living on in terms of income?
Brett Hawksley: Jobseeker’s Allowance.

Q89 Mr Llwyd: Did it entail travelling there and back?
Brett Hawksley: Yeah.

Q90 Mr Llwyd: What sort of financial pressure were you under at that time?
Brett Hawksley: Huge financial pressure. I was, you know, barely struggling to get by. That is the main reason why I wanted to work. I had set myself up to work. I had gained a qualification while I was in prison to come out and work and then I was told that I couldn’t.

Q91 Mr Llwyd: So, in other words, you were asked to do a five-day programme, sometimes twice a day, and you were spending all your money on just trying to comply with it and virtually nothing left.
Brett Hawksley: Yeah, basically, yes.

Q92 Mr Llwyd: There must have been a temptation to reoffend.
Brett Hawksley: There was a temptation, yes.
Chair: It proved to be, didn’t it?
Brett Hawksley: Yes.

Q93 Mrs James: I just want to go back—because the public are listening to this now because it is being televised—this easy option. I have worked in the prison service and I know it is not an easy option. I wanted to ask you what did you mean by “easy option”? Did you feel safer in prison? Did you feel that there was less pressure on you? Did you feel that you would not be forced into doing things their way and not your way? I am just interested because I think that “easy” is a very difficult word for the public to understand.
Brett Hawksley: “Easy” in respect of I was institutionalised basically so it was an easy option for me to go back, in the sense that I was going somewhere that I was comfortable with, I was familiar with, I would know a lot of people, I was getting fed, obviously it was a breach, I was given a community order where I would go to a day group and attend that. That worked better for me, but the first one failed because one size does not fit all, you know. There are different things.
Q94 Mrs James: Because you felt the pressure, that that was what was best for you at that time?

Brett Hawksley: Yes, I would rather do the extra nine months than do that order.

Q95 Anna Soubry: But you had not really been properly prepared for being released, had you?

Brett Hawksley: I was told probably two months before release about what I was going to be up against basically. So I knew what I was going to do and I told them before I got released, “I don’t think I can do this”, you know?

Daniel Mitchell: I think a big percentage of people who do get released aren’t ready to be released or don’t have anything set up for them when they are. So when the courts find them back in front of them within the month and they ask themselves why, I think it is quite obvious.

Q96 Claire Perry: I am just so struck by the glaring truth that surely if rehabilitation starts in prison and it is joined up with what happens on your release—

Daniel Mitchell: It does not, no.

Q97 Claire Perry: Exactly, and if it did, if you were basically, as you said, getting qualifications, working on the drug problems, dealing with things within prison, you are far, I would have thought, better prepared for your release and the rehabilitation has started. Trying to join that up so that people are looking after you all the way through prison and on release is really something that we have to get to grips with as a Government.

Daniel Mitchell: Yes.

Angela Prince: I was just going to say that I think it starts when you are in prison because in prison they have favouritisms as well. Prison officers have favourites of prisoners and they sometimes choose who they want to help. I think that, when I was released, they opened the gates: one plastic bag. I had just finished three years: £93 in my hand and that was it. I had to find my own accommodation and everything because they couldn’t find me anywhere. I did this two weeks before my release myself. As Mr Buckland was saying, probation is too cosy. I am a headstrong person and for my age, I should have somebody my age so that they can talk to me as an adult; do you know what I mean? I don’t need a young person talking to me because I am a grown-up. I’m a mother with children. I need somebody who is my age to say, “Well, Angela, we are going to do this”, or, “We are going to do that.” Put your foot down for me. I don’t want a coffee. I want to sort my life out.

Q98 Mr Buckland: Which brings me neatly on, I think, to one of the fundamental points we are looking at today, Ms Prince, and I am grateful to you for your robust answer. In other walks of life, the involvement of service users is now seen as key, for example, in mental health. It is good to have Tina Braithwaite here, who has great knowledge of this subject, and perhaps we can get on to this in a little while. But when it comes to the criminal justice system, there has been a reluctance to cross that frontier, to start involving what we call service users, in other words offenders, in shaping the services. I just wanted to ask you primarily, but everybody really on the panel, would you see a particular use, in effect, in some of the responsibility for shaping the programme being given to you, as the offender, as part of your rehabilitation—in other words, not just allowing you to sit back and be told what to do? It is to say, “Now, come on, Angela, what do you want and how are we going to do this together?”

Angela Prince: That is what I am basically trying to say. If you are like me, I am telling you what I want. I am already telling you. I have already decided. With three years in prison in your cell, you have got time to think. You know what you want. So when I see you I am going to try and explain to you, “This is what I would like.” Even though, sometimes it takes so long for them to get back to you in what you asked them to do. It would be quicker if I was outside doing it myself than wait for you to do that or wait for the probation to do that for me. “I have done it already so it is all right.” “Oh, that’s really nice. Oh, you’ve done everything.” “Yes.”

Q99 Mrs Grant: Is it what you want and what you need the same thing truthfully? That is the issue.

Daniel Mitchell: We are all part of a national service users’ forum, okay. In any organisation—and we will talk about probation—having the service users’ perspective is key. It has got to be. We are seeing it from this side of the fence. Whether it is a meeting, a board meeting, how the place is run, surely seeing it from our point of view on the decisions that are made, it has got to have some weight. On any decisions that are made, to know what we are going through and what is happening, to hear it from the service user’s perspective also has a place.

Q100 Mrs Grant: But is that what you need to fix your problem?

Daniel Mitchell: It has been the biggest part of my rehabilitation.

Angela Prince: Sometimes the need could be something like, “I need to have this to get that. It is not that I really want that, but I need that. I want to have that. I don’t really need that, but I just have to have it because I am trying to get back into the community or rehabilitate myself”, do you know what I mean? I want to have this now.

Q101 Mrs Grant: Because it is really about ultimately getting your life back on track.

Angela Prince: Back in order, yes.

Q102 Mrs Grant: That is the thing that matters. That would help everybody. It might not be necessarily what you need so there is a potential conflict of interest there that we have to be mindful of.

Angela Prince: Yeah, that’s it.

Q103 Mr Buckland: I agree with what Helen Grant said. In other words, it comes to this. It is not just, “I want and therefore I will take.” Sometimes a probation officer may say, “Well, I’m sorry, we don’t think that is right for you”—

Angela Prince: Well, they haven’t said that.
Mr Buckland: Which brings me to what you were saying earlier. You would actually welcome, if you like, that clash, that challenge, which sometimes you need. Let us take Mr Mitchell, for example. I am not saying you did this, but you may have said, “Well, I want to meet you less frequently” and the probation officer says, “Well, actually, no, we think we should meet more frequently”, but then explaining why rather than just saying it; explaining why to you so that you gain a greater understanding.

Daniel Mitchell: And you can come to an agreement on what would work better for yourself then.

Q104 Mr Buckland: Yes. That is important and I am not decrying that, but it is part of the process of punishment as well, isn’t it? Would you agree with me that that is an important element of this? Rehabilitation of course, but the fact that you are subject to a particular regime is part of the punishment as well, isn’t it?

Daniel Mitchell: Part of that punishment is the rehabilitation as well.

Q105 Mr Buckland: Absolutely. Perhaps we should look at it in a different way. Perhaps we should look at it in terms of making our society a better and safer place—protecting the public. The aim of it should be that when you finish your particular community service, the risk of you reoffending is low, or lower than it was when you went in. Would you think that that was a realistic objective and a proper objective for any community order that you were on?

Daniel Mitchell: That is what an order is about, so when you finish it, you are an abiding citizen and you can start giving back to society.

Mr Buckland: Exactly.

Daniel Mitchell: And then what you spoke about with the CRB checks, you can be waiting a year before you can actually start giving back to society.

Q106 Mr Buckland: Exactly. Because, Mr Mitchell, it is not just about you, is it? It is about the rest of us. You are a member of society and what you do, or all of us do, has an impact on somebody else.

Daniel Mitchell: Of course, yes.

Q107 Mr Buckland: So if somebody goes out and starts stealing, the impact on all of us is huge, isn’t it? So the punishment element is an important thing because it is you understanding that there is a bigger society here which deserves better.

Daniel Mitchell: So as well as being there the person on the order who is having a say—so in what is happening, then you could have the victim’s side of things as well on how that order operates.

Mr Buckland: That’s very interesting.

Q108 Chair: Does anybody have any experiences of restorative justice and meeting victims? Have any of you been through that?

Daniel Coriat: I volunteered for the Witness Service about five, six, seven years ago, so it was a part of my rehabilitation because I had just done a short prison sentence and I was at college. I was volunteering for Westminster Magistrates and I was meeting victims.

Q109 Chair: Victims not of your crimes.

Daniel Coriat: No, of other crimes and informing them about court procedure etc, so, for me, that was a big part of my rehabilitation.

Q110 Chair: And did it really help you to look at life differently?

Daniel Coriat: Yes, it did, yes.

Q111 Mr Buckland: In the Criminal Justice Act 2003, one of the requirements that was laid out by statute was something called a mental health treatment requirement. My experience of it is that it is hardly ever used. I was wondering whether you have any view as to why that is and what could be done to bring that, which could be a very useful requirement, more into general use when dealing with offenders?

Tina Braithwaite: I think what often happens is that there is no recognition of people’s mental health issues, when they are arrested and right through to going to court and into prison. I think there needs to be a lot more in-house awareness among all the people that associates are likely to meet so that, right from the start, the police actually have much more mental health awareness so that they can actually pick up on that there may be an issue and that they then know what to do with it, who to refer to, how to get support for people and how to get them diverted really. Then a proper assessment and reports should be done so that mental health orders and treatment orders can be considered.

I think for our Revolving Doors group of people, they have often got common mental health problems rather than serious mental health problems, so they are below the threshold of attracting any secondary services. Quite often their mental health issues go completely undetected so they don’t get any help at all right the way through. They certainly do not get any mental health treatment orders.

Q112 Mr Buckland: And that can lead to a failure of other requirements of the community order, can’t it?

Tina Braithwaite: That is right, yes.

Q113 Mrs Grant: This is a question for Angela, if I may. Does the probation service cater well for women? That is the $6 million question.

Angela Prince: I think it just depends on who you have as your probation officer. For the whole probation, I couldn’t answer that question. I can only answer the question from what I have. The building itself could be a bit more different because there are no facilities there. In probation offices, there are facilities there for kids, but in ours there is nothing, so kids are just sitting there running around. It is unhygienic as well, you know.

Q114 Mrs Grant: So there is no crèche or anything. Angela Prince: The seats are dirty.

Q115 Mrs Grant: No toys?

Angela Prince: No toys. Nothing. People who have got alcohol problems come in there and they are drunk themselves and falling over. Some of them just come to sit down on the chair. People come in begging, you
know, all those sorts of things. There are no facilities to change a child if you have got a small child, nothing like that. There are no facilities for women themselves.

Q116 Mrs Grant: And have you always had a female probation officer?
Angela Prince: Yeah, I have always had a female one all the time, yes.

Q117 Mrs Grant: Would you prefer a male probation officer?
Angela Prince: Probably, yeah.

Q118 Mrs Grant: Why?
Angela Prince: Because of the sort of person I am. To me, no disrespect to women, but sometimes they are a bit soft, do you know what I mean? I like somebody who is forceful.

Q119 Mrs Grant: Yes, not any of us!
Angela Prince: I like somebody who can say, like Mr Buckland is saying, when somebody says—

Q120 Mrs Grant: You like Mr. Buckland, do you?
Angela Prince: Yes, because what he says is correct. If you are going to ask me, “Would you like to do this?” and I went, “No”. I want you to say, “You are going to do that. That is what I want you to do.” Women won’t say, or my probation officer never said to me, “Well, Angela, you are going to have to do that”, you know. If I say, “No, I’m all right, I don’t need to do that”, she will say, “All right then” and that is it.

Q121 Mrs Grant: I think you probably just need a strong woman, don’t you? And there are plenty of us.
Angela Prince: Yes, all right then. There won’t be a next time so you are all right.

Q122 Mrs Grant: Good, that is what I wanted to here. Are there any specific BME issues, would you say, to do with the whole process that we should be aware of?
Angela Prince: What is BME?

Q123 Mrs Grant: Ethnic minority issue.
Angela Prince: No, not really. I have never noticed any racism or anything like that at all.
Tina Braithwaite: You have in prison, haven’t you?
Angela Prince: Oh, in prison.

Q124 Mrs Grant: What has happened in prison?
Angela Prince: People used to talk to me about racism in prisons, but now I have really experienced it for myself from other officers. The words we used to use were “Off the hook, sir.” He would say, “Yes” and then he would call me a black this or a black that, you know, and then I would end up insulting him and then that is it—finish. He doesn’t report me and I don’t report him and that is how it was all the time.

Q125 Mrs Grant: So there is a significant racism in prison.

Angela Prince: Yes, definitely, definitely, yes. As Brett was saying, even if I didn’t have any children I would commit crime and go back to prison because it was really easy. I think they need to make the prison more harder to deter people from wanting to go to prison because I have seen many younger people who have gone to prison leave, and I say, “Give me a hug” as they are going and they say, “Oh, no, I’m back by the weekend,” and I’m thinking, “What do you mean?”. “Oh, I’ll just go and nick something and I’ll be back” and they definitely did come back, you know, things like that. So, if I have got my Sky TV in my cell and I’ve bought my carpet and I’ve brought my quilt and everything then why would I have to be outside?

Q126 Mrs Grant: I know it is slightly off my question, but can I just ask, does everybody here actually think prison is a soft option?
Daniel Mitchell: Can I just clarify that I think that is a better option if I am homeless, if I have got no benefits. I will go to prison and I have got seven months.

Q127 Mrs Grant: Is it the same for everybody here?
Chair: It would not be a soft option for me, but it would in the circumstances you were in.
Anna Soubry: It depends on where you are coming from.

Mrs James: I have really got problems with dealing with words like “soft option” and “easy”. Deprivation and de-liberty is your punishment.
Daniel Mitchell: It’s easy in comparison to what I am going through while living in society.

Q128 Mrs James: I am not advocating this at all but I was in this position in the prison service. You would take visitors around and then they would say, “Is that it?” and you would say, “Yes, you have seen everywhere” and they would say, “Yes, but where do you punish them?” I think people think that there are racks on the wall and we throw bread at you every so often, and that is not what it is about. So I think sometimes when you use words like “soft” and “easy”, the public think, “We’ve got to make it tougher for you.” How do you think we can make it tougher for you?
Angela Prince: To me—I am not going to use that word “soft touch” any more because it is a habit—it needs to be stronger. It needs to deter young people or whatever age from going to prison. If I can go to prison and buy my own digi box and my own games consoles—

Mrs James: From Argos.

Q129 Anna Soubry: You have children, so when you were in custody, your punishment presumably—and I know you will tell me if I am wrong—was the fact...
that you couldn’t give your children a hug before they
go to sleep.

Angela Prince: Yes, the only punishment I had—and
I always tell people that—was being away from my
children. That is why I said if I didn’t have any
children, I don’t see me with the life that I have got.
My life was always selling drugs. That’s what I did.
Me not having any children, I would have probably
continued selling those drugs, do you know what I
mean, whatever happened.

Q130 Mrs Grant: Do you think if prison was more
unpleasant, really unpleasant, if it was really
unpleasant, it would be more of a deterrent?

Angela Prince: Yes, it would be, but don’t get me
wrong. It is unpleasant for everybody as an individual.

Q131 Mrs Grant: But more.

Angela Prince: More, yes, but if you are a strong
person like myself, I am not scared of being bullied
or things like that—that never happened to me. If
someone younger was coming in now then they would
be scared because there are people there who can see
you are vulnerable so they are going to get bullied.

Q132 Chair: A number of witnesses want to say
something about this—Daniel and then Brett
Hawksley.

Brett Hawksley: Can I just say that from my
experience, the majority of people I have seen in
prison have found it hard. It is only a few people who
find it, you know, quite an easygoing sort of thing.
But I have seen the hard end of a prison sentence and
the easy end of a prison sentence. The first time I went
in prison, they did not have TVs, and you was locked
up 23 hours a day and it is not like that now. You are
constantly out your cell and when you are in your cell
you have got something to watch, something to listen
to. So I feel that giving them extra things has made
prison a lot easier to do.

Q133 Yasmin Qureshi: I know people are suggesting
that prisons are a soft option or the conditions in
prisons are quite relaxed and sort of genteel and
people don’t feel as if they are being punished, but is
that because of certain types of prison, which are
called open prisons, where you have a lot more
facilities? Most prisons that we have are not those
types of modern open prison. Most of them, like in
London, for example, where I have been a number of
times, are pretty unpleasant-looking places.

Brett Hawksley: The old Victorian style of jails.

Yasmin Qureshi: Exactly, and people in there don’t
look happy to be in prison. They may commit crimes
and come back and forth, but that is because they have
got other problems in their lives, so would it be right
to say that, yes, maybe there are some prisons that
have all the modern-state facilities? We have got to
get this into perspective that most prisons are not
like those.

Brett Hawksley: There are prisons that are easier than
others. Obviously, if you go into a Category A, it is
more security. You have got less movement in there
and you have got less facilities in most of the Cat A.
I would say that the more low risk you are, the lower
category it is. You know, you go from B to C. You
know, some Cs are semi-open prison and then
obviously you get a D, which is an open prison, so it
depends on what category you are in.

Q134 Mr Llwyd: I think I will follow Ms Prince’s
lead on this and I will ask this question by banging
on the table and shouting, if that’s going to help. That
passes for humour in Wales. There was an excellent
piece of work in 2009 called the Bradley review
which recommended closer understanding between
probation services and the national health service in
terms of provision of drugs, alcohol treatment, mental
health issues and so on. Do you feel that your
individual needs are recognised by probation services
and, in so doing, are the probation services able to
help you to stop you reoffending?

Angela Prince: No. Daniel Mitchell: I don’t think so.

Q135 Mr Llwyd: Why do you say that, Mr Mitchell?
Daniel Mitchell: Because I don’t think the services
are set up in the community at the moment for them
to be able to signpost people to help them with those
different needs. I think it is just starting to, but I don’t
think it has always been there in the community for
prohibition for you to work alongside for you to
rehabilitate yourself, whether it is mental health or
something else. I think drugs and things like that,
those kinds of orders, have been used more. It was
brought up earlier about the mental health side. Those
sorts of things, you know, they are not there in the
community.

Q136 Mr Llwyd: So the back-up that is referred to
in the 2009 report, you think is not there—the
provision of mental health services readily to hand,
drug treatment and so on.

Daniel Mitchell: No, they are not there. When you
are in prison, you know, excuse the pun, you have a
captive audience there so there you can go to the
meetings, but once you go to be released, there’s no
continuation. There just aren’t the funds, you know,
for the services to be there, or the numbers of people
that are needed to access these services are, so it’s
overthrown.

Q137 Mr Llwyd: Are you saying that mental health
provision in prison is adequate?

Daniel Mitchell: Not from what I have seen, no, and
I think there’s a lot of people in prison who need to
be somewhere dealing with their mental health needs,
definitely not prison.

Brett Hawksley: From what I’ve seen in prison,
people with mental health issues have been put on
vulnerability wings and that’s as far as the help they
get. That’s it, from what I’ve seen.

Angela Prince: I think that when it comes to mental
health, there are so many different forms of mental
health—you get low and then you get high mental
health. When I went to prison—I have always suffered
from clinical depression where I have always been on
medication—the medication that I was taking, they
refused to give me, because the words were that they
had got no budgeting. There wasn’t enough money for
me to have that medication so they said, “I tell you what, we are going to put you on this.” So I was on all different forms of antidepressants when I was in prison—different strengths and different things. They said, “Take that. See if that works. After three months come back to me.” Well, I know what I have always been on. I know what works for me, but because of the finance, they couldn’t help me with that.

Q138 Chair: That is puzzling because I thought that would come from the NHS budget.

Angela Prince: I didn’t get it.

Daniel Mitchell: I think different prisons have different rules for what medications they can use.

Angela Prince: Yes, and even when you move from prison to prison, even though you take medication with you, they still change it again, you know, and that is what really got me sometimes until, when I actually came out of prison, my medication was sorted out proper.

Q139 Mrs Riordan: Are you saying that you went three months without seeing anybody? You said that you were given a drug for three months.

Angela Prince: Yes, they give you a medication to take, and sometimes I would say, “You know, this ain’t working for me.” I’m so tearful and I don’t feel right taking this medication.” They would still say, “Continue to take it and we will see what happens afterwards” and then you could go back.

Q140 Mrs Riordan: Could you go back in between?

Angela Prince: No, when you go back to see them, they are already telling you off: “Why are you here again?” or, “Go back to work” or something like that. When I came out of prison, that is when I got the medication back.

Daniel Mitchell: This is what you start to come up against when you are in prison, when people start calling it an easy option. When you actually start to look at how you live your life while you are in that environment that is when things start to become not easy.

Brett Hawksley: The reason why there is such a long period of time for them asking you to come back is because they say that it takes a certain amount of time for antidepressants to work, so that is why they say, “Come back in three months” time sort of thing.

Q141 Mr Llwyd: On the issue of drug treatment and testing orders, we know they are often criticised because people find them difficult to complete. Mr Mitchell has already told us that today. Mr Hawksley, do you have any experience of such orders and how did they work for you?

Brett Hawksley: I have never had a drug order, but I’ve been in drug treatment. The first experience I had was absolutely terrible because I had a drug problem and I sought help—this was quite a few years ago—and I was told that there was a six-month waiting list for help. I told them, “Look, if I don’t get this help urgently, I’m going to commit crimes to fund my drug habit basically.” I was told there was no help, “You’ve got to join the waiting list.” So, after a certain period of time, I was doing a prison sentence basically. The last experience that I’ve had within drug treatment, when I needed the help, it was instantly there and it was a good service.

Q142 Mr Llwyd: When did that happen?

Brett Hawksley: The last one?

Mr Llwyd: Yes.

Brett Hawksley: Three years ago.

Q143 Mr Llwyd: And it was instant assistance?

Brett Hawksley: Instant, yes.

Q144 Mr Llwyd: Why the change?

Brett Hawksley: I’m not sure, to be honest with you.

Q145 Mr Llwyd: Same area?

Brett Hawksley: Yes, same area.

Q146 Mr Buckland: Was it a high intensity DRR? Did you have to go back to court every month to see the judge?

Brett Hawksley: It wasn’t a court order or anything like that. It was just something that I did off my own back.

Daniel Mitchell: I just want to say that I think it has been a bit of a postcode lottery as to where you are actually going to complete your order. I’ve spent some time down in the South-West and especially down there, where it came to waiting lists, they would be definitely a lot longer than what it would be as if you were in, say, where I have completed another order, say, somewhere like Milton Keynes. So, it does make a difference, I think, where you are going to be doing your order.

Q147 Mr Llwyd: Mr Coriat, according to the notes we have, at some point you had a drug problem. Were you subject to any such orders at any stage?

Daniel Coriat: I did not have a drug treatment order, but one of the conditions of my order was to be drug-free so, yes, I was encouraged to engage with the drug services although there was no strictness around it. I had lapsed and relapsed during my probation and I was truthful about that too and there was no, like, breach or anything from that, but I was encouraged to engage, yes.

Q148 Chair: Mr Coriat, you were in a probation hostel, I think, weren’t you?

Daniel Coriat: I was living in a bail hostel, yes.

Q149 Chair: What was your experience of that and was it positive or negative?

Daniel Coriat: It was a tough environment for me because I had been homeless, sleeping rough, and then I went into prison and then I went to the bail hostel. Obviously, one of the big issues was housing, and it seemed as though my probation order was meant for me to be carried out in the hostel as a punitive thing, as another part of the punishment, but it was a very tough environment. You had cameras everywhere. The people who usually are at bail hostels have sometimes some very long sentences so there is a kind of institutionalised feeling to it. Yes, it is not easy.
Chair: Would you rather have carried out the requirements, but not in a hostel?

Daniel Coriat: Yes, I would rather have done it in temporary housing.

Chair: Perhaps that is not the right question. My question is would it have been more or less successful if you had not been in a hostel?

Daniel Coriat: I think the hostel gave me a certain amount of discipline, and I was able to carry out the probation order more effectively maybe because I was at the hostel. I think if I wasn’t in that hostel then the probation order would have been quite a soft option—an easy option—because I would only have to go up to the office once a week maybe for 10 or 20 minutes and that was it.

Chair: And a last question from Anna Soubry?

Angela Prince: I did it.

Chair: Did you do that or did you do that through the probation?

Angela Prince: You have a service. You have a service, a worker who works with you, but they never worked with me. They did not do enough. They did not do a lot. They were out doing their nails and things like that. I could have done a better job. I was helping most of the girls in that house. I was telling them where to go or what they should do, things like that. It was horrible.

Daniel Mitchell: Accommodation is key. Everyone needs a place to do their stuff from.

Angela Prince: It helps you, yes.

Daniel Coriat: For me, that is what caused the rift between me and my probation officer. It was the housing issue that caused a big rift between us.

Chair: That was it.

Angela Prince: And Mr. Hawksley, what about you?

Brett Hawksley: I have never had any problems.

Chair: And Tina Braithwaite?

Brett Hawksley: No.

Chair: Would it have been more or less successful if you had not been in a hostel?

Daniel Coriat: It was horrible.

Chair: People used to come and try and help me get a house, but I don’t think they did a good job with me at all, because when I went on one of my home leave, I actually went around knocking on hostel doors and told them my story and if they could accommodate because I have got three weeks left on my release.

It was good, because with two weeks left on my release, one hostel, a women’s hostel in Leicester, phoned the prison and said that they would accept me. You know, that was good. It was a mother-and-baby hostel, but I went there on my own and ended up staying there for two years. I did not want my kids to stay there—my two girls; the boys are big and they have got their own properties—I could not let them stay there—my two girls; the boys are big and they have got their own properties—I could not let them live there because it was unhygienic, there were mice and things like that. It was, like, even being there for two years was really difficult. Even though I was free, I still felt like I was in prison. I only got a house this year, January.

I have just got a house for me and my kids. We have actually got back together this year, January, but it is not nice at all. I don’t know why I had to wait that long. It depends what crime you have done as well. Because mine was drugs, the council finds it really hard to get someone who has committed a crime like that another property.

Chair: Yes, indeed. My final words are good wishes for the role that you are going to play in society in the future and thank you for your help this morning. Can I just ask Members to remain behind for a short private session? I will just call order so that our witnesses can leave. Thank you very much.
Tuesday 2 November 2010

Members present:

Sir Alan Beith (Chair)
Mr Robert Buckland
Chris Evans
Mr Elfyn Llwyd
Claire Perry
Mrs Linda Riordan
Anna Soubry

Examination of Witnesses

Witnesses: Mark Mitchell, Institute of Criminal Justice Studies, University of Portsmouth, Barrie Crook, Chief Executive, Hampshire Probation Trust and Learning and Development lead for Probation Chiefs Association, and Lesley Thompson, Director, North West Training Consortium, gave evidence.

Chair: Mr Crook from the Hampshire Probation Trust and the Probation Chiefs Association, Ms Thompson from the North West Training Consortium, and Mr Mitchell from the University of Portsmouth—welcome.

We are very grateful to you for helping us with our inquiry into the probation service, which follows on from our justice reinvestment report, because a necessary consequence of doing what we recommended on justice reinvestment is to have some of the kinds of services that the probation service has traditionally provided, so we want to explore how the probation service can do that. In particular, this morning, we have a major focus on training. We are awaiting Government proposals about how some of these facilities are going to be provided in the future. While for today there is a focus around training, some of the wider issues will be raised as well.

Q159 Mr Llwyd: Good morning. If I may, can I just provide some context to the questions I am going to be asking? My understanding is that in December 2009, 241,500 offenders were under supervision, representing a 38% increase on the previous 10 years. In 2008, the Centre for Crime and Justice Studies at King’s, London, reported that while numbers of frontline probation staff grew by 21% between 2002 and 2006, this was mostly concentrated amongst senior and management grades and the less qualified probation service officers. In actual fact, the numbers of fully qualified and trainee probation officers fell by 9% in that time.

The National Audit Office, to boot, has said that sick leave in the probation service in 2006 ran at an average of 12.3 days per person in 2004–05, and one third of this sickness was attributed to stress and anxiety. There have been some headline cases, and I would refer you to the Sonnex case, which of course is what some regard as the tip of an iceberg but a very unusual case on its own merits. Mr Crook, the inquiries into the management of Daniel Sonnex identified problems with the recruitment and retention of qualified probation staff in London. Is this a wider problem—in other words a nationwide problem as well?

Barrie Crook: I don’t think it is to the same degree, but I think you will find variations across the country in different probation trusts, in terms of their levels of recruitment and retention. So certain probation trusts experience high levels of turnover in relation to probably all grades of staff, but particularly probation officers. Others have very settled staff teams and therefore do not need to recruit so often.

Q160 Mr Llwyd: But I know from my own experience in Wales, for example, that a year ago virtually 20% of those who qualified were offered a job. Is that the kind of scenario that we’re looking at throughout the UK?

Barrie Crook: I think that varies from year to year. I think, in the current year, certainly my experience in the south-east is that all qualifying probation officers have been offered employment. That was more difficult in the year before. I think from year to year it can vary. I think Mr Mitchell and my colleagues here would have wider information than I can perhaps bring, but it is not a uniform picture across the country.

Q161 Mr Llwyd: But the truth is, of course, particularly in the probation service, that there is a churn, isn’t there, so some experienced people are leaving?

Barrie Crook: Yes.

Q162 Mr Llwyd: And then youngsters are coming in. There is nothing wrong with that of course, but the balance may not always be right.

Barrie Crook: No, and you referred back to the growth of different grades of staff. Certainly, the probation services officer grade has grown significantly in the last 10 years—actually probably since 1997—which is not unusual because that kind of element of task flexibility where a different grade of staff emerges to support the more highly professionally qualified grade of staff is not peculiar to probation. It happens in health; it has happened in the police.

That particular group of staff grew much more quickly for two reasons. One was that there was the gap in probation officer training in the late 1990s, but, secondly, because some of the increased investment in the national probation service was focused on interventions such as accredited offending behaviour programmes, which are broadly where the front-line officer is a probation service officer rather than a trained probation officer in many cases.

Q163 Mr Llwyd: Ms Thompson or Professor Mitchell, do you want to add anything?
Mark Mitchell: I think there are differences, as Mr Crook has said, in terms of different parts of the country. I think you have identified London and Wales—they are very different. We are the newly contracted HE provider in Wales and I have spent quite a lot of time there over the last five or six months getting to know the Principality. It is clear to me that some of the problems with the recruitment of the TPOs who have come through the previous programme—The diploma in probation studies programme—are that when trainee probation officers become newly qualified officers, they are sometimes not able to travel to the parts of the country where newly qualified officers are needed, because of the problems of moving from north to south, for example. I think there are particular problems in Wales that are not quite as present in other parts of the country.

It is true that both last year’s trainee probation officers, when they qualified, and this year’s—not all of them—are being offered probation officer posts straightaway. They are being employed on temporary probation services officer posts. But I think the trust has a view that over time they will be found PO posts as and when they become available within a reasonable geographical distance of where they live and have worked.

Q164 Mr Llwyd: Ms Thompson, do you want to add anything?
Lesley Thompson: I would agree with everything that my colleagues have said. Certainly in the north-west, we have done everything we can to provide employment in one way or another for qualifying trainee probation officers. I think that, looking forward, the new probation qualifying framework is designed to give more flexibility for trusts in terms of work force planning.

Q165 Mr Llwyd: Mr Crook, again, there is a reference here to the Sonnex matter among others. What would you say was an acceptable case load for an individual probation services officer, and what would you think was reasonable for a newly qualified person?
Barrie Crook: I think it is very difficult to answer the question in quite that form because you may be aware that the probation service grades the level of risk of different offenders in four tiers. Most probation trusts don’t work on the notion of an average case load. They try to allocate a level of time and capacity according to each case. A newly qualified officer could take on a larger number of lower-risk cases or a smaller number of high-risk cases. The kind of mix that they inherit or take on when they are qualifying would depend on their levels of experience and the nature of the case load of the team to which they are going. I would be reluctant to say that 20 or 30 cases is the right kind of figure because the nature of those cases could be very different according to the context.

Q166 Mr Llwyd: Do you identify with—or have you heard—the following? Probation officers tell me that—this is an appalling phrase—their “face time” with their clients is limited to under 10 minutes per week and that most of the rest of the week is spent punching information into a computer.
Barrie Crook: I think there is an exaggeration in the way that is presented. If you are looking at a very broad average—again, because of the nature and demands of particular cases—you wouldn’t get a true picture of the level of time allocated to a case. That might be very true of someone who is perhaps a tier 2 offender, who may be in the middle of their order, for example, and might not need a great deal of time, but with a tier 4 case coming out of prison with MAPPA implications, an officer could spend several hours in that week working around that particular case, so I think it is extremely difficult to generalise.

I am aware of the issue about face-to-face contact with offenders. Most of the recent studies that have been done show that face-to-face direct contact with offenders accounts for less than 30% of an officer’s time. That doesn’t mean to say that 70% is spent on entering information into a computer, because although OASys does demand time and it is important that good risk assessments and sentence plans are completed, there may be a range of other tasks the officer is undertaking in terms of partnership work with agencies, for example, or a MAPPA meeting, and they get credited too.

Q167 Mr Llwyd: I referred earlier to sickness. My understanding is that probation trusts have been successful in reducing absences in recent years.
Barrie Crook: Yes, we have.

Q168 Mr Llwyd: What has contributed to this reduction and can this be sustained if there are to be significant financial cuts in the service?
Barrie Crook: I think a range of factors have contributed to this. I think we can start with the fact that we have a nationally agreed absence policy that is agreed with the trade unions, which is very important for local probation trusts. Local trusts have then agreed their own policy and procedures at a local level with their trade unions.

We have put in place some very good and strong management practices to reduce the length of absence that may have accumulated in the past, and certainly supported front-line managers very much with training and HR advice. Many of us have reinvested in different occupational health services so that we have got a good level of occupational health support and advice for line managers. The issue has been tackled in a number of ways and it is all those factors together that have contributed to the significant reductions that we have achieved over the last three to four years.

Q169 Mr Llwyd: In your opinion—this is a question for you all, I think—how will the new qualifying arrangements address any problems with the retention of probation officers and probation services officers?
Mark Mitchell: I think with the previous programme—the diploma in probation studies—although a small proportion of the people recruited to that programme had previously worked for the probation service, the majority had not. No matter how carefully the recruitment and selection was done,
there was always a small number of people who were genuinely put off by their first meeting with an offender and the notion that they had to supervise offenders, and a small proportion of people dropped out or failed to complete the programme as a result.

The new PQF—the probation qualifications framework—will avoid that because people recruited to that programme will already be working in probation and will have demonstrated to their employer that they are competent probation services officers who have the potential to move onwards and upwards and to become full probation officers. I think that will result in a higher completion rate and less withdrawal from the programme, at least, due to the fact that people did not understand the nature of the job when they were recruited to it.

Lesley Thompson: The framework is designed in such a way that the managers can manage the progress of learners through that framework, so we will not have a situation where we have people recruited as a trainee probation officer for a two-year period, and then when that two-year period finishes, they are no longer a trainee, and there is the question of are they going to be reengaged or are they going to be employed.

The feedback I am getting from probation service officers is that they see this as a good opportunity, in that they would have previously not applied to be a trainee probation officer because they would have had to resign from the service as a PSO and then have to be employed as a trainee probation officer. This gives them the opportunity to progress. It gives them career development, but it would be driven by the employers who can manage the progress through so that they can then plan how many people they want to go through each stage and, if necessary, hold back for a period of time and then progress them at a later stage. So, it puts them in the driving seat.

Q170 Chris Evans: Before I begin, Sir Alan, I would like to declare an interest. My sister is actually employed by the probation service in Pontypridd at the moment.

The Ministry of Justice described the diploma in probation studies, which was introduced in 1998, as “no longer fit for purpose”. However, the HM Inspector of Probation, when he examined the extent to which training courses equipped new probation officers with the appropriate skills and knowledge in 2003, described the diploma as an “effective means of training probation practitioners”. Which one is right?

Mark Mitchell: I think they are both right, actually. I think that we have learned. The diploma in probation studies was a good qualification because it carefully integrated the development of practice competence with the infusion of underlying skills, knowledge and understanding. It has produced the vast majority of the qualified work force in probation, but there were problems with it. For example, the trainee probation officers were recruited at the beginning of October each year and, two years later, large numbers of qualified officers arrived on Barrie’s doorstep and those of other chief officers to be employed. Now, gaps in your work force don’t occur at one point in the year. You need a flexible approach to training so that people are available for employment as probation officers when vacancies become available. So the flexibility of the diploma in probation studies was a problem.

Secondly, as we have already said, probation service officers—experienced staff who had already proved themselves to their employers—had to resign their current posts, take a drop in salary and give up their accrued benefits to take on a trainee probation officer post, without any guarantee of a job at the end. Frankly, one of the great faults of the DipPS was that it missed out the further training and development of a large group of staff in the probation service who were capable of functioning at a higher level as fully qualified officers, but have not been able—for family reasons or financial reasons—to take that opportunity in the past. I think the PQF builds on the strengths of the diploma in probation studies with a more flexible employer-led qualification that is going to serve the needs of the probation service better in the future.

Q171 Chris Evans: When people go into the probation service, do you think that they know what they are letting themselves in for? Some people go in expecting to deal with serious offenders. Others go in thinking it is an administrative role, as my colleague has said, involving data input. Do you think the trainee is given a clear idea of what is expected of them?

Lesley Thompson: I think it does give a good idea of what is expected of them. From my experience, I think it is when trainee probation officers apply on the spur of the moment that sometimes they see this and think, “Oh, that would be a good job to go into.” I think it is very often the type of work where they do not know what is expected of them. It is when they get into the training and realise that, actually, they are expected to deal with serious offenders.

I have sat there and interviewed numbers of people, and listened thinking, “They think they are joining to work with young people,” or, “They’ve not got the right idea about the type of people they are going to be working with.” We train them and I think, as Mark has said, the content of the DipPS has been excellent. I think perhaps then there is another little bit of a gap when they go out to start to work, and that is where some of the administrative requirements—the hitting of targets—maybe kicks in a little bit. But I think we do give them a good understanding of the type of work and the type of offenders who they need to work with.

Q172 Chris Evans: Where do you think that misconception comes from where they think they are working with young people or they are doing something else outside the main role of the probation service? Is it the way the advertisement is written, or is it the perception or something like that?

Lesley Thompson: I think it is like Mark said. People come from outside and we give them lots of materials so that they know what it is about. I think they just are not quite prepared for what the reality is.

Barrie Crook: I think the general understanding among the general public of what the probation service does is quite limited, so therefore it is often identified with working with young people.
Can I just respond also to your earlier point about the two qualifications? I think the other thing that the new qualification gives us is the opportunity to train more of our staff to a required level—the PSO grades who may not necessarily go on to train as probation officers. Actually, we will lift the standards of that grade of staff, many of whom carry out much of the face-to-face work with lower risk offenders and, until now, have had no qualifications or a standard of that kind for us to train them to.

Q173 Chris Evans: I can’t give you any hard kind for us to train them to. Now, have had no qualifications or a standard of that face-to-face work with lower risk offenders and, until now, much of the officers. Actually, we will lift the standards of that qualification gives us the opportunity to train more of our staff to a required level—the PSO grades who qualification gives us is the opportunity to train more of our staff to a required level—the PSO grades who.

Can I just respond also to your earlier point about the Justice Committee: Evidence

Q174 Chris Evans: What are you actually looking for? What qualities are you looking for in somebody who comes to you who wants to be a probation officer? What would you say are the key attributes?

Lesley Thompson: What are we looking for are values in equality and diversity, and a belief that an individual can change. We are looking for good communication skills, the ability to relate to others and the ability to engage with offenders. We are looking for good analytical skills and the ability to make judgments, to work with partners and to work in partnership with other people. Those are the sorts of things we are looking for when we recruit.

Q175 Chris Evans: I was interested in what you had to say there about the ability to change—somebody’s belief in the ability to change. How do you measure that then? That is something I would have assumed is very difficult to measure.

Lesley Thompson: Yes. When we do recruit people, we have a range of exercises as an assessment centre that, across the piece, will demonstrate all those criteria that I talked about. That will include the belief that people can change their behaviour. It is difficult to explain that but, across the piece, we do have exercises in which candidates will demonstrate their values.

Q176 Chris Evans: So if some people come to the end of the training and they are not suitable, do we have any data on the reasons why they are not suitable or anything like that?

Mark Mitchell: Do you mean in the new programme or the previous one?

Chris Evans: The new programme, yes.

Mark Mitchell: We are not at the end of the new programme yet. It has only just started in April. Just to respond to your earlier question about getting the time relief from work, unlike the trainee probation officers under the previous DipPS arrangement who were full time and supernumerary—at least in theory—to the service, of course PSOs are given protected learning time one or two days a week, depending on which phase of the programme they are in, to go through and complete their VQ elements—vocational qualifications—and also their academic study.

I think, just as we had with the DipPS back in 1998 when it started, there are bound to be implementation problems in the early stages of the programme. We started the first group in the country on the new PQF arrangements in May/June this year. One or two people in that cohort have had difficulties negotiating locally with their line manager which days of the week they will have to develop their vocational skills and to do their academic work. But, in terms of the service commitment—this is London probation we are talking about—London probation is fully signed up, has briefed all its local delivery units and has briefed all its senior probation officers, because I have been at some of the briefing meetings, as to what is expected. But with a new programme like this, you would expect local pockets where the implementation is going to take some time to bed in, I am actually quite optimistic that it is going well. Obviously, the resource constraints and the uncertainties about the funding in the future are not helping the situation, but there is a lot of goodwill to make this work in the service at all levels.

Q177 Chair: Just going back for a moment to the personal qualities that Ms Thompson has raised, I do not know whether anyone had the opportunity to read or see the evidence that a group of ex-offenders gave to us a fortnight ago. A very clear message that came from more than one of them that they needed challenge from probation officers, not just tea and sympathy. There was a sense that they didn’t feel they had always had that challenge to aspects of their behaviour that they were not going to change unless someone challenged them to do so. Is that something that the training does now bring out or not?

Lesley Thompson: Yes. It is quite surprising to hear that sort of response because, certainly, we are not now just in the business of befriending people and providing tea and sympathy. Probation officers’ training does involve a clear understanding of why it is that people offend, and then the tools to challenge them and to move them away from offending behaviour. That is what it will be focused on.

Q178 Chris Evans: I think one of the major criticisms of one of the witnesses was that she felt her probation officer was a friend. She wasn’t actually doing anything. She was just a friend to her and she wanted a little bit more. I was wondering if that has
come up as a problem for you in the past couple of years. Have there been any complaints like that?

**Barrie Crook:** We often get complaints that the other way—that they haven’t been much of a friend or their risk assessment makes them look more dangerous than they feel they are—but not generally in that respect. As a chief executive, I often get letters of commendation for probation officers for going the extra mile and being there for them at difficult times. I must admit, although I have not read all the evidence, I was disappointed to hear some of the negative feedback you were getting from that group because, if asked, I could bring a group of ex-offenders who we now employ in Hampshire who would give you a very different account of their experiences going through the probation service.

**Chair:** I think it was a realistic comment more than being a criticism. Indeed, they were very complimentary about the individuals themselves, but the feeling was that they needed more challenge than they sometimes got. These were obviously people who had changed their behaviour and were willing to do so, otherwise they wouldn't have been on the programmes that brought them in front of us, but they clearly had a sense that challenge was something that they needed in order to change.

**Q179 Anna Soubry:** Can I just ask on this point? You mentioned judgment in training. I don’t know how you train somebody to have good or bad judgment when they are making decisions about people. How do you do that? How do you ensure that people somehow are trained in judgment skills?

**Lesley Thompson:** What we are looking for when we recruit people is that they are demonstrating that they have the potential to be a probation officer. With the sort of skills that we are looking for at that level, we give them exercises to do, so they would be provided with information, and then they would have to analyse that information, provide some sort of recommendation and make some judgments on the basis of that information. That shows if they have got the potential to do that.

What we would then do in the training over the next two years is that they do the degree and they get the underpinning knowledge. Mark will probably talk a little bit more about the contents of that. They get the practice of working with offenders and starting to write reports, because what we want at the end of the two years are people who are going to be coming out who are competent and very capable probation officers who are able to provide that service to the courts, the community and the offenders, and who will need, as part of that, to be able to analyse information, make recommendations and make judgments.

**Q180 Anna Soubry:** Are they ever effectively asked, actually, to challenge the OASys system and the OASys analysis? I don’t know if you know that a lot of lawyers sit on this Committee, and some of us have only just finished practice, either as solicitors or barristers. A common complaint is that a probation officer nowadays is often over-reliant on the prescriptive system—i.e. OASys—and their own judgment, especially if they feel experienced, almost they feel perhaps doesn’t count for very much.

**Mark Mitchell:** I think it is increasingly recognised in the service that OASys is a very important tool but it won’t give you the answers. You are putting lots of figures into a computer and expecting it to give you the right judgment, but you have to make a judgment based on all the evidence. One important piece of evidence, of course, is what assessment and other actuarial tools are telling you but, in the end, it is a professional judgment.

If you are writing a report to the court, for example, about advocating a community order or a report to the parole panel about the release of a prisoner on an indeterminate public protection sentence or whatever, you have to make, in the end, a judgment. You don’t make the decision, obviously, but what you say in your report is based on all the evidence. If you find, for example, that there is an OASys score that comes out but there are important protective factors in terms—I don’t know—of family relationships or a job that might be at risk if the offender is sentenced to a custodial sentence, your judgment might be that the way to ensure that those protective factors are harnessed best to reduce future reoffending or hopefully eliminate future reoffending is actually to go for a community order. That is the kind of professional judgment you have to make.

Whether you can teach that I am not sure, but it is important, I think, for probation officers to recognise, as indeed it is with all professionals, that an element of professional judgment is very important. That is why it is a profession rather than just going through the motions of doing something.

**Barrie Crook:** Could I just add that I think staff supervision and practice supervision are very important, particularly in terms of the element of judgment, because that kind of coaching is often the best way to help someone to reflect on their own judgment, looking at particular cases they may be handling or case material? I think that is one way in which you can help people understand and develop their judgment better.

**Q181 Anna Soubry:** One of the other topics that I would like to explore, if I may, is the objectivity—or perhaps the lack of it—when looking at the offence that the person has committed. There is a perception—it may be wrong—that if you have committed a sexual offence, or, as a man, if you have used violence against a woman, the person who compiles your report is already biased against you. Are you aware of that criticism and, if you are, how do you, when you are training new probation officers, ask them effectively to strip away their own natural instincts against people—obviously a paedophile would be a classic example—so that they can give as objective and honest an assessment as to sentence as possible?

**Mark Mitchell:** I think you have to recognise that the criminal justice system actually takes special interest in people who are guilty of sexual offences, so it is not just the probation service. You are on the sex offenders register, and even when your sentence is completed, you remain on that register for a period of time, so it is not just probation officers.
I think one of the things that Lesley was talking about earlier about values is that it is very important to have a recognition of the human being behind the offence with which we label, even with the most heinous crimes. That is one of the important starting points of probation. But probation officers have to protect the public, and when you have serious sexual or violent offences, it is very important that public protection is at the forefront of a probation officer’s mind when they are making a recommendation about sentence or the arranging of a multi-agency public protection system to ensure that the offender doesn’t reoffend. There are a relatively small number of offenders who are dangerous and need to be supervised properly. You can have all the basic human values you like but, in the end, it is the job of the probation service to protect the public in that situation.

**Barrie Crook:** I think a challenge that is often levelled at either social work or probation is that there is too much optimism about the capacity for individuals to change, rather than too much negative view about them. So I think that achieving the balance between realistic risk assessment, and controlling and containing the danger, your own feelings, which I think a professional staff member does over time, is a very important skill to be learned. But I think in relation to those serious offenders, this is where the multi-agency approach of something like MAPPA is very important because it is not just one individual who is making a judgment about someone’s risk assessment. It is a group of people who will have different perceptions about them and see them in different circumstances.

**Q182 Mrs Riordan:** Does the new qualifying framework for existing probation service officers reflect adequately the skills and responsibilities that they need for the work they are doing now—and, if there is a shortage of probation officers, the work they would need to do then—and is the time frame realistic?

**Mark Mitchell:** Yes, to the first question. One of the interesting changes in the new qualifications framework—you remember what I said earlier—is that it is not throwing out all that we learnt with the DipPS. It is building on the experience and the success of the diploma in probation studies. We have a new vocational qualification at level 5, which is known as a diploma in probation practice. That reflects a recognition, I think across the service, that the skills and competencies required to manage high-risk offenders in the community are no longer at level 4, as they were in the diploma in probation studies, but actually at level 5 and, in some cases, with a small number of component units, at level 6. This is a very high, very specialist, highly demanding set of practice skills and competencies. To satisfy those is an absolute minimum requirement for becoming a professional probation officer in the future. I think that those and the required skills have been taken into account in the new PQF.

**Q183 Mrs Riordan:** And the time frame?

**Lesley Thompson:** I think, as well, you were talking about the qualification for PSOs and I want to come back to the level 3 qualification, which is the minimum qualification. That is now the mandatory qualification for all PSOs appointed after 1 April. That is pitched at level 3 and that is the level at which those PSOs work. The beauty of the framework is that as people move through it—this is what I have already said—they start to increase the level of their skills and move towards the highest level at level 5, which Mark has talked about. The time frames are such that people, if they are able, are able to move through more quickly, but managers can drive that as well. So, in terms of workforce development, if they are looking forward to needing people in the future but not just yet, they can move them through and they can be working at that level. Then they are at a position where they can move forward more quickly if they are finding that they need more qualified people. So it gives them more control of the movement of people through.

**Q184 Mrs Riordan:** Are the finances, now that that money is not ring-fenced, going to be found within the budget?

**Lesley Thompson:** Is that a question for you, Barrie?

**Barrie Crook:** All trusts have done work force planning to a degree they had not done before in order to become trusts, so we have been projecting forward our work force needs over a three and four-year period. Clearly, in the light of the comprehensive spending review and whatever its outcome is for trusts, we will have to go back to the drawing board and start again. But I think everyone is aware that it would be foolish to filter that money away elsewhere and not look to the future and invest in qualified staff for the future. Most chief officers and chief executives will remember the period between 1997 and 1999, when we had no qualifying probation officers coming through. We wouldn’t want to repeat that.

**Q185 Chair:** Ms Thompson, you are from a regional training consortium in the north-west. You are the last of a disappearing species, aren’t you? You are the only one left.

**Lesley Thompson:** No. The midlands consortium is still in existence, so there is still a consortium director in the midlands.

**Q186 Chair:** What is going to happen, given that there are obviously places such as London that are big enough to manage the training themselves?

**Lesley Thompson:** London and Wales, yes, there are single trusts there. I can only speak on how we operate in the north-west. Certainly, we have found that the way in which to start to implement the PQF, and thinking about some of the teething problems that Mark was talking about beforehand, requires excellent planning and good partnership working between— I have live trusts in my region—the trusts and the consortium. For me it is about building on the strengths that are already there, using the infrastructure that was in place to deliver the DipPS, and then to build on that into the new PQF arrangements and the strong support of the chief officers in moving this forward on a regional basis. Being able to work together means that we have been able to learn together as well, because obviously
the environment in which we are now operating, with it being employer-led, is different to that under the DipPS. So being able to learn from each other and moving forward has been vital.

Q187 Chair: What is going to happen where that doesn’t happen because there isn’t—

Mark Mitchell: Perhaps I can say something about that. Sir Alan, because we’ve been delivering the DipPS in four of the 10 regions in England and Wales since 2003, and we are now going to be delivering in five of those regions. None of those regions has a consortium, although two of them in London and Wales are single trusts.

I think it is a challenge. In the south-east, for example, there are now four trusts but no consortium, but there is a good degree of collaboration between those trusts to ensure that there is the regional co-ordination required for the implementation of the probation qualifications framework.

In the north-east, there are only two trusts now and the collaboration of those is relatively easy. Again, things are going quite well. For the south-west, where there are live trusts, I think I would have to say that it is still lagging behind. The consortium has disappeared in the south-west and the degree of collaboration that is required on a regional basis to get the PQF up and running is not quite there yet. I have got a meeting later this month to try and push that forward.

Q188 Anna Soubry: And the midlands?

Mark Mitchell: I am not delivering in the midlands, but the midlands does have a consortium. I know my colleagues at De Montfort University are working with the consortium well.

Q189 Chair: What about post-qualification training in specialist skills and in, also, some of the management responsibilities that arise? Is the system providing that?

Lesley Thompson: In terms of the specialist skills, I think that the individual trusts deliver specialist training. I think that what the PQF will provide is the opportunity for that to be more easily grafted on to that framework. The new vocational qualifications are not NVQs. They are on a new qualifications and credit framework and that provides more flexibility for smaller awards. For example, working with sex offenders and working with mentally disordered offenders, there is the potential there to develop that training from the point at which people complete their diploma in probation studies. They are qualified as probation officers as a starting point, but it is then picking up that additional specialist training and getting that integrated with practice and validated as a qualification. I think there is more potential to do that with the PQF framework.

Chair: Thank you very much. We are very grateful to the three of you and we have some further evidence to take. Thank you for helping us.

Examination of Witnesses

Witnesses: Robin Wilkinson, Director, NOMS Human Resources, and Alan Woods OBE, Chief Executive, Skills for Justice, gave evidence.

Chair: Mr Wilkinson of the National Offender Management Service and Mr Woods of Skills for Justice—welcome.

I am grateful to you for helping us with this inquiry. Obviously, you have been hearing some of the evidence that we have just been taking, and I want to invite Mr Llwyd to resume the questioning.

Q190 Mr Llwyd: I think my question is directed to Mr Wilkinson initially, although that does not prevent Mr Woods from chipping in, of course.

The inquiries into the management of Daniel Sonnex identified problems with the recruitment and retention of qualified probation staff from London. Is this a broader issue? In other words, we know that that is a London issue, but is there a problem throughout the UK?

Robin Wilkinson: I don’t believe there is a problem across the UK. I think that my colleagues talked earlier about differential rates of retention around the country. I don’t have the exact regional breakdown with me, but I could certainly provide the Committee with that, if they want.

As an indication, over the last couple of years, as was said previously, a number of trainee probation officers were unable to secure full-time permanent contracts at the end of their studies because there were not the vacancies available at the time. As I think has already been said, that was a problem with the previous diploma arrangements that the new qualifications framework is trying to solve. But I think the fact that there were trained and qualified trainee probation officers who were unable to secure employment at the time suggests that there isn’t a national shortage.

I think what we are seeing just at the moment is trusts being cautious about decisions on recruitment and offering posts until they are clear about their longer term financial settlement following the spending review. So I think, at the moment, it is difficult for us to predict in many sectors. Obviously, London is a more dynamic area for recruitment and there is a high churn rate in London, as there is in many other sectors—the Prison Service as well as the probation service.

Q191 Mr Llwyd: I think, again, the Sonnex inquiries found that there was quite a substantial churn within the service in London. I think that only one of the 22 probation officers in Lewisham at the time had more than two years’ experience. That is astonishingly high, isn’t it?

Robin Wilkinson: I think the response to the very tragic circumstances demonstrated the importance of properly looking at deployment of more junior and senior colleagues across areas, and there were clearly problems in the Lewisham area at the time. That was
very clearly stated as a result of those inquiries following the tragic events that took place.

As I said, I think it is an axiom that I think the probation service has learned from. The importance of locally managing case load and properly ensuring a proper balance of case load across your more experienced and junior colleagues is very, very important and something that is properly the responsibility of local management at all levels.

Q192 Mr Llwyd: That was the failing, obviously, in regard to the Sonnex case, wasn’t it?
Robin Wilkinson: The inquiries that took place identified that as an issue that needed to be addressed.

Q193 Mr Llwyd: If I am right, there was some reference to an individual having 127 cases to deal with?
Robin Wilkinson: I don’t know, I couldn’t comment on that, sorry.

Q194 Mr Llwyd: Could you help us? In your opinion, what would be an acceptable case load for an individual probation service officer and, also, a newly qualified probation officer?
Robin Wilkinson: I am not sure I can offer the Committee much more than what my colleague said earlier, really. It really does depend on the nature of the cases and whether you are dealing with high-risk offenders or lower-risk offenders, and it is very dependent on the individual PSO or probation officer. There isn’t a nationally set figure for very good reasons, as was explained earlier. I think it is right that this is properly left at the discretion of local management. They are in the best place to determine the best mix of resources between individual members of staff, individual teams and the individual types of cases that they are dealing with.

Q195 Mr Llwyd: I learned from the Probation Officers Association that probation officers, hard pressed as they are, spend fewer than 10 minutes per week actually speaking with their clients.
Robin Wilkinson: Again, I think there is little more I can give you than the earlier witnesses. It really does depend on the nature of the offender. Particularly with high-risk offenders, probation officers will be spending significantly more time with those offenders at the right points of their supervision.

Q196 Mr Llwyd: I realise that, and obviously the earlier witnesses have said the same thing, but the point I am putting to you is that either I am terribly misled by the Probation Officers Association, or it is right in saying that it can spend fewer than 10 minutes with each individual, which, to my way of thinking, is not going to change anybody’s behaviour.
Robin Wilkinson: No, absolutely. As was said earlier, the amount of time that you are able to spend with an offender—and, crucially, in response to questions earlier, how you spend that time—and your ability as a professional probation officer or PSO properly to challenge and help the offender to change, and to enable them to reintegrate into society, if they have had a custodial sentence, are crucially important. There may be some circumstances in which there needs to be only a limited amount of time spent with that offender at a point of their sentence, but the important point is that it would be wrong to suggest that there is an average of 10 minutes spent per offender by a probation officer. I do not believe that that is the case.

Q197 Mr Llwyd: Moving to a more successful aspect of things, part of the problem has been absence through sickness. Those figures have been occupational sickness absent rates have dropped markedly and the performance in the current financial year again is encouraging. So I think it is that holistic approach, but with a focus—a focus from the top; from the chief executive officer downwards—that sickness absence needs to be managed proactively, with proper job design so that the potential for work-related stress and such like is reduced. There is proper occupational health support for minor injuries so that people can get back to work quickly but, also, robust dealing with instances where people are not at work and are unlikely to be able to give regular and effective service. So it is a combination of those efforts and I think the probation service should be commended for the efforts that it has put into managing their sickness absence and the efficiency improvements it has delivered as a result.

Q198 Mr Llwyd: How confident are you that this improvement will be sustained in a period of cuts?
Robin Wilkinson: None of us yet know, I think, what the realities of the next few years hold. We have had the comprehensive spending review. Work is now going on to assess exactly what that means for individual budgets.

I think, personally, that the focus on sickness absence will be renewed during this period because it will be even more critically important that the staff who we employ and the staff who are in place are at work, and that they are supported to be at work to do the important job they are doing. I think there will continue to be a strong management focus, probably even more so during this difficult period.

Q199 Mr Llwyd: We referred earlier to the churn or the turnover. In your opinion, how will the new qualifying arrangements address any problems with retention of probation officers and probation service officers?
Robin Wilkinson: I think, as was said by the earlier witnesses—and I wholeheartedly agree with this—the new qualifying framework builds on the diploma. It didn't replace it. The diploma was good and we had an opportunity, after 12 years, to build on that. The advantages of it really are in the career framework that it provides for probation staff, particularly PSOs, who are now able to progress while working as PSOs. My ambition here is that we will have a cadre of people in the service—PSOs in the service—that are ready to become probation officers. They are properly trained, they are ready and they are still working as PSOs, but when there is a probation officer vacancy, they can be moved into that and such like. So you have got an internal talent pipeline rather than having to anticipate three years hence your probation officer needs, as used to be the case under the diploma, and having to take an educated guess about how many staff you would need in three years’ time.

So, for me, the intention behind the new framework is that you will have a group of PSOs who are properly trained and properly qualified, and who can move into probation officer jobs as and when they are needed. I think it will provide a real, important opportunity for PSOs to be properly valued. The framework, I think, properly respects the role of PSOs in the service and gives them a career development opportunity that wasn't easily theirs to take previously, as the earlier witnesses said. So, for me, I expect it to be a positive. We are in the very early stages of it. Your inquiry comes very quickly on us launching the new framework and this is obviously something we will want to keep under very close review, but I am optimistic that it will deliver an improved position.

Q200 Mr Llwyd: It is going to provide a career structure but, also, it deals with the problem that earlier witnesses identified of people not quite knowing what is expected of them when dealing with some serious criminals. The PSOs will have been through that already.

Alan Woods: Just to comment on what Mr Wilkinson was saying there, I really do think that the probation service is to be commended for actually training this para group of professionals to the standards that are now defined within the new probation qualification framework, which is to some extent different to that which is provided within legal services more generally. You were saying that there are a range of barristers and solicitors sitting around the table. There are a whole range of people that work in paralegal professions who do not have those very same standards defined. So, actually, the work which the probation service has undertaken to define a standard for the supporting group of staff to probation officers, I think, is one that should be commended.

Q201 Mr Buckland: Really developing on the themes that Mr Llwyd, my colleague, has been dealing with, and just coming back to the fundamental objectives here, there has been an analysis, with which I broadly agree, about the shift away from direct engagement between probation officers and PSOs, and offenders and their families, and the management of risk. The perception is that we have gone down the road of managing risk much more than one of direct engagement. I wonder whether that particular dichotomy has been focused upon when reaching an objective for training. What are we training probation officers and PSOs to do? Are they there just to manage risk and to deal with processes, or are they there to challenge offending and provide the environment for offenders to be rehabilitated?

Robin Wilkinson: It must be both, mustn't it? That is certainly the objective around this. There has to be a framework, and colleagues earlier talked about OASys and the important information that it can give. But the reason for putting this investment into the training of probation officers is because they have a professional judgment to play in this. The management of the risk in the community is so dependent upon all these other factors: their ability, a stable relationship, employment, housing and such like. So the ability of the probation officer to engage with the partners that are necessary to enable those factors to be stable and put into place is so essential.

So it has to be both the ability to understand and interpret risk. As colleagues earlier were saying, probation officers are there to protect the public the best that they are able to do. They have to understand that risk, but then it is about challenging. It is about their role in the engagement they have face to face. It is about challenging offenders to change their lives and do things differently, and about motivating them to do so. That might be about being a role model; it might be about properly challenging individuals. At certain times, it might be about being a friend, but it is not just a friend. It is very important that the role of a probation officer is to challenge and motivate somebody to want to live differently.

Q202 Mr Buckland: The problem is—and this might well be what my colleague Anna Soubry is going to ask—that OASys tends to categorise risk as an objective thing; whereas we all know that it is very subjective and depends on the context of each different offender. There are a myriad of different contexts within which that risk needs to be managed. It comes down to discretion really, doesn't it, rather than processes?

Robin Wilkinson: I think the OASys process is a good process that provides really good, solid, information to enable and support probation officers in making the judgments they have to make, so I think we shouldn't look to throw away the strength of that in any way, shape or form. I think it is a good part of the process to be worked at—to be validated. But it cannot be viewed in isolation. All of the factors that you mention, I think, are very, very important. It is about using the information that OASys gives you as a starting point, to be able then to provide the input that a professional probation officer does.

Q203 Mr Buckland: But how much time does it take to put together the OASys matrix—the graphs that those of us that have seen PSRs know about? How long does it take? Is the bulk of the work on the case being spent doing OASys rather than directly engaging with the offender and their family?
Q206 Mr Buckland: I couldn’t give you a view on that. I can certainly aim to provide that information if you would like me to do so.

Mr Buckland: Yes, please.

Robin Wilkinson: But work is going on looking at whether or not there are ways to streamline the amount of time that is required on OASys, whether a full OASys assessment is necessary for every offender and such like. But, for the offenders where the risk is highest, we would need the best information available to enable and support probation officers to do what is a very, very difficult job, which is taking finely balanced judgments and then acting on those judgments.

I think we should view OASys as a very, very important influence and mechanism to help in that kind of judgment process. I think it would be wrong to throw it away. We shouldn’t be completely bound by it. As I said earlier, it is a process that comes up with a result. The reason we are putting this effort into training is so that we have got professional probation officers who can use that information to form and act on the judgments that they then make.

Q207 Chair: We were asking earlier about professional development and, particularly, professional development post-qualification in a variety of skills. We heard from the other side of the table, so let us hear from a NOMS standpoint. Are there not going to be continuing gaps in training for those specialist skills.

Robin Wilkinson: I think it is certainly important that each of the trusts has, as part of its work force plan, a clear plan for skills development for training and such like. My expectation is that all of my HRD colleagues in probation trusts will have clear work force development plans. They will understand where any gaps are and will be looking to fill them.

Q208 Chair: How is all this going to work out in a future where CPD-type activity could be actually accredited and given a qualification under the new framework.

Robin Wilkinson: I think there is a strong ethos within the probation service. It is a profession, as Mr Woods said earlier. There is a strong ethos for maintaining individual skills both through formal learning and through peer mentoring and coaching. I think that is strong in the service, and I think it will continue.

Alan Woods: I think I would also like to add that the qualifications framework that has been developed will also take account, as you have heard from previous witnesses, of the qualifications and credit framework. You could see a position in the framework where CPD-type activity could be actually accredited and given a qualification under the new framework. I am hoping that the probation qualification framework will embrace this new way of working so that bite-sized learning can be accredited as well, which will help in CPD issues.

Q209 Chair: How is all this going to work out in a world where the skills that are going to be required of some people are actually commissioning skills, which is moving to a potentially very different structure. Here we are urging you to make sure that you are training people properly to deal with sex offenders or other repeat offenders and you are actually having to learn how to do commissioning properly—or the people you are responsible for are.
**Robin Wilkinson:** The formal skills in how to manage effectively a sex offender in the community will always be important and necessary. As you know, the Government are proposing to issue a Green Paper on a number of these matters shortly and we obviously need to await the outcome of that.

Commissioning—buying services from others—isn’t something new. The probation service already accesses a whole range of partners to engage and work with. Whether that expands or not, I think we need to wait for the Green Paper. There has already been quite an investment in thinking through what commissioning means, and in training and developing key staff within probation trusts around those skills, but it is clearly going to be an ongoing part of our world. It is something that we need to continue to look at and put on, particularly at the more senior levels, in terms of ensuring that we have proper structures in place to enable the understanding of need and then the provision of that need, however that is sourced, whether in-house or from an external provider, is properly met.

**Q209 Chair:** Mr Woods, you view this from a rather different experience, don’t you?

**Alan Woods:** I am not sure that I do, really. In terms of the learning and development plans that each individual probation trust has, I think there is this greater decentralisation to the trust to make its own learning and development plans from both centrally cascaded materials that are delivered by the National Offender Management Service and, also, within the individual trusts themselves. I think that there is a greater opportunity in those issues around professional development.

**Q210 Claire Perry:** I apologise to the Committee for my late arrival. I don’t think this has been covered before, but we have obviously taken evidence from clients of the probation service on previous occasions, and I think many of us on the Committee felt that at least one of the members of that team would make an excellent probation officer having experienced the system herself and having some very strong views about what works.

The issue I suppose I have in reading about the new qualification framework is that it moves away from perhaps experience, common sense and life skills, towards a slightly more sterile framework of tick-box qualifications. What are you doing to get people in the system who perhaps might never pass an honours degree in probation-related matters but would be excellent probation officers, given your experiences of the role?

**Robin Wilkinson:** I think what you have said in terms of the importance of life skills and such like is so, so important for the role of a probation officer. I think, actually, the new framework should help substantially on that in terms of the fact that we have a PSO workforce that is 5,000 strong in the service. As we have said previously, they had no easy route to progress, and what this new framework does is to provide a supportive environment for those PSOs who have the potential and who maybe wouldn’t necessarily have thought about a career through an external degree route but, through the supportive environment of their current employer, they have clearly got the skills to be a great probation officer. This new framework gives them the structure to be able to develop over time in a structured and coherent way to become a probation officer in time. I think we will therefore see a much broader range of people becoming probation officers in the future, taking advantage of this PSO progression route, than previously we would have done, which was much more of an external graduate entry route. So I think it will help. It will deliver and support the notion that you are pursuing there.

**Q211 Claire Perry:** But if you identify a fantastic PSO currently who you know has all the makings of a probation officer, surely it should be a judgment call of a manager to make that person a probation officer without putting them through perhaps a quasi-academic route to get them to something that you know they will be able to do anyway?

**Robin Wilkinson:** It is interesting how far judgment goes on that. I think it is important, as we said previously, that the judgments that probation officers are taking are very, very difficult and they are finely balanced. What the framework does is to provide a structured basis both to gain the underpinning academic understanding, criminology and risk and such like, along with vocationally-based work on how to put that into practice. I think what the structure therefore does is to give you both the knowledge of how you should activate it as well as the important academic underpinning. I think, as a probation officer, that that level of qualification is necessary. I think we have shown that that is the right level of qualification. I wouldn’t like to see a scenario where, just on a manager’s judgment, we were suddenly putting someone into the role of a probation officer, which is so, so important in terms of public protection.

**Q212 Chair:** Do you get many people who move from other jobs in the probation service into the PSO grade who maybe hadn’t thought when they just took a job in the probation service—perhaps an administrative one, even a clerical job—that they had the potential but discovered that they could make the move into the PSO grade and, of course, potentially then have the opportunity to become probation officers?

**Robin Wilkinson:** There is that movement. I couldn’t quantify it for you, I am afraid, but there is that movement within the service. As earlier witnesses said, the ability when working in an organisation to know that actually it is what you want to do, but also that the organisation can see how you operate within that organisation, is such an important and valuable part of assessing whether or not this investment in the academic qualification of a probation officer is important. I think retention will be improved for probation officers by virtue of the fact that more will come through the PSO route.

**Q213 Anna Soubry:** I was just going to ask—forgive me, I don’t know if it is in the papers—what percentage of the training as you move to the higher
level is actually academic training and what part of it is practical? What is the percentage?

Robin Wilkinson: I couldn’t give you that percentage breakdown, I am afraid. I suspect my colleagues behind could, but I couldn’t, I am afraid. 

Chair: If you would like to drop us a note on that point, that would be very helpful. Thank you very much for your help this morning.
Tuesday 8 March 2011

Members present:
Sir Alan Beith (Chair)
Chris Evans
Ben Gummer
Mr Elfyn Llwyd
Claire Perry
Yasmin Qureshi

Examination of Witnesses

Witnesses: Professor Martin Chalkley, University of Dundee, Genevieve Knight, Policy Studies Institute, Jen Byrne, A4e, and Toby Eccles, Social Finance, gave evidence.

Q214 Chair: Welcome, Ms Byrne from A4e, Professor Chalkley from the University of Dundee, Mr Eccles from Social Finance and Dr Knight from the Policy Studies Institute. We are very pleased to have you with us as we try to understand how payment by results works. From the range of experience that you have in either participating in such schemes or studying and analysing them, I think you will be able to help us a great deal and we very much appreciate it.

Perhaps I can start in general terms, although without wanting to encourage a particularly long answer, to establish what you see the key characteristics of payment by results schemes to be if they are to work successfully. Any offers?

Professor Chalkley: I will start in relation to what payment by results means in the context of health care, which is something quite different from what is implied in the consultation paper as being payment by results for probation services. In the realm of health care, payment by results is a system in which hospitals are paid according to the number of patients they treat, pure and simple. It is a kind of system that replaced—

Q218 Chair: How is an appropriate price for the desired outcome determined?

Genevieve Knight: In the case of Pathways to Work and the subsequent contracting that was carried out for the commissioning, and is also currently occurring for the Work programme which will start in the summer, the contracting price is determined through a competitive tendering system where tenders are submitted and defined by those who are tendering, and then assessed as part of the competitive process. For Pathways to Work, this had some effect on how those contracts then worked in practice, as to whether they are financially viable, and so on. If you want to ask about specific aspects of that, I can say more.

Q217 Chair: Is it different in relation to the Department for Work and Pensions contracts?

Genevieve Knight: Yes, it is. The evidence that we have definitely shows that it is. In theory, and in practice, these are outcome-based as defined. They are an outcome where it is the person entering work or not. It does have issues related to the characteristics of the customer, so there are some similarities to health. It is definitely outcome-based for Department for Work and Pensions-style contracts.

Q216 Chair: Or pre-existing factors: lifestyle or propensity to be cured.

Professor Chalkley: Yes, or pre-existing factors: the characteristics of the patient and so on and so forth. There has been a big movement in terms of the literature talking about the outcomes in health. I don’t believe that it is practically implemented anywhere at the moment. It is all in terms of payment by activity.

Q215 Chair: If it was really an outcome-based system, would it have to change very radically from the kind of system—

Professor Chalkley: That is right. There has been big literature in health care about the practicality of paying according to genuine outcome, as in whether the treatment is successful. That literature emphasises the difficulties that would be involved in doing that: the difficulties in establishing whether it is the actions of the hospital or the actions of health carers that have given rise to the outcome rather than just chance and good or bad luck.

Genevieve’s point is that, in the instance particularly of the Work programme, we have differentiated payments which are commensurate with the perceived difficulty that the provider may be faced with in placing that person into work. So there is a higher premium payment for different customer cohort groups.

Q219 Chair: What about the experience of A4e, because you have been a bidder for these?

Jen Byrne: The only thing I would add to Genevieve’s point is that, in the instance particularly of the Work programme, we have differentiated payments which are commensurate with the perceived difficulty that the provider may be faced with in placing that person into work. So there is a higher premium payment for different customer cohort groups.

Q220 Chair: Are they grouped in categories?

Jen Byrne: They are.
Q221 Chair: You don’t have to have it for every single case, do you?

Jen Byrne: No. There are eight categories for Work programme, which range from type of customer, which includes lone parent, ex-offender, young person, so the greater perceived labour market disadvantage, the higher the weighted payment for them. That applies on a service fee basis. A small amount in Work programme is attached to the start on the programme. It is called an attachment fee in this case. There are also then weighted payments on a pure outcome basis that are differentiated again by a customer cohort basis. They incentivise providers. It avoids the typical criticism around creaming and parking—the where a provider has a contractual incentive to invest more in those customers that are perceived as having the greatest barriers to work. Equally, then, the payment attached to those customers is in effect commensurate with the idea that you are going to have to invest a greater level of support and possibly provide a greater number of interventions in order to support that person back to work.

Q222 Chair: Dr Knight, do you want to add something to that?

Genevieve Knight: Yes. I would add that the DWP has defined that contractual basis for the Work Programme on the basis of the learning which it went through and the process of discovering problems that it had with the Pathways contracts and other contracts it has had in the past, where there was the issue of the programme providing services to those potentially who most needed them or were further away from the work outcome but instead focusing their services on those who would achieve the financial outcome.

Chair: Cherry-picking.

Genevieve Knight: It is another word for it. It is called creaming. It was referred to earlier.

Q223 Chair: Are you saying that, with experience, they developed a system to try to overcome that?

Genevieve Knight: That is correct. We don’t have any evidence yet since the programme hasn’t yet started, but that is definitely the basis for the new contracts in order to achieve a better design.

Q224 Chair: To what extent does the Department specify the methods by which you are to achieve the objective; the actual nature of the service to be provided? Are there parameters for that, or is it left to you to meet the outcomes?

Jen Byrne: The introduction of payment by results methodologies around welfare contracts has led to something that is commonly within the industry known as “the black box” approach, whereby the commissioning department defines very clearly the high-level outcomes it wants to achieve. In the case of Work Programme, it is long-term sustained employment. With that transfer of risk and responsibility over to the provider, it then negates the need to be as heavily prescriptive about the “how”. In effect what they are saying is they define what they want, but they leave it up to a provider to then determine how they are going to find a solution to that.

What that leads to, I suppose, is a requirement for possibly larger and longer-term contracting. You have to invest far more heavily in intelligence systems and in staff training, whereby you are imposing quite a lot of responsibility on to front-line workers, to design highly personalised programmes for support because that is where the risk is lying: it is about your ability to secure that long-term outcome. That means that as a provider, to hold that risk, you have to indemnify yourself around that, to collect evidence that enables you to refine your delivery solution and attune your service provision around the individuals, allowing you to differentiate what you do by customer cohort group or by typical characteristics.

Q225 Chair: Is there a political reputational risk, and, if so, how is it handled? I think I might refer to it, if I may, as the “Jack Straw problem”, where the prisoners’ Christmas party suddenly becomes a tabloid press political issue so the Minister says, “That’s got to stop.” That response to political risk is incompatible with handing over responsibility for determining how programmes are carried out to the provider and tends to create an overhang of departmental involvements in the precise programmes used. Dr Knight, do you want to come in?

Genevieve Knight: There does definitely have to be a minimum prescription of services, which is the minimum that is in the design of the contract and is stated in the contract.

Q226 Chair: It may be something seemingly harsh that you do; it may be something seemingly soft, if I can put it that way, that you do in the course of a programme, even in relation to unemployment, never mind dealing with offenders, which just attracts a lot of attention. I wondered whether that attention can stay with the provider or whether ministerial interference just comes with the risk.

Toby Eccles: I think there is a risk, to take two different versions of the same thing. One is that one is dealing with a vulnerable population in the case of ex-offenders or offenders. There should be, and in our service specification there are, a set of principles over which we can’t step. We can’t be involved in trying to inculcate them into a certain religion or cultish group, for example, or pay them not to reoffend, both of which would seem very reasonable from our point of view and would not work within our service model. But there is also a risk that, if you have an evidence base for something which a random newspaper—take either The Guardian or The Daily Mail—doesn’t like but which happens to be highly effective, then political intervention at that point is risking the service provider’s ability to deliver the service and the outcomes on which they are getting paid. At that point I think the Government would expose itself to a liability the other way. “If you do want to stop me doing that, then actually you are going to have to pay for the fact that I can’t do it.”

In some ways there is a benefit to Government in passing responsibility. The role governmentally is to define the outcomes that society is looking for and
what it is willing to pay for them. How you get there, providing you are treating these people with respect and dignity, is up to you. My view is that playing two hours of PlayStation every day is effective—to take a random example, which again is not in the service model, I hasten to add—and that gets picked up by The Daily Mail as being appalling, then that is part of the benefit of having somebody else doing it.

Q227 Mr Llwyd: How influenced are you by the tabloid agenda, which are the drumbeats against which we all try to implement a fair justice system?

Toby Eccles: One of the benefits of working on an outcomes basis is that one has to be very rational about what one does. Just to pull back and answer some of the earlier questions about how you define successful payment by results, the first thing one has to define is what you are trying to do your payment by results for. Are you taking a present set of work and services and wanting to move it to more of an outcomes basis because at the moment you don’t believe that you are getting good value for money out of the money that you are spending? The outcomes one is achieving with quite a lot of public money aren’t sufficient. Therefore, moving progressively, so that a higher proportion of the income to the service providers is on the basis of the outcomes they generate, should incentivise people to work more effectively and also help sort the wheat from the chaff.

The next bit is that when one is working in new areas, and everything that the Ministry of Justice is doing is really new areas, the contracts need to be built in partnership. I don’t see the fact that the Work programme changed its contracting following feedback from the service providers is a poor thing. I think it demonstrates that they are doing exactly the right thing of working with the marketplace to figure it out. I am very glad that these early ones on probation and so on are pilots because one is generating the information and the data to be able to build a larger market in the future.

The third element is around the service specification point and the difficulty of the tabloid press. The Peterborough model is probably at the most extreme end, in the sense that the vast majority of money flowing through it is pure pay for outcomes. In order to make that work, we wanted to do something very specific. We weren’t taking a present set of services. We were saying, “We actually want to demonstrate to Government a hypothesis that it is better to invest in reducing people’s reoffending behaviour than in merely locking them up and paying for the consequences.” As we know, the Government can’t afford to do both: to pay for it and then fail, and then lock them up afterwards. We are happy to be contracted only on the basis of the outcomes that are generated because we can find socially motivated investors who also want to test the hypothesis, who also want to demonstrate that it would be better done that way. Therefore, we will take the contract, we will raise money off the back of it, pay for the set of services, evidence those services, and that evidence base will then be a great platform for Government and an investment proposition that this is a better way of working. How you then choose to contract that in the future may be rather more similar to the Work programme, where there is a proportion on service provision and then a proportion on outcomes.

In answer to the tabloid point, one has to be working on the basis of evidence and build that evidence so that we are tracking everybody who comes in and everything that happens to them. Everyone is inputting information on to the same database. So slowly we are making more and more decisions on the basis of data and not on the basis of anecdote or tabloid whim. That is how we will end up producing better results.

Chair: Dr Knight is keen to come in on this point.

Genevieve Knight: I thought that your query was about bad press and the politics of the fact that, once the contract is in place, what you do about it. As a result you would, to avoid the risk, specify so many aspects of the contract that there might not be too much room for innovation because the theoretical basis for outcome-based contracting being a useful tool is that it can provide innovation and cost reductions through the delivery of some new form of service, which is that type of “black box”. If you pre-specify too much in the contract, that might be a difficult thing to achieve.

We have evidence from the Pathways to Work—the early evidence of outcome-based contracting for Department for Work and Pensions—that the providers certainly felt that they had little room to innovate. The one characteristic of this research is that it did occur during the start of the recession. Costs are being squeezed. Financial viability is a much more precarious area. When they were tendering, the process occurred slightly before that was going to be the case, and also the market conditions were different at the time they were predicting what they could achieve. The evidence we have from Pathways to Work, private sector led, did show that there was limited innovation in the services potentially—that is the evidence—but that there was some innovation in cost reductions and such areas.

Q228 Ben Gummer: Mr Eccles, you have hit on perhaps the key perennial paradox of the criminal justice system, which is that there appear to be two opposing forces—one on the basis of costs and the other on the basis of evidence that there is suggesting that the policy should follow in one direction and then the politics pulling it in the other. You make a very interesting point about the fact that, quickly, an evidential basis built up through a PbR model. One of our challenges on this Committee is the complete lack of evidence in sentencing and in outcomes. In previous experience in health and welfare, how quickly is that evidential base built up, and how robust is it?

Toby Eccles: I think there are two separate sets of evidence. If you look at the evidence base, say, in Australian work programmes—and I am sure Dr Knight will have thoughts on it—one can build up quite a large scale set of evidence quite quickly. The question is how valuable that is over time. Our focus has been on looking at it in a commercial sense; one builds up data which you then mine to work out how to improve what you are doing. “We are not addressing this population particularly well. What do
we do about it?” “This organisation is working well, but these individuals within it seem to be much better than these individuals. What training differences are there and how do we support those to become more effective?” It is a constant learning by doing and using data to drive better decision making.

That is slightly different from trying to build up an evidence base in the traditional sense of trying to have a randomised control trial or you try to have longitudinal studies for long periods of time on populations. The question then is how open you can try and make that knowledge base that one is developing. One of the things I would advocate for this work is that, in criminal justice, you ask your pilot providers to be providing that information base as they are learning, to become part of the public goods to enable this payment by results model to be moved out at greater scale.

Q229 Ben Gummer: Can I just pick you up on that point? Surely the other benefit or the other evidential base is being able to price the outcomes more accurately. Surely you would want, therefore, to have a more open source format on the outcomes, thereby allowing the efficiencies to be gained in pricing.

Toby Eccles: Pricing is one of those areas where people have still got their heads on the wrong way round, if you will pardon my expression.

Chair: I think it is a rather good expression.

Toby Eccles: In other words, they are still looking at it and saying, “How much does this cost to produce? What is the rate of failure? How do I multiply that up? What is your cost of capital? There is your price.” That is instead of saying, “What is the value to the society? What is the value in terms of the reduction in other costs in the system?”

If, for the sake of argument, we set it so that one had a differential set of pricing working up to that value, then those that presently it was not economic to work with would be economic to work with and you would try and figure out how to deal with them. It is worth thinking from the value side as well as trying to minimise costs early on. I also think there is a danger, by the way, in all this process because people are keen to get involved with payment by results. There is the potential for a number of these early pilots falling flat on their faces. That will make the investment case in the future very, very difficult. It would be a little bit like one of the first one or two privatisations going wrong. We wouldn’t have had a very successful privatisation programme if one had gone down that route. I think it was quite sensible that the first ones were very successful, which meant that one was able to shift an awful lot more.

Q230 Ben Gummer: I am sure my colleagues will come on to the issue of cross-departmental savings shortly, but Dr Knight wants to add something.

Genevieve Knight: On efficiency and value for money in pricing, internally, the Justice Department would be able to conduct an analysis through a cost-benefit analysis which would provide them with some evidence of the costs. They could just do a simple cost analysis of their own costs which would give them an idea of some sort of price. If you do a pilot you can gather robust evidence on the actual impacts, on the outcome, as well as the costs of those and combine them to provide what is generally accepted as a cost-benefit analysis and provides the value for money information. So it is possible to do that.

Obviously, the time required to get the head round the wrong way, to be facing both directions and to be Janus, then you would need to have had time for that pilot to have occurred for the evidence. “In what sort of time period does the outcome have to occur in the contract for a payment to be made?” would be the minimum, etcetera. It is quite a long time before that evidence basis turns up. That is why, often, in rapid evidence reviews, they looked at other countries to provide the evidence because they might not yet have enough evidence in the country that you are looking at.

Jen Byrne: To pick up particularly on Toby’s point, we see the “evidence gap” as being probably the initial and largest inhibitor to an immediate roll-out of a full PbR model around justice services and probation services in particular, principally because in a welfare environment it has taken at least 15 years for the Department for Work and Pensions to be reasonably confident that they have a fairly accurate calibration of cost and dead weight of risk threshold.

A proposed solution to that would be to have an interim phase, which the pathfinders should help us achieve, which must be an entirely collaborative venture between providers and the commissioners and done on a very open-book basis, saying that nobody has a firm idea and that, if you took a particular subgroup or cohort of offenders and you applied a particular configuration of interventions delivered in a particular sequence, you would absolutely definitely get that particular outcome or that percentage reduction in reoffending. Without that certainty, it becomes incredibly difficult in any near-term capacity to be able to go and talk sensibly to an investor and provide them with a reasonable outline of their potential risk.

Q231 Ben Gummer: Can I draw your two comments together, because the MoJ and NOMS claim to have unit costs at the moment and no doubt the DWP did when you started out on PbR for welfare? How accurate did you find those initial costings from internal departmental studies? Have they changed radically through the process of learning?

Jen Byrne: I would say in a welfare capacity they have changed rapidly over probably the last 10 years, radically even.

Q232 Ben Gummer: Could I ask a couple more questions, because the area of pitfalls is one that my colleague is going to come on to and I just want to bottom out one or two things? In terms of stimulating the market, what is the experience that you would bring to bear in this new round of PbR from what has happened so far?

Toby Eccles: There are two markets to stimulate. There is effectively one, but the first is a service provider market and, for that, you need clearer quality data, clearer knowledge of what works and what doesn’t and that demonstration. But that also then
applies to the investment market which sits behind that. We have been very focused on building a social investment market and building a set of potential investors who are also invested in the idea of a social change that is occurring. We are doing that for two reasons. One is because it enables pilots like Peterborough, and the enthusiasm that that has generated has been quite outside of the scale of the pilot itself, which is marvellous, but which also means that there is now a larger pool of potential investment capital that we can draw upon. If we do five, six, seven, eight, or others do more of these, that will build a track record for a much broader range of potential socially motivated investors.

Q233 Ben Gummer: Are you seeing these as being mainstream investors as part of a portfolio?
Toby Eccles: I am seeing the future of the Co-op, for example, providing a pension and saying, “3% of your pension assets are going to support and improve society.” Would that be attractive to people? I think that would be extremely attractive. We are already seeing private bankers and others coming to us, saying “You are getting demand from our clients for these kinds of products. We have no understanding of them and we don’t know how to get them to them.”

Q234 Chair: Is it part of the ethical investment picture?
Toby Eccles: Ethical investment has always been a rather passive thing such as, “I’m not going to invest in guns and fags or stuff.” You cross them out and hope that the rest is all right. The idea of actively making investments that you are proud of, that you talk about at dinner parties, in the same way that people talk about what charity they are doing, is something that people find very exciting.

Q235 Ben Gummer: But if the return is sufficient, it could be a mainstream, vanilla investment, couldn’t it?
Toby Eccles: Absolutely. I think there are parts of this market that will become mainstream, vanilla investments. There is always that piece in one’s mind. One has to have trust and faith in doing these kinds of contracts because there are ways of making perverse incentives a lot of the time, and there are the creaming and parking problems and so on. I think there are some in the private sector who are similarly motivated by the outcome as anybody else. If one does increase socially motivated pool of capital, then that gives one a greater flexibility. Then one has a choice as to how the market develops in the future.

Genevieve Knight: Toby mentioned that you are potentially committing to developing a market. The DWP has had to do that and sustain that market development process through difficult times towards better times in the hope that they can develop a better market. That has generally been successful. It has improved over time. However, I can definitely say with regard to the Pathways to Work provider sector led, certainly in other Committee meetings at Parliament, it has been reflected that there were difficulties in financial viability for some aspects of the market. That had to be stabilised and supported. It is a commitment. It is a time-consuming process. I think 15 years was mentioned. That is probably a good estimate of how long it has been worked on.

Q236 Chris Evans: What are the key lessons that those seeking to apply payment by results to criminal justice should learn from the experiences in doing so in health care and in employment?
Professor Chalkley: This relates to a number of the issues that have already been raised. One of the critical things is to focus on the notion of delegation of decisions. The point about there being a risk of political intervention cuts across what might be perceived as being one of the biggest routes to benefits of a payment by results type of system. That is that you are delegating the decisions; you are delegating the choices that need to be made in order to produce a service to the providers of that service. If you start interfering with that process, if you start engaging with that, then probably some of what have been observed in practice as the biggest gains to be had will be wasted. The biggest gains come from giving the providers of services a real interest in finding the best way, finding the cheapest way and so on and so forth. That is one crucial element to take away from this. If the system gets run in such a way that that freedom of choice at the provider level is lost, then you will not get the benefit from a payment by results type of system.

Genevieve Knight: I would agree with that. Generally, where you have a requirement by law to deliver a minimum service, that will need to be stipulated in the contract. That design of the contract is then the minimum service that will get delivered, potentially. You need to be very careful in designing. I generally support Professor Chalkley’s assessment that it is the design you have to get right.

Q237 Chris Evans: Is payment by results about value for money then?
Genevieve Knight: Potentially it can be. Dan Finn of the University of Portsmouth did a review for the Department for Work and Pensions. Theoretically, economically, it can provide innovative service delivery and value for money. One of the innovations can be cost reductions in that service that you specify.

Q238 Chris Evans: Why do you think the use of payment by results by the DWP and the Department of Health resulted in increased administrative costs then?
Genevieve Knight: Administrative costs borne by the Department?
Chris Evans: Yes. It says here that the additional expenditure was due to recruitment of additional staff, higher costs of data collection, higher monitoring cost, etcetera. If it is value for money, don’t you think that defeats the object of the exercise somewhat?
Genevieve Knight: When they started out, I don’t think it was the primary objective of the exercise. Certainly, they had to set up administrative processes that would support the contracting and the monitoring of that in order to ensure that it was carried out. I would say it is not clear that the ideal model has yet been achieved and there is a process of learning. I am
not sure when that period refers to, for example, or which programme, but that would be very important to define in order to see whether that is a problem with the value for money aspect of it.

Q239 Chris Evans: In a brief we have been given, we are told that the costs increased by £100k to £180k in hospital trusts, and £90k to £190k in primary care trusts. That is quite a lot of money.

Toby Eccles: If I could just come in on this, there is a nervousness I have in terms of focusing on the central administrative costs rather than the costs of the overall system and also the objectives of the overall system. What we are talking about very often is contracting processes that, historically, and over a long period of time have not generated the outcomes for society that society is looking for. At that point we need better ones. If they happen to cost a bit more in the centre to deliver, I think that should be something with which the Committee is very comfortable. If it generates the better outcomes for society, then that is something with which the Committee should be delighted.

Focusing on the value for money argument is a very modest proportion of it, but when we developed the social impact bond model we were not focused on value for money; we were focused on the fact that many third sector organisations that we interacted with had contracts that failed to pay them for the value they delivered and, instead, kept slicing and dicing and reducing their costs so that they would provide less and less service until they weren’t actually providing anything that was effective at all. Moving the situation instead to paying for the outcomes that they are generating and working out what the value of those outcomes is, meant that they were starting to be freed up to do what they were meant to do, which was to provide a good quality service to their users, which is what society was looking for them to do in the first place.

Genevieve Knight: I would support Toby on that. Effectively, what you are doing is concentrating only to provide a good quality service to their users, which is what society was looking for them to do in the first place.

Chris Evans: Everybody is concentrating on the costs these days.

Genevieve Knight: Sure, but the cost analysis is only part of the value for money analysis. It is one half of it. The other half is the benefits. You haven’t valued the benefits in that. The cost analysis always comes up with the costs and they may or may not be higher, but what you want to find out in order to get the value for money analysis and the cost benefit correct is what were the benefits, what was the value of that benefit and then compare them. It may still be that the value of the benefits is higher than that increased cost, in which case that makes sense.

Ben Gummer: The cost is the potential saving to the public purse plus margin plus capital interest. In that initial estimation, if you can get close to understanding what the cost to the public is of any given crime, then you are close to an understanding of what the value is. It is not difficult.

Q240 Yasmin Qureshi: I was going to go on to the point about the cost. One of the main reasons that payment by results has come into being is to save money, and therefore to say that the cost doesn’t matter defeats the argument, doesn’t it?

Toby Eccles: There are two elements to this. If you are looking at these large-scale systems where you are not generating the outcomes that you are wanting for society, then there is going to be, within that, a host of service that is provided that is ineffective. The question is which part that is, so, if one pays on the basis of outcomes, one removes that cost.

If, in doing that, you are having a procurement process for £200 million worth of services and it means you have to spend an extra £108,000 in the process of procuring those services, that might be money extraordinarily well spent because you will save £10 million on the other side of it. I don’t know what the figures are, but one has to be very careful, and I think this is actually happening across local government at the moment. People are potentially losing commissioning and procurement expertise, but that may be where the expertise is needed to drive costs out of other places. One has to be very careful not to rob Peter in order to spend a lot of money on Paul.

Chair: We have quite a lot of ground to cover in the next 15 minutes. That is not a criticism of Mr Evans: quite the contrary.

Q241 Chris Evans: If you don’t get the outcome you want, you have still wasted money then. Following your logic, if you don’t get the outcome you want for society, you have still wasted that money.

Toby Eccles: No, you haven’t, because you were only paying for the outcome. The difficulty at the moment is that you are not specifying the outcome. You are paying for the process and then not getting the outcome.

Genevieve Knight: I would support Toby on that, because it is definitely value for money then.

Jen Byrne: If I may just add one more thing on that, the payment by results and outcome-based commissioning is a contracting mechanism. It is a commissioning mechanism which should aim to increase the level of transparency or to increase the direct link between the cost of an intervention and the positive social outcome. Again, not knowing the background to the figures that you have mentioned, the very first generation of outcome-based contracts around welfare were Employment Zones back in about 2000. There was a demonstrable performance increase between what had been in-house delivery by Jobcentre Plus against the then provider-led equivalent, which were Employment Zones. Even if there had been an £100,000 additional burden absorbed centrally by DWP, there was a significant enough performance increase by providers that absolutely made the case for that being a worthwhile exercise. The Department must provide itself with confidence that it is worthwhile going through the exercise of commissioning through PbR in order to achieve the cashable savings to the system thereafter.

Q242 Chair: Can I just check how large contracts have to be? Do they have to be so large that they effectively preclude small providers?
**Genevieve Knight:** How large is a good question. The Department for Work and Pensions’ system has moved to having two tiers, where they have a prime provider and then the smaller providers who couldn’t possibly cover such a large area because they specialise in either a particular area locally or are focused on a particular type of client or customer characteristic. They can then be subcontracted or have service level agreements with that prime provider. The prime provider’s areas are often quite large areas of the country.

**Q243 Chair:** So subcontracting is the answer to the large contract problem.

**Toby Eccles:** Not entirely. We built the model that we have implemented—the social impact bond model—in order to enable smaller-scale organisations to participate in payment by results. Before that, they would have too much of a working capital problem. We also felt that, if we wanted to test these models in areas where there isn’t present Government service provision, the wish to pay only on the basis of outcomes would mean the working capital problem was particularly large. The minimum size for a social impact bond model is dependent on what is statistically significant for your target population. We have target populations of around 1,000 in each cohort. It is about the smallest one can do. They are coming out of prison over two years, which is pretty awkward. We would much prefer it over one. We have a five million quid project. Would we prefer an eight or nine million quid project? Yes. But does that mean that smaller-scale service providers can get engaged with that? Absolutely. In fact, it is only by knitting together local organisations that one is going to get the integration back into the local community for the ex-offender population.

**Jen Byrne:** Can I just add two pieces of, admittedly, A4e based evidence? For our Work programme bid process, we submitted 12 bids as a prime contractor. We had about 1,693 applications to work with us in a process, we submitted 12 bids as a prime contractor. A4e based evidence? For our Work programme bid processes that there need a balance of clients. Getting that balance wrong can then be subcontracted or have service level agreements with that prime provider. The prime provider’s areas are often quite large areas of the country.

**Q244 Mr Llwyd:** This may be a question for Mr Eccles. What are the relative merits of social impact bonds versus outcome-based contracting models used by the DWP and the Department of Health as a means of delivering PbR in criminal justice?

**Toby Eccles:** They are useful for different things. In designing one’s payment by results model, one needs to determine what outcome one is looking for and then develop the right contracting model for it. Where you have a large present service provision area and one wants to move that to a more outcomes basis, then, for example, saying that we are going to pay on a greater proportion on outcomes over the next five or 10 years you don’t then create an enormous working capital problem for your service providers, but they are certainly focused much more on outcomes than they were before. One can do that in a very different way. Where social impact bonds are very relevant is where you are working in a new area and there will be the need for services that are not presently envisaged and not presently part of the public sector. It is also an area where socially motivated investors would like to test the hypothesis and would like to see that, if we invest in this way, we produce better outcomes for society for the individuals concerned and lower long-term cost. When you have that situation—and we are finding a lot of them around looked-after children, potentially around drug rehabilitation and certainly further in criminal justice, in health around care of long-term conditions in the community—around those areas, one can create a package of new work on an outcomes basis, raise capital and do a social impact bond-type model.

**Genevieve Knight:** I am not sure they are terribly different. To be honest, innovation is part of what theoretically can occur with an outcome-based model. It is specifying it and getting it right that matters and that experience develops on that. I would say that, in order to get a social impact bond market started, the first thing an economist would have to do is an ex ante cost-benefit analysis that there is some benefit that is higher than the cost, otherwise there is no profit in it.

**Q245 Ben Gummer:** On the back of that, it would seem to suggest that it would be appropriate to think that the most suitable pilots to start with are probably some of the more difficult customers, if I can put it that way, because the potential margin is that much greater. It would therefore be appropriate if the MoJ started with some of the more intractable cases—people with personality disorders, for instance, or violent offenders—and not the vanilla six-month cases, if I can use that phrase again.

**Genevieve Knight:** I think you would have to mix your clients a bit more than that. To be honest, you have to identify them very carefully. One of the difficulties will be in agreeing who is defining them and how they are defined. The evidence from the contracting for Pathways to Work shows that they need a balance of clients. Getting that balance wrong
in the design, where people are bidding for it and they think that they are going to get more of the vanilla cream type customers, really just means they won’t get the profit margin or cost recovery that is needed to make it work.

_Toby Eccles:_ I also think there is a real public safety piece to pick up on on this which is very specific.

_Genevieve Knight:_ It is unique.

_Toby Eccles:_ With regard to the plain vanilla, as we call it here, we have a 60% reoffending rate for 70% of the population coming out of prisons every year of those who are coming out from short sentence offences. They leave with £47 in their pocket, and not very much happens to them. We have plenty of exciting things to do there before moving and thinking about those where even one going wrong is going to create such a public backlash. The public safety aspects would mean you would want to specify what people were doing with those individuals much more clearly. At that point, as soon as you want to specify everything because of your legal and public safety concerns, you are no longer working on outcomes, are you?

Q246 Mr Llwyd: How would payment by results contracts reduce the demand on the criminal justice system? How would they differ from the existing contracts of delivering services to offenders?

_Toby Eccles:_ Do you mean the outcome-based contracts?

Mr Llwyd: Yes.

_Toby Eccles:_ To take two or three examples, in the contract that we have, while anyone going into the prison needs to be agreed and is accepted by the prison governor, there is still considerable flexibility. If we find our service providers are not delivering, we can change them in discussion. Outside of the prison gates we have a great deal of flexibility about what services are provided. There is a lot of specification taken out of the process. I think that is the primary point.

Q247 Mr Llwyd: What role do you envisage for probation trusts in the delivery of these services? In other words, is it feasible for trusts to act as lead providers to cover a particular geographical area?

_Toby Eccles:_ Yes. I think a partnership with a probation trust is going to be the most likely way of implementing these initial pilots for community-based solutions. They are still very much a work-in-progress, but I would think that a partnership with probation trusts would be an essential element of making it work.

Q248 Yasmin Qureshi: One of the main reasons for having payment by results is to deal with the issue of reoffending. It is accepted to some extent, though not completely, that the current system of integrated involvement of different agencies in the criminal justice system has not been completely successful. How would payment by results improve that?

_Toby Eccles:_ One of the things that we have found in our work is that we have an individual who runs the three organisations providing the background of the services in Peterborough, but that individual, in a certain sense, is gaining enormous knowledge about what is happening in the community with short-sentence offenders, which is a gap in the overall knowledge base. She is, therefore, not advocating on their behalf but saying, “Well, actually, if services were different here, they would be better at accessing them.” Having somebody to act as a link between services, for a group that is not being very successful in engaging broader public services and the wider community, is proving to be a significant part of the value. Is that also linking up NOMS and the different bits of criminal justice? I think it is too early to say, but that leadership is an important element of a lot of these models.

Q249 Yasmin Qureshi: But that is suggesting somehow that, if you have people who are being paid by results, they are effectively going to do a better job and are much more knowledgeable about what needs to be done. Are you suggesting that those who are currently involved in this system are not good enough or not doing their job properly?

_Toby Eccles:_ No. They are being asked to provide all sorts of process-oriented elements which they might be heartily sick of and which they don’t think are producing very much value. When one is developing an outcome-based model, it certainly incentivises everybody to focus on the individual objectives. If you have someone who is now reoffending massively having come out of Peterborough Prison, that person is probably going to be phoning up round prisons finding out where they’ve got to to be able to try and get in touch with them. No one would have done that before. They would not even have known. They would not have had the data.

Q250 Yasmin Qureshi: Can’t that just be part of better practices? Does it have to be payment by results?

_Toby Eccles:_ I think it focuses the mind in a very different way.

_Professor Chalkley:_ It is a question of focus. If you take health care, we have lots of evidence that, if you pay health professionals for carrying out treatments, they carry out lots of treatments. If you pay them according to the turnover of their patients, they will become more focused upon getting people in and out of the door. Incentive systems do work, but the problem is that often they work in a way you don’t intend them to work. The concern is that, by causing people to focus on what you think ostensibly is the right thing, you actually get them to focus on something that is not desirable. But that is a question of implementation, I think.

Q251 Yasmin Qureshi: That is not perhaps the right example to use in a system of reoffending where what happens to a person, whether they stop reoffending or go back inside, is very much an individual thing. It has a lot to do with their own particular mental state, how they have been brought up, family support and lack of education. There are so many different variable factors, whereas in the NHS it is different. You can say, “This unit is able to do 10 cataract
operations a day. Why is this one only doing five?" It is easy to work out and to incentivise people. **Professor Chalkley:** As somebody who doesn’t know about the offending profile, I must admit that, standing from a distance looking at this and trying to think by analogy with other areas, the task of identifying what the drivers of reoffending are is a very challenging one. Until you understand that, paying for an outcome without knowing to what extent the provision of the service is impacting upon that outcome is very difficult. It is very problematic. We have heard of mechanisms that are in place and that could be adopted to improve the evidence base to establish better what that relationship between the process and the outcome is, but, yes, sitting where I sit, it seems like a very difficult job. **Jen Byrne:** Just to add to that and to build on Martin’s and Toby’s points, I think payment by results—not at all to insult the current providers of that service—does have a real potential to refocus probation services activity and to have people not focused on the inputs but on to a broad, positive social outcome, which is to reduce reoffending and which is preventing the next victim. It has the potential to refocus activity around the co-commissioning services and probation providers to work actively with local partners to leverage existing funds, whereas I would suggest that in many cases their activity tends to be quite inhibited and quite inward in focus. Payment by results has the potential to change the scope of work so that it is much more a collaborative partnership approach to dealing with the old underlying criminogenic factors, which you have clearly pointed out. The desistance from crime is largely going to be because of somebody’s mental health, their unemployment or their substance misuse, not because they are an inherently bad person. So much of it will be about the relationship that they have built with that probation service provider. It is a wonderful opportunity to change the focus of activity. **Genevieve Knight:** The economics is that there is efficiency and there is equity. You need to consider both of those. Efficiency is where you are making cost savings in the value for money bid. The other side is the equity. Are the difficult-to-help customers getting served in the outcome-based model, for example? Professor Martin Chalkley’s definition of outcome is where you really have to start. If you don’t get the outcome right, you may not be getting the equity right. The experience of the Department for Work and Pensions has been that they are not necessarily getting equal or equitable outcomes for all. They may get more efficient outcomes where those are focused on particular groups. **Chair:** We are running quite short of time, because we have to hear some other witnesses this morning.

**Q253 Claire Perry:** Isn’t the whole point of this model that we already have masses of data in our criminal justice system that helps to predict reoffending and that, indeed, the existing providers are using to assess all sorts of things, whether it is sentencing or treatment programmes? We are drowning in data that helps us predict reoffending rates, and the whole point of the PbR is that for the first time it is being linked to a very specific outcome, which is whether or not somebody reoffends. I do take your point, Professor Chalkley, that there are areas of health care. Ultimately, the outcome in health care will be, “Is this person healthy or not?” and not, “Have you paid for a series of processes?” The beauty of PbR in the criminal justice system is that clearly somebody is back in prison or not within a certain specified period of time. That brings me to my point, which is, how have you set the current targets in the PbR model that we have up and running in criminal justice? Was the payment and outcome relationship done by negotiation or was that imposed by the MoJ in setting up the contract? **Toby Eccles:** We were very clear that we wanted a payment mechanism that incentivised us to find and...
get as many people involved with the programme as possible. Therefore, it is across the whole population that leaves Peterborough Prison and not just those that engage with the programme. There were a lot of issues around statistical significance because there is quite a lot of variation in the numbers anyway. We needed to have 1,000 people going through and we needed to achieve a 10% reduction in the number of conviction events. Then the question was whether you take a reoffending rate—did they reoffend or not—and then pay more for more difficult cases, or do we take a cohort-based approach and take the number of conviction events from the total cohort, in other words a frequency measure, and compare that against a comparison group taken off the Police National Computer? We chose the latter because we thought that would provide a much richer data set and would potentially enable more effective pricing in the future, but we didn’t think the data was available for that pricing. While there is a lot of data available to predict whether people will reoffend, or not, there is less data available on interventions that will work to stop them.

Q254 Claire Perry: Just to clarify, you have taken the whole population of the prison. You have not cherry-picked or top-sliced or decided who to help. Toby Eccles: We have not.

Q255 Claire Perry: You have based your results definition on how much we are reducing reoffending for this cohort over a statistically identical population coming out of national prisons. Toby Eccles: Yes.

Q256 Claire Perry: We should take comfort from that that you are not trying to cherry-pick and you are indeed working with the entire complexity of the prison population as it is passing through. Toby Eccles: Absolutely, and we were careful to ensure that it was so.

Genevieve Knight: I would just caution that my understanding is that somebody is assessing that statistical significance—that number. That person has been contracted to do that. They have to make an individual decision about whether that is statistically significant or not. There is a lot of room for manoeuvre in statistical examination and analysis about these things.

Q257 Claire Perry: But indeed, we spend millions of pounds as a justice system on all sorts of interventions with, frankly, not having a clue whether most of them work or not. Indeed, we assess the statistical significance of those interventions already. At least in this case we are trying to tie it to a very specific group of interventions with a population.

Genevieve Knight: It sounds like it could only be an improvement, potentially, if you have evidence.

Chair: Thank you very much indeed. We are very grateful to you. If you feel that there is some point you wanted to make but that you missed, by all means get in touch with us. Drop us a line and we would be very glad to know that. It has been extremely helpful to have such a range of experience of this kind of system analysed in such detail. Thank you very much indeed.

Examination of Witnesses


Q258 Chair: Ms Edwards and Mr Edwards from the Ministry of Justice and Mr Porée from the National Offender Management Service, welcome. I think you were present for at least some of the earlier part of the proceedings so you will have heard the very interesting evidence that was read. We are very grateful to you for giving evidence to us this morning. You are the people who are involved in preparing and planning pilot projects. How do you determine what offender groups to place within pilots? What funding methodologies do you use? What is the basis on which you are proceeding?

Helen Edwards: As you know, we work with different pilots. It is important for us to be clear about that because we are interested in trying a number of different approaches, both to working with different groups of offenders and in different settings. As you know, we have the Peterborough pilot up and running already with the Social Finance Initiative focusing on under 12-month prisoners. We are going to have two community-based pilots, with community sentences, two based in prisons, where again we are looking at under 12 months sentenced prisoners. Then there are the rather different kinds of pilots in terms of the local financial incentives for both youth and adult offenders.

We are trying out a number of different ways of approaching this, because, although there is a good deal of agreement, or certainly we feel there is, around the payment by results approach and the concept, it is complicated and getting it right will be quite difficult. The idea of pilots is really important to us. The idea of different pilots targeting different groups of offenders or working in different contexts really matters. That is our broad approach to trying out different things under the broad banner of payment by results. Obviously, we are happy to go into more detail as you wish.

Q259 Chair: What is the time scale? The Peterborough project is itself a six-year project. Helen Edwards: It is.

Chair: There is obviously a desire to see things happening much more widely as part of Government policy. So what is the time scale?

Helen Edwards: The time scales vary. For the local financial incentives the period is two years, and after one year we should be assessing whether there has been any change in demand for our services and if we are going to make any savings. Obviously, if we are, we have agreed that we are prepared to share those
with the organisations that are getting involved in the
local financial incentive schemes. We think the
community-based schemes and the prison schemes
will run over approximately a four-year period. There,
we have to measure whether people are reoffending or
not and being reconvicted, and that takes some time.

Q260 Chair: You have to give them time to do so or
not to do so.
Helen Edwards: We do, and then for us to be able to
assess as they come before the courts and everything
else. The Peterborough pilot is taking slightly longer
because the numbers involved are quite small. There
are only about 500 men on short sentences who leave
the prison each year. We think the minimum viable
size for a cohort is 1,000 offenders. It is running for
a longer period because there is a relatively small
number of offenders leaving prison annually and we
need to be able to test the approach thoroughly. There
are different time scales according to the different
kind of pilot we are running.

Q261 Chair: Are there any categories of offenders
whom you would want to exclude from the process?
Helen Edwards: Our current thinking is that we
would not want to include some of the most serious
offenders: the kind of offenders where there is a public
protection issue and where MAPPA arrangements are
likely to be most appropriate. Obviously, we are
looking at this as we have our discussions with
potential providers and our colleagues in NOMS.

Q262 Chair: I don’t know whether you heard the
earlier exchanges that I had with the previous
witnesses about ministerial intervention and what
happens if something appears to be politically
embarrassing, even though it might be well justified
in a programme, and attracts press attention. There
might be a temptation for Ministers to intervene and
thereby curtail, even before it has ever happened, the
discretion of providers to achieve the results they are
being paid on. Have you given thought to that?
Helen Edwards: We have. I think it is fair to say that
the approach that this Administration, the coalition
Government, is taking is rather different in that there
is a conscious wish to devolve responsibility to local
areas, to professionals in the system more and to give
them more discretion, and for Ministers not to feel
that they are as directly accountable for so many
things. Of course, this will be tested and we shall see
how Ministers respond. The whole idea is to give
people more responsibility for delivery and more
discretion to use their professional judgment and
expertise in order to make the right decisions. We will
still have responsibility overall for standards. In the
way we put contracts together, we will want to be
clear about the parameters and who is responsible for
what. We have yet to work out the detail of that, but
I think, overall, the broad approach is for more
discretion to be exercised by those who provide
services, and with that goes increased responsibility
for what is done.

Q263 Chair: Is there a problem that providers might
treat some of what they do as intellectual property
which could not be shared without a cost arising to
the person buying it?
Helen Edwards: I recognise the issue. We have been
trying to take forward quite a collaborative approach.
As I said at the beginning, these are quite complex
pilots and we want to feel that we can work with those
who might be providing services to look at the design.
Of course, I recognise that once you go into a
competitive process it gets more difficult. We would
like to be as collaborative as possible. Of course, in
the Ministry we will have responsibility for evaluating
the pilots. As part of that, I hope that we can pick up
on good practice and it will be our responsibility, as
in the youth justice system at the moment, where the
YJB has responsibility for trying to disseminate good
practice.

Q264 Chair: There is a point about costs. The PbR
systems in the Department for Work and Pensions and
in Health have increased administrative costs within
the Departments. What the impact of that is on the
total cost is less clear, as one of the witnesses earlier
stated. Have you had to budget for that and how much
have you budgeted for it?
Helen Edwards: On administrative costs overall, as
you know, we, like other Government Departments,
are required to reduce our administrative costs by
about 33%—certainly our headquarters costs—over
the spending review period. That is set for us and we
have no choice about that. We certainly won’t have
the luxury of spending large amounts. I am sorry, but
what was the second part of your question again?

Chair: It was whether you have budgeted for the kind
of increased costs which arise from the contracting
process which the two Departments already doing this
kind of thing have found arise.
Helen Edwards: We have not budgeted for increased
admin costs as such, but we have identified an amount
of up to £10 million to £15 million—my colleagues
will correct me if I am wrong—to help get some of
the pilots up and running. But we really don’t want
that to go into our administrative costs. We want those
to be as lean as possible. Can I just ask Luke if he
wants to add anything to that?
Luke Edwards: The budget for the pilot process is
£15 million for the first two years, but we would look
to recoup a significant amount of that in terms of
savings from reduced demand on our systems, so a
reduction in the flow of offenders into our system,
should they prove successful, thereby making the
pilots and the process broadly cost neutral on the
Department. There will be some additional costs
around evaluation. As I know the Committee heard
earlier, the development of evidence bases is clearly
critical to the success of these projects.

Q265 Claire Perry: I am confused as to why there
is up-front cost if it is a payment by results model.
Surely the cost would be happening when you actually
achieve the outcome. What is driving this £15 million
of up-front costs?
Luke Edwards: Broadly speaking, they break down
around policy development costs, transition costs in
particular, and an early budget for managing the
design and process. In practice, we hope not to spend the entirety of the £15 million.

Ian Porée: Your assumption that we should only pay if providers have successfully delivered the outcome is entirely correct. The core budgets for the pilots will be paid on results. Clearly, there is an organisational requirement to run a competitive process, to design the pilot and of course to do evaluations in an objective way that we can share that learning across the system.

Helen Edwards: We would be very happy if we don’t have to spend that money, but we thought it was prudent to make provision up front. We are listening to organisations who say that getting working capital is very difficult and getting things off the ground can be difficult. The Youth Justice Board has been looking at putting some money into a reinvestment grant. It is fairly small, but they would it make available to local areas. If they didn’t reduce the demand for youth custody, then they would have to pay that back. We didn’t want to be caught on the back foot because we hadn’t anticipated any costs, but, as I say, we would be very happy not to spend that amount if we don’t have to.

Q266 Claire Perry: So this is your provision? Chair: It is an up-front payment in the youth justice sector; payment on account, as it were?

Helen Edwards: It is, sort of. As I say, we are trying to get the incentives to flow the right way. As you know, at the moment in the youth justice system—and it could be argued for the adult system—there are particular responsibilities on local authorities for young people, which they pay for, but if they come into our system, the cost of paying for custody transfers to us. In effect, you could argue that it is a saving to the local authority. We are trying to get those incentives to work the other way, but we have to be realistic about where local authorities are at the moment. We are saying that, if we put in a reinvestment grant, based on justice reinvestment principles, to enable them to make sure that they have in place the options in the community that would mean the sentencers don’t need to impose a custodial sentence. Then, obviously, if they do reduce custody, in effect we recoup the grant because we save money. If they don’t, we are trying to negotiate arrangements whereby they would pay the grant back to us.

Q267 Claire Perry: I am sorry to stick on this, Chairman, but I think it is a very important point. These are not costs associated with any additional spending with the programme. This is you prudently provisioning against a change in your contracting methodology, effectively.

Helen Edwards: Yes.

Q268 Ben Gummer: You have brought us neatly on to local authorities. It seems to be universally appreciated among the potential providers of PbR that they can do most if they can range widest around the different areas of treatment, being health and mental health, drug rehabilitation, family intervention and all the things which will help to promote a decline in recidivism. Mr Porée, how do you see that mapping locally on to local service provision?

Ian Porée: The two local financial incentive pilots, which, as has been said, are designed using the justice reinvestment principles with which this Committee will be very familiar, are designed to try and create a change in how the incentives work in our system. Historically, there has been a disconnect between local incentives and centrally funded financial incentives, where, for example, the prison budgets are running centrally as opposed to devolved to locally. If these local incentive pilots work effectively—the two examples which we plan to initiate from April of this year—the local partners will be working much more collaboratively in order to reduce the impact on the criminal justice system. That local responsibility, with the devolved freedom that will come with that and with the more outcome-focused performance framework that we would use, for example, for the probation trust in that local area, enables them to make a different set of choices about how they would effectively reduce demand on the criminal justice system.

In order for that to roll out, having evaluated some of the pilots, we think it is essential that those local incentives work in alignment with what our objectives are and some of those local objectives. You are quite right to point out that the complex journey an individual makes out of a life of offending, out of a life of crime, will require a lot of those local services to be more joined up in terms of finding some accommodation, getting some support and skills and then into employment and staying in employment with the right relationships with their local community. We would argue that that has been one of the long-held ambitions we have: that we get that better, joined-up local service provision on behalf of each one of those individuals. The incentives at the moment, as Helen mentioned, don’t necessarily incentivise locally to enlist in preventative services. We are looking to see if we can change their model.

Q269 Ben Gummer: How are you looking at doing that? We were discussing in the previous session about the value that PbR brings to being focused on outcomes rather than just a general willingness to co-operate. For instance, has the Department looked at the impact of spending cuts on local authorities, the end of ring-fencing and the particular difficulty you might have where it is not a political priority for some local authorities to engage in innovative cross-departmental projects and the effect that might have on national Government priorities?

Helen Edwards: Obviously, that is a concern for us, but it is fair to say that we have been impressed by the extent to which local authorities have approached us to take forward these initiatives. That is partly because they are building on some of the work that has been done around integrated offender management, where local authorities, the police, probation and others have been working together to try and grip the most prolific offenders. They know only too well how much damage they do in local communities. The police themselves know how demotivating it is for their officers if they are
constantly arresting people, seeing them go off for a short time and then coming back into the community. Local partners have a statutory responsibility to deal with crime and reoffending. Our experience to date is that they take that very seriously and see it as a core part of their activity. Yes, we were slightly worried that some of the initial enthusiasm might fade away quite quickly, but we haven’t seen that to date. We hope the incentive is that, if they can save us money in the criminal justice system, we will share those savings with those local partners. They are doing it at risk, but they feel reasonably confident in these areas that they can make a difference. Particularly with people who serve very short prison sentences—the under 12-month period—we know that their reconviction rates are very high. They have been getting higher, but, through some of the work that they are doing with prolific offenders, they think that this is a do-able task. We are not unaware of some of the pressures on them, but to date we have seen no waning in their enthusiasm for working with us.

Q270 Mr Llwyd: Does the phrase “do-able task” presume that there are sufficient alcohol and drug services out there? I was at a homeless centre down in Victoria recently for veterans. One individual was trying to get hold of a drugs course for an ex-service person who was sleeping rough. It took him about 40 phone calls to get a placement up in the north-east of England from Victoria. I am just wondering whether that back-up is there.

Helen Edwards: We are very dependent on the work that the Department of Health is doing. As you know, they are taking a payment by results approach to drug dependency. We hope that by working with them we won’t just get people off drugs but we will get a reduce in reoffending outcome as well.

Q271 Mr Llwyd: But many of the people you refer to—the short-term prison sentence people—are people who are dependent on drugs and alcohol, aren’t they?

Helen Edwards: They are, absolutely.

Q272 Mr Llwyd: I am just making the point—I hope I am wrong—that there is sufficient capacity out there to be able to address their problems, otherwise you are not going to turn them around at all.

Helen Edwards: I agree with that. Our own figures show that over half of all people who come in to prison have a significant drugs problem. We would not be complacent about this. More resources have gone into drug dependency in recent years than into alcohol treatment. We are very keen to work with the Department of Health to try and see whether their payment by results approach to drug dependency can be extended to deal with alcohol as well. It is inconsistent around the country and that is another problem. We are interested in the arrangements that the Department of Health is putting in place through things like the National Commissioning Board to see how these services will roll out. My colleague Luke has probably been involved more directly in the negotiations than I have.

Luke Edwards: We have been working with local authorities for a number of years on these problems. One of the things that they have been told is that if they can show that they are most at risk of committing further offences. I can’t say that we are there yet, but certainly we are having those discussions and there is an agreement across Government that we have to get these different initiatives working in the right kind of way for offenders as well as the workless and people with health problems. Getting the boundaries right and who pays for what is an integral part of that.

In terms of the local authority landscape, part of the reason that we are pleased that local authorities want to—the short-term prison sentence people—are people who are dependent on drugs and alcohol, aren’t they?

Luke Edwards: They are, absolutely.
to work with us in this arena is that they will have the overview of resources that are available locally, which will have an impact on offending. In a way, they have very difficult decisions to make in terms of balancing spending decisions. Given their enthusiasm, as I say, on both the adult and the youth side to drive down reoffending and drive down crime, the hope from our point of view is that they won’t want to see services disappear that have an important part to play in that. In a sense, within a very devolved system, apart from the funding that we have put in for YOTs, which we will continue to put in directly, the leverage we have there is necessarily rather limited.

Q274 Chris Evans: What I want to look at now are the conditions required for payment by results to be rolled out nationally. What conditions are required to create a market in which payment by results is possible?

Helen Edwards: I think probably Ian and Luke have more to say on this than I have. In general, what we have said is that we want the principles of PbR to apply right across the offender management system by the end of the spending review period. Part of that is a shift that we are making anyway to a focus on outcomes rather than inputs. We have had rather complex—if I can say that, Ian—performance management arrangements for people providing services in the offender management system up till now, which has been very much focused on inputs and volumes of people who participate in certain things, not on outcomes. Trying to focus on outcomes across the system is one of the things that we will do to embed this approach as well as building on the pilots as far as we can. Do you want to say a bit more?

Ian Porée: That move in principle to get the whole system run much more on an outcome-focused basis, with more devolved discretion to professionals in the system, is clearly something which we have begun already. There will be a significant change to those requirements as from April of this year, and again next year. We will continue that, and the “by results” component of that clearly gives us a nice clean expression of an outcome for which we could then pay.

Your second point was about building a market. In one sense, Helen has described the enthusiasm we have already seen from providers in the market from all sectors. We have an ambition to include a broad and more diverse array of providers from the voluntary, private and public sectors in this process. We have certainly seen the market properly engaged. We are just about closing a consultation on the Green Paper and we have had a lot of market engagement and enthusiasm. In the end, markets are invested because there is a return on investment. Part of the process we are going through to carefully pilot and evaluate this work is, is there sustainable return on investment which will sustain the vibrant market that we are seeing now? The market is definitely ready to engage. We have some work to do over the next few years to be able to build the evidence base that it is a sustainable market. I certainly think there are plenty of people who are willing to enter and have a go at the front end.

Q275 Chris Evans: What is the average size of the providers in that market? Is it larger providers or is it a mixture of small and large? How would you say the average size of a provider would be? What I am trying to drive at is this. I have a fear that the smaller provider might be bumped out completely from this process. I don’t think anybody would want to see that happen. How do we guard against that smaller provider being completely eaten up by the larger providers?

Ian Porée: The reality is that we have the full range of very big national providers all the way down to very small local organisations. Effectively, by devolving the responsibility down to a local level and then just paying for an outcome, we are certainly confident that we can get the benefit of scale of some of the larger providers as well as that local engagement. Effectively, as part of the process of engaging with the market, we have been clear with any of the large providers that we would fully expect them to steward and sustain local market provision. If you think about the local financial incentive pilots we are running, essentially you are not going to be able to deliver the very locally attuned services to help a particular offender re-engage in their local community if you are doing it from a distance as a big national provider. The partners you need to deliver successfully are going to be the very small local providers.

I think there is an alignment of our ambition that even big providers nurture and steward those local markets. They themselves are telling us, “If we are going to succeed locally, we are going to have to find a way of doing that.” While there will still be a need for some big, large-scale providers, because some of what we do carries significant risk and they are going to need to be able to carry some of that load, we have the opportunity to sustain some of that local service provision and, as you say, some very small local organisations.

Helen Edwards: We are very conscious of the risk. To underline that, we had a seminar last week for a range of organisations who might want to be part of taking forward payment by results. The Justice Secretary spoke and he was very clear on this point. He expected to see a range of different sized organisations involved. He wanted voluntary sector organisations involved and not just the big ones, and he wanted us to devise a way of contracting which would make sure that the terms on which any subcontractors might be operating were fair and viable terms for them. I think we have been given a very clear steer by our Ministers that they expect us to put in place a framework which doesn’t penalise the smaller providers.
**Helen Edwards:** We are thinking more in terms of consortia. As Ian said, the large organisations would not be able to deliver everything that we want. We want different organisations to come together. There are some examples of that already where some of the large private sector organisations have joined forces with some parts of the voluntary sector. That is more the model that we envisage.

**Luke Edwards:** I was just going to say, as you heard earlier, that the Peterborough social impact bond is an example of the sort of innovation we want to see in this sector going forward, with, effectively, a service integrator with social finance who will take the risk through social investments. Then the providers, who are St Giles Trust and the YMCA, bear no risk of failure in the contracts directly and in financial terms will receive their working capital from social finance. That is quite a good, early example of how we are trying to manage this process.

**Q277 Chris Evans:** That brings me on to my question about the Big Society Bank. What role do you see the bank playing in supporting these payments by result programmes?

**Helen Edwards:** To a certain extent it is a bit early for us to be able to say, but we are very interested, as you would imagine, in things like the Big Society Bank and also other forms of social investment. Ideally, it is bringing money into our world that can be used up front to try and get the kind of results that we want. We will be looking at it with great interest. In fact, again we have had a number of approaches from a range of organisations looking at different ways in which working capital can be obtained to finance the payment by results work that we want to do. I am not sure there is a huge amount more we can say yet, or am I wrong on that?

**Luke Edwards:** Obviously the Big Society Bank is developing, although it hasn’t been announced.

**Q278 Chris Evans:** We had the Minister in last weekend. We did quite a comprehensive audit review of where we are at the moment with him.

**Luke Edwards:** I know the Committee heard this discussion earlier around the developing market, particularly for social investment. One of the key things about the Big Society Bank is that it is put in place to enable that market to develop and generate, and enable voluntary organisations to access working capital from standard routes much more easily. We hope that will help sustain our market.

**Q279 Chris Evans:** You are very supportive of social investment and that is a great thing, but are there any limitations to social investment, particularly in the delivery of criminal justice?

**Helen Edwards:** One of the risks that we have to manage is that, for example, the Department for Work and Pensions, if they find someone a job, they stop spending money on that person immediately because they don't have to pay benefit. For us, it is slightly different because we have very big fixed costs in our system. It is possible for someone to stop 45 people from reoffending but that does not take any cost out of our system.

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**Q280 Chair:** It takes it out of legal aid, but it won’t take it out of the prison system.

**Helen Edwards:** It might take it out of legal aid, but it doesn’t take it out of the prison system, and the prison system is our biggest cost, as you would imagine. We have to be very clear about cashable savings. In a sense, we can only pay people for the results they deliver on any scale if we can make real savings. That is something we have to balance quite carefully, in the interests of being prudent with public finances and not potentially storing up liabilities for ourselves. In theory, it could be possible for a cohort to have their reoffending reduced but for us not seeing any reduction in demand for our services. That is the risk we have to try to manage as we move forward.

**Q281 Chris Evans:** The Institute for Government points out that the new processes will make considerable demands on the skills of the commissioners. “What is commissioned, how the outcomes are set, what the payment schedules are…” What mechanisms are going to be put in place to support these commissioners? It does seem like a massive job to me, to be honest.

**Helen Edwards:** As from April, Ian’s job title will change to become Director of Commissioning and Commercial.

**Chris Evans:** Perhaps I should have focused the question to you then.

**Helen Edwards:** He has a direct personal interest in this, so maybe he might like to say something about that.

**Ian Porée:** The point you raise is absolutely true. This is a more complex commissioning task than we have set ourselves in the past. We used to commission our services against a fairly well-defined set of inputs and outputs. At one level, we will still need to commission for some of those outputs. When the court orders a particular sentence, we are going to need to ensure that we deliver that sentence. If that is a community punishment or community payback order, then clearly there is a certain number of hours the court expects to be delivered. Commissioning for some of those bits of our system, including some of the management of risk, is clearly going to need to continue. In many ways, one of the reasons we have a real appetite to have a go at some of these new mechanisms is the simplicity of a “by result” mechanism, where effectively we are commissioning to achieve a very clear and simple measure of success against which we pay. We have been talking about the complexity of the cashability of benefits and how you measure those results. When you are commissioning in a more devolved way, where you are clear about the “what”, you have set some minimum standards about quality and allocated an amount of resource for that outcome, in some ways the commissioning challenge is then simpler in the ask. The complexity then goes to the delivery system on how it is they are going to assemble a supply chain to deliver that outcome. I accept there is a lot of complexity built into this, but this does feel like a healthy next step in our journey of the maturing of our commissioning system for offender services.
Q282 Chair: Can you clarify for me what the role of the probation trust is intended to be? Will they have any role in commissioning or are they simply potential providers?

Ian Porée: The probation trusts are clearly providers already. Clearly, they have that responsibility and have trust contracts to deliver a range of offender management services. In the future model, and in particular the two pilots which Helen described earlier—the community-based payment by results pilots—we are working very closely with probation trusts about how to design and develop those because we would expect the expertise they have at their disposal to be key to the success of some of these future mechanisms.

Q283 Chair: But they won’t actually be commissioning.

Ian Porée: We expect to include them in the process of these two pilots in terms of getting the design right. We certainly need to work our way through how that then turns out in terms of whether they effectively end up as commissioners longer term in the system or they continue to remain in the commissioners. Their ambition, of course, and as Helen already—the community-based payment by results pilots—is right. If you choose just those offences which are convicted at court, you tend to take the very low severity offences out of the picture, but there are different options around how they look like and potentially who the commissioners are if you have a much more devolved system, what that have quite a bit of work to do to think, in the future, how can we fit that into the future, what is the role of probation trusts?

Helen Edwards: In effect, for the pilots, we are commissioning them from the centre. As Ian says, we have quite a bit of work to do to think in the future, if you have a much more devolved system, what that looks like and potentially who the commissioners are are at the local level. There are different options around that, and probation trusts will need to think about where they want to position themselves at the local level. In terms of the financial incentives model, they will be involved in that. Potentially, the partnership could commission out some of those services that they need to other organisations at the local level. It is still very much a developing picture.

Q284 Chair: Unresolved as yet.

Helen Edwards: Yes.

Q285 Mr Llwyd: That is quite worrying, just to follow on from what Sir Alan was saying there. There is a possibility that probation trusts could become redundant. We heard earlier on from witnesses saying that they envisaged they would be in partnership with new providers. That is not quite what is being said here now. Given that we are on the cusp of something quite revolutionary in terms of delivery of these services, are we thinking the whole thing through carefully enough to provide for what has to be, in my view, a central role for the probation service?

Helen Edwards: I certainly don’t think we envisaged in any way that probation trusts would cease to be there. In fact, they do have statutory responsibilities that they have to deliver on and no one else can deliver. There are reports to the court, for example. In terms of public protection, probation has an incredibly important role there and in other services. The landscape is changing, and our Ministers have been clear that they do want a more mixed market in terms of provision. We are working through what that means and working with probation on that.

Ian Porée: That language of “in partnership” is key. Essentially, they have the nation’s professional expertise in managing offenders and the complex services around that. However the market evolves, we don’t want to lose that expertise. I would expect them to be working closely in partnership, as many probation trusts already do, and in a number of the arrangements we have put in place over the last few years they have demonstrated very effectively how they can work together in partnerships with others to deliver these services.

Q286 Mr Llwyd: Obviously the main criterion for payment for results will have to be the absence of reconviction. Do you believe that there are sufficiently reliable and robust systems to make this happen? There may be some concern about whether reconvictions are accurately recorded and interpreted. For example, will it be possible to take into account the number and seriousness of any further offences and how will this be weighted in a PbR scheme?

Helen Edwards: At this point I am going to hand over to Luke, if that is all right.

Luke Edwards: In terms of measuring reoffending, as you indicated, we track reconvictions. We do that using the Police National Computer and we are confident that that provides us with a robust data source. The second part of your question is then precisely how we define reconvictions in this context. In the Green Paper we consulted on this particular issue and we have put forward a number of options. Technically, what counts as a reconviction? Do you just look at reconvictions at the court or are you interested in convictions that happen, i.e. do you build in cautions? We consulted on that element. The other part of this is, do you count the frequency of reconvictions or are you most interested in looking at whether the offender has been reconvicted or not, full stop? The final element, which again you pick out, is the seriousness and the severity of the offence.

In terms of the pilots, what I anticipate we will do is to test a range of different approaches to measuring reconviction rates to ensure that we end up, before rolling out, with the right system. In terms of Peterborough, the methodology we use is the frequency of reconviction event, which means the frequency that the offenders reappear in front of the court. That is one option and we will probably explore other ones, but we are keen to ensure we capture the full value that the provider delivers for the taxpayer.

Q287 Mr Llwyd: “Reconviction” could mean a reconviction for a lesser, unconnected offence as well. Would that be taken into account?

Luke Edwards: Depending on how we set it out, that is right. If you choose just those offences which are convicted at court, you tend to take the very low severity offences out of the picture, but there are different ways of doing that.

Q288 Mr Llwyd: How can payment by results for reducing reoffending work exactly when local
policing priorities, and therefore arrest rates for various crimes, will be determined by local police authorities and crime commissioners?

Helen Edwards: In the local financial incentive scheme, the whole idea is that there will be some local prioritisation and local discretion. As I said earlier, we anticipate that there is going to be a lot of focus and interest in the very prolific offenders because of the problems they cause for local communities. It would be surprising if they were not a priority for the police moving forward because of the amount of damage they cause. It is implicit in the system that we are developing that we are giving more discretion to local areas to decide what the priorities are for them but built on the idea of partnerships so that the police won’t go it alone, and we are talking to local authorities and to probation in the round about the things that are of most concern to local communities.

Q289 Mr Llwyd: Offenders of course have marked differences in the probability of reconviction. We know that there are some predictors, for example, age, age at first conviction, the number of previous offences and type of offence, and so on. How will the models of payment accommodate these? How can you ensure that providers won’t cherry-pick? We have heard today that it is not going to happen. Well, I am sorry, but it is human nature. We have all been on this planet long enough, including me, to think it may well happen that people are going for the easier option rather than the more difficult areas. It doesn’t take a genius to work that one out.

Helen Edwards: We are trying to look at different ways of making sure that doesn’t happen. For example, with Peterborough, we take a cohort of 1,000 offenders and in that we measure what happens to the people who don’t participate: for example, the people who choose not to get involved. The provider can’t just say, “We are going to work with you and just be measured on the people that we work with.” We are saying, no, we are interested in everybody. It is going to be quite important that we do that. There are a number of different ways that we are looking at it. Do you want to say a bit more?

Luke Edwards: Your earlier point was around the pricing structure. Broadly speaking, there are two different options. First, if we look at a frequency measure, the pricing structure naturally makes those offenders who will be more prolific more valuable to the provider to work with. You get a very natural incentive to focus on those who are most difficult to help.

The other option, which I know you explored earlier in the context of the Department for Work and Pensions Work Programme, is that you construct a series of blocks of offenders and you put different prices on different individuals. Again, we consulted on both those options in the Green Paper and need to do further work around those measures, but we are very alive to the risk of cherry-picking and ensuring that we get the pricing structure right.

Q290 Mr Llwyd: Finally, going back to the Peterborough project which has been referred to many times this morning, results regarding reconviction rates are compared to a national rather than local baseline. Is such an outcome measure appropriate in areas with reoffending rates that deviate from the national average?

Helen Edwards: We are doing a lot of work with our analysts in the Ministry of Justice to see how we might have a better local measure. We recognise, as you say, that national measures are not always the most helpful. We got Peterborough off the ground very fast, I think it is fair to say, and so we had to go with what we had. The idea of the pilots is to give ourselves more time to see what data we can use. The analysts are working very hard on that at the moment and they are also trying to put in some measures so that we can measure more widely what the impact of the pilots is in the local area to try and make sure there are no perverse incentives creeping in. I think we agree with you that there is a real need for a way of assessing outcomes locally and not just relying on the national data.

Chair: Thank you very much indeed. We are very grateful to you. You have some challenging tasks ahead. Thank you very much.
Tuesday 29 March 2011

Members present:
Sir Alan Beith (Chair)
Mrs Helen Grant
Ben Gummer
Claire Perry

Examination of Witness

Witness: Andrew Bridges CBE, HM Chief Inspector of Probation, gave evidence.

Q291 Chair: Welcome, Mr Bridges. This might be your swan song with us, might it?
Andrew Bridges: I think it might be, yes.
Chair: When is your retirement date?
Andrew Bridges: My last day is 26 May.
Chair: We hope we don’t have reason to drag you back again before then.
Andrew Bridges: Perhaps I hope the same.

Q292 Chair: You will certainly depart with the Committee’s good wishes, and we are very grateful to have your help this morning in our work on the Probation Service, which is set in the context of the work we did on justice reinvestment. We were prompted to go on to look more closely at probation because of the crucial role that it has in that process. I thought, just to clear our own minds, we would establish what the structural changes have done in your view and whether they have had a significant impact. There are a number that one could mention. There is the creation of NOMS—the National Offender Management Service. Then there is the removal of the regional tier in NOMS. If we just take those two for a start, how do you see or foresee the impact of those two things?
Andrew Bridges: My overall view is that structure should always be secondary. It should be strategy first and structure second, to keep it in alphabetical order. That is my suggestion. I wouldn’t have created a NOMS myself if I had been given the choice, but equally I wouldn’t change it back now either. That is just more and more structural change. The creation of a single NOMS—which was basically a takeover of the Probation Service by the Prison Service, and it is best not to pretend otherwise—is a sadness, if you like, from a probation perspective of being in and around the Probation Service for 38 years. However, being fair-minded about it, there have been certain benefits. One of the things I would say is that Prison Service top managers seem to have shown themselves much better at managing resources effectively than many top probation managers in the past. I think in many ways that is being managed better than it was before. It is a mixed story in that sense and I would not change it back, personally.
A regional structure was introduced in 2001 when it was just a national service being created. We have seen a number of changes in format since then. There are some benefits to having a regional structure, particularly the one that was only just created two years ago. One of the benefits is to the Inspectorate. It is quite convenient for us to have people to liaise with at a regional level. There is some benefit for probation areas too, because, regionally, there can be an enabling role. However, probably one would say that this additional layer of hierarchy isn’t going to be greatly missed when it goes. At a time of financial limitations, probably, once it has gone, despite the fact that there were some benefits, on balance, I don’t think it will be greatly missed.

Q293 Chair: When commissioning has to develop in the new system, does the absence of a regional tier leave us without anybody to do some of the important commissioning?
Andrew Bridges: It is a problem for NOMS at the moment to decide what will be done at what level and—you are right—that level will be missing. They are exploring certain commissioning exercises now nationally. One has to explore these options and see if they can be made to work. What I am also expecting—I am not announcing this; I am just guessing that this is likely to happen—is that trusts will increasingly have a mixed role of sometimes being a provider and sometimes being a commissioner of relatively small local services. There will be a gap, but they are going to have to find ways of filling it.

Q294 Chair: Isn’t being both a commissioner and a provider a bit problematic?
Andrew Bridges: Yes, it could be. But as long as one keeps one’s roles clear in relation to each of the pieces of work that are being done, it is not an impossible hurdle.

Q295 Chair: With Probation Trusts themselves, what was the effect, if any, of the conversion to trust status on the front-line work?
Andrew Bridges: I have a particular view about this. I would summarise it by saying that the creation of trusts is helping to make happen something that should have been happening anyway already. When they were being introduced, and of course they made two attempts at introducing them, I was thinking, “Is this really necessary, because the things they are wanting trusts to achieve can be done now by existing boards?” That was how I felt then, and indeed some were already making themselves properly well-run organisations, which, in simple terms, is what I see it as being about. But again, in fairness, I would have to say that the process of making everybody go through this trust application has made a lot more of the areas become better, better-organised, better-managed organisations than they were before. Again, I have to say, okay, perhaps there has been that benefit from it.
Q296 Chair: But they don’t get a lot of freedom, do they, from trust status?
Andrew Bridges: No, indeed.

Q297 Chair: They still have financial inflexibility, national IT contracts and other sorts of contracts and prescriptive standards. Would it work better if trusts had more freedom?
Andrew Bridges: One would hope so. I have to say that I would talk quietly to one or two individual chiefs I know and ask them, “How do you sell the benefits of this to your own staff?” Of course, quietly, they would say, “It is quite difficult at the moment”, because of the point you are making. There are not immediate benefits. The plan is that there should be, and that there will be, and I think we might be moving more towards a world where they are being told clearly what it is that they are required to deliver, to put it in that language, and being given more discretion about how to achieve it. At the moment, of course, that is still relatively uncharted territory.

Q298 Chair: What about national standards? There have been reports about national standards.
Andrew Bridges: They are part of the same syndrome. There should be a benefit if, as we have been pre-advised, these are going to change radically. It should be a move away from micro-management from Westminster, if you like, towards saying, “Look, provided certain results are achieved, you have to make the judgments about what is acceptable.” It is going to be quite interesting for trusts to make judgments, in effect, about what is acceptable to the public about certain things. To illustrate the point, there are certain offenders under supervision who are in the relatively low seriousness level. National standards at the moment say you have to see them 16 times in 16 weeks. In future, are you going to set a local standard? What are trusts going to do about that? The new freedom is also a new problem. We will have to see how that unfolds.

Q299 Mrs Grant: Good morning. My questions are about offender management. I just wondered how you felt the role of probation practitioners has changed during the last 10 years. I note that you have said you have been involved for some 30-odd years, but it was during the last 10 years. I am interested to hear what you think about the role of probation practitioners.
Andrew Bridges: The heart of what you do is to assess what the problem is, plan what you are going to do about it, either carry it out or get someone else to carry it out and assess and review progress. Broadly, you are trying to achieve three things. I am using my own language here. One is about implementing the sentence of the court or the licence, if it is a parole licence, because complying with what you are required to do is one end in itself. That is the first thing. Secondly, you want the offender to become less likely to reoffend. You can measure that in broadly two different types of way. Thirdly, and this is always the sensitive one, you have to take all reasonable action to make sure that that person is of minimum risk of harm to others. That is a more restrictive, controlling role. These are three things which, in principle, are all measurable.

Q300 Mrs Grant: How would you describe effective “offender management”?
Andrew Bridges: The heart of what you do is to assess what the problem is, plan what you are going to do about it, either carry it out or get someone else to carry it out and assess and review progress. Broadly, you are trying to achieve three things. I am using my own language here. One is about implementing the sentence of the court or the licence, if it is a parole licence, because complying with what you are required to do is one end in itself. That is the first thing. Secondly, you want the offender to become less likely to reoffend. You can measure that in broadly two different types of way. Thirdly, and this is always the sensitive one, you have to take all reasonable action to make sure that that person is of minimum risk of harm to others. That is a more restrictive, controlling role. These are three things which, in principle, are all measurable.

Q301 Mrs Grant: Do you think there is disproportionate emphasis perhaps on output rather than outcomes, or do you think the balance is pretty fair, bearing in mind the three factors that you have highlighted?
Andrew Bridges: The problem with this always is that the principle of measuring by outcome is absolutely the best thing in principle but very, very difficult to do in practice in many aspects of public service, but particularly in this one, because you don’t know the real outcome until years later. You are always working with something, and, if you wanted to be technical, you could say it is an ‘interim outcome’. Someone else might say that is really only an ‘output’. I have to say that you have to work with the reality you have. The aim here is whether there are ways of telling whether someone has become less likely to reoffend at the point while they are still under supervision, because that is when you’ve still got them. There are some ways of doing that. Can you tell whether they have complied with their sentence or been enforced? If they didn’t comply, you can deal with that. Can you tell whether a practitioner has done all they reasonably could to keep that person’s risk of harm to others to a minimum? That can be done. I don’t get too caught up with, “Is that an output? Is it an outcome?” I just say that is a purpose, it is achievable and you can measure the extent to which it is being achieved.

Q302 Mrs Grant: Finally on this, what are your views on the effectiveness of community sentences? In your answer, could you cover it for men and for women, because I believe there are some differences?
Andrew Bridges: With regard to the latter part of your question, there aren’t significant differences overall between the way in which women and men offenders are managed through their sentence. Because we ‘segment’ all our findings—excuse the language—we can divide it up and tell overall how well the practice that we are looking at is being done, with black and minority ethnic groups, with women, with different
age groups and so forth. When you look at it statistically in the round, there are not significant differences. That was the second part first, wasn’t it?

With regard to the first part, broadly speaking, I would say that community sentences, like probation itself, are sound and improving under straitened circumstances. Remember that the way we measure things when we inspect is to look at a representative sample of cases. We look at how often the right thing has been done with the right individual in the right way at the right time. We exercise qualitative judgment as to whether it has met the high level of quality we are looking for. Our measurement is about how often that is done. Nearly three quarters of the time, the work we are looking at is meeting the high level of quality we are looking for. That is quite a creditable achievement under difficult circumstances. I would still like it to be higher, but then I am an inspector.

Q303 Ben Gummer: Mr Bridges, sticking with capacity issues, can you talk us through your views of the various studies that have been done on contact time between offenders and their probation managers?

Andrew Bridges: The reason I am pausing is because it is of great grief to me that I do not still possess a copy of the National Activity Recording Study that I took part in in 1978, and even then people were very surprised about how small the face-to-face time actually was. What I can’t remember is whether it was 20 or 40 percent. All I do remember is that we thought, “Surely we do more than that.” It wasn’t as great as we expected. There is a tendency to think that we don’t spend much time now and it used to be wonderful. It would be best not to give too much credence to that.

The other reason I am hesitating is because we have some fairly soft data of our own, which again I am struggling to recall. We don’t use it widely, because we are not confident about it. It suggested that 20 minutes to half an hour per interview is the more typical time. The thing to remember, of course, is that, if most officers have about 50 cases each, then you can do some simple arithmetic to tell you that, in principle, they spend less than an hour a week per case. Obviously they don’t see every case every week. Sometimes it is more evident in our youth offending work because Youth Offending Teams are very small. Some have very bad results because they have been struggling to recall. We don’t use it widely, because in Probation the samples are drawn from a bigger area and things are more clustered around the middle, if I can put that in statistical terms. I think it is the culture of the local office that makes people want to do things really well but you could use the time you’ve got a lot better.

Q305 Ben Gummer: You are describing the typical breakdown of good, bad and indifferent within any organisation.

Andrew Bridges: Broadly speaking, although it isn’t the case that there is this one cadre of officers who aren’t very good. If you have a large caseload—and I was a main grade officer for eight years—the fact is you know you are doing some of them quite well. You might think with one case, “I did a good job there”, and you might think with another case, “I’ve made a right mess of this one.” It isn’t like they [all the ‘bad’ cases] are all being done by a small group of officers. You all need to improve your own practice all the time. You don’t do every case brilliantly.

Q306 Ben Gummer: Is there something within the culture of the trust which prevents better performance management of those officers who aren’t performing?

Andrew Bridges: Not necessarily, but there can be. Critical reports that we were writing five or six years ago suggested that was the case in certain places we were visiting. It is more about local management than senior management. As a team that goes to the same workplace every day, you can grow a culture of, “This is how we do things round here”, and it is partly to do with the manager and partly to do with how colleagues work together. If you aspire to high standards, you all come up together. Sometimes it is more evident in our youth offending work because Youth Offending Teams are very small. Some have very bad results because they have been in a cycle of hopelessness, an “It’s all too difficult” type of mentality. Others do really well because a small group of practitioners gee themselves collectively together to do a good job. We get more outliers with the youth offending inspections than we do with probation because in Probation the samples are drawn from a bigger area and things are more clustered around the middle, if I can put that in statistical terms. I think it is the culture of the local office that makes people want to do things really well or feel it is all a bit hopeless. Then there are certain things that senior managers can do to help front-line managers grow that culture in each of their offices across their area.

Q307 Ben Gummer: Just very quickly to press you on the point, is there anything in simple paperwork terms that you think could be taken away from the day-to-day roles?
Andrew Bridges: Yes, I take your point. I do think that senior managers often get distracted. I hesitate to use the language, but I often think of “managing downwards” and “managing upwards”. One of the things that has struck me since the creation of the National Probation Service, as it was in 2001, was how much more of senior managers’ time in each area was being directed upwards, giving an account of this and giving an account of that, having to produce performance figures and more direct accountability. There is a cost to accountability, you are the source of accountability, and properly so, but it doesn’t come free.

Although able managers ought to be able to do both—i.e. give account upwards and also focus down on giving attention to how well the front-line practice is being done—quite often they are distracted from it. I think that has been a cost. Of course, all that series of reorganisations that we have witnessed in the last 10 years has also contributed to that. Those are costs. It is only the best senior managers who seem to be able to do that well but also maintain sufficient attention to ensuring that people are doing the front-line service properly.

Ben Gummer: It is a depressingly familiar story.

Andrew Bridges: I didn’t think it was unique.

Q308 Ben Gummer: As far as the inspectorate is concerned, how do you measure the quality of the interactions between officers and offenders?

Andrew Bridges: The relationship question is at the heart of what I would say inspection methodology is about, but the relationship isn’t the end in itself. It is a relationship to achieve a purpose. Over the last seven years we have certainly made sure that our methodology is looking at real cases. You try and make sure it is a representative sample. There are ways of doing that. You try and make sure you talk to the person who is managing the case as well as read the file. Then you make these assessments about what is the right thing to be done with the right individual, in the right way at the right time throughout the case, and assess how it is done. It is a whole series of qualitative judgments.

The core concept is having a shared concept of what counts as doing it well enough, being above the line of sufficiency and not below. I hope it was the technical answer you wanted. That is what it comes down to. It is a qualitative judgment from people who are very experienced in probation practice in a lot of samples. You then end up with a very large number of qualitative judgments, but they belong, broadly speaking, in different categories so you can aggregate how often different aspects of the work have been done well enough, sufficiently well or not. Those percentages are an aggregation of those judgments.

Q309 Chair: Do you talk to ex-offenders? What you are looking at is the officer’s record of what happened in a case.

Andrew Bridges: Yes, we do.

Q310 Chair: We have had ex-offenders in front of us. An interesting theme that emerged was ex-offenders saying, “Actually, the probation officer was too nice really. She wanted a chat over a cup of coffee, but I needed somebody to challenge me and make me think again about the way I was living.”

Andrew Bridges: Yes. We interview samples of offenders under supervision. We now also have, which has been quite useful, a system whereby they can do questionnaires on a remote keyboard. You might think that is a bit odd, but they actually like it and we are getting more responses. We do also interview victims. We do questionnaires for sentencers as well. The main problem is that you can’t show that it is representative. Like any sample, it is self-selection. What we do is feed back in the reports things that different people have said. Of course, some of those cameos are very telling. We give that more or less as direct feedback, but we don’t link it to the performance measure because we can’t say whether it is representative or not. Yes, you do get some quite telling stories that emerge from that, but it is part of our methodology of how far they can show they have involved the person under supervision in the plan that they have agreed for the course of supervision. I do accept the point that it is from the officer’s perspective, but it isn’t solely about that. It is trying to take the broad perspective as well.

Q311 Ben Gummer: That is very interesting, because it leads on neatly to the next question, which is how that current inspection regime, which, taking your point, albeit it has the offender in mind, is principally focused around the workload of the officer and is based on qualitative evidence. How does that map to a payment by results model which, by its nature, derives from data concerning the offender and is quantitative rather than qualitative?

Andrew Bridges: I would probably want to explore the last assertion a little more. If you want to hang the whole thing on, let’s say, reoffending rates or some measure of practical reoffending, as we know, there are all sorts of problems with doing that. Yet, clearly, that is the aim we would want. I always say, “Look, the long-term benefit of all of this is that there will be less reoffending and fewer victims in future, but what can you achieve in the short term that is measurable for performance measurement purposes?” That is why I highlighted the three purposes earlier.

If you felt, “Look, actually this person isn’t going to reoffend again”, because for whatever reason it is a one-off, and let’s just suppose you were right, is it acceptable to say, “Therefore, they don’t need to report any more for the rest of their sentence”? The argument by most people has always been, “Well, no, actually, you have still got to serve the sentence.” They don’t let you out of prison six months early even if they think you will never reoffend again, because you have to serve your sentence. That is a purpose in itself.

This is always the difficult one nowadays. But then, if somebody commits a really nasty offence later on, people also want to know, “Could anybody have done anything about this that might have prevented that?” You have to be able to give account that you have done all you reasonably could. That is the third measure that we talk about.
Q312 Ben Gummer: The Green Paper anticipates that in a sense, by splitting the PBR model into two parts, the statutory element and the quantitative element. Are you saying you would involve yourselves more in the qualitative measure of that first element?

Andrew Bridges: I think we can contribute to all three. We already do now. We structure our offender management inspection reports to indicate how well people are achieving those three. We are very confident of the robustness of most of our reports, but being candid with you, the outcome section—for us, that is a section 3, as it is called—is probably the least robust. We have always felt, “It is a good attempt but I think we ought to be able to do better than this.” We have just revised section 3, and I think reports that will start to be published later this year will be firmer in terms of indicating some of those interim outcomes, as I was saying a moment ago. I think that inspection has that potential contribution to make. Supposing there is a future world of a diversity of providers and so forth, one of the considerations that will say, “Is this contractor doing a good job or not?” would be partly from the inspection results.

Q313 Ben Gummer: That leads me very neatly to my final question, which is your view of the capacity of the Probation Trust to work within a PBR regime.

Andrew Bridges: I think it is promising. They ought to be able to. It will be about whether competitors are treated fairly or not. As I was first thinking about this, I was thinking that maybe other competitors, other than Probation Trusts, might be given an unfair advantage. But of course any competitor, including trusts themselves, might be given an unfair advantage, and in two ways. Either you are allowed to pick the cases that you want to do well in or you are allocated a disproportionately large amount of the available resource for that piece of work. That need not be done, incidentally, because of malice or whatever. It can be done because it is very difficult to do and, in hindsight, one can see that we might have allocated too much money to one area of work and not enough money to another area of work so that one provider is disadvantaged over another. That is the sort of thing that could go wrong, but, in principle, the answer to your question is that I would have thought trusts could compete fairly.

Q314 Mrs Grant: I would like to turn to your reflections on the role of the Chief Inspector, and you would know an awful lot about this, I am sure. Could you tell us, please, what changes you feel have happened, good and bad, during your time as Chief Inspector?

Andrew Bridges: Looking at the Probation Service overall and partly reflecting on what I have said earlier, I would say, interestingly, that I have been very keen on the creation of the National Probation Service, even though it put me out of a job at the time. I thought it was going to be of benefit, to Probation generally. In retrospect, I was surprised at how much it had the effect of diverting management attention ‘upwards’ in the way I described earlier. But now we are gradually coming back to refocusing on doing good quality practice and I welcome that. I am not saying it is all down to the Inspectorate because I can see other people who have also been saying, “I think it is time we refocus on quality of practice.” Resource management is starting to be better managed than it used to be. We have to live with that alongside the sense of personal loss that most people in the Probation Service will feel. It [Probation] does not have that distinct identity that it used to, but we have to get over that.

Q315 Mrs Grant: In 2009, you told the Criminal Justice Alliance that you were “optimistic” about the challenges that probation faced in the future. Do you still feel optimistic?

Andrew Bridges: Yes. I have emphasised that there are some dangers and some things that could go wrong, but I am increasingly impressed with the quality of senior management coping with what they are now required to do. Obviously, managing the budget reductions over the next four years will be especially difficult, but I would rather be half-full than half-empty about it.

Q316 Mrs Grant: What are relationships like with other inspectorates, both within and outside the criminal justice system?

Andrew Bridges: Mainly pretty positive, both because we are required to and because we think it is a good idea. We try and do quite a bit of joint work with other inspectorates, both in England and in Wales. Four inspectorates now cover Criminal Justice in England and Wales, but then we also work with other inspectorates in the world of health, education and social care. Of course, there are separate inspectorates, for health, education and social care, for Wales. Therefore, we have quite a complicated series of relationships with different inspectorates for different purposes at different times. I would probably claim that we are seen as pretty effective partners in that sense because we stand up for ourselves, but we also work as a team with others rather than expect everybody to revolve around the way we do things.

Q317 Mrs Grant: Continuing on the same theme, do you think your inspectorate’s relationship with Parliament needs to be strengthened and, if so, in what way?

Andrew Bridges: I am tempted to say it could be stronger, in this sense. I would very much hope that in the context of criminal justice debates being so commonly driven by either personal or political ideology—and the debates tend to be somewhat two-dimensional—if a Chief Inspector can be recognised as an authoritative source of fair comment without a particular axe to grind because they are not coming from an ideological viewpoint, then it, the Inspectorate, probably could be used as a greater source of advice more frequently than perhaps it has up to now. But of course that is for others to judge.

Q318 Mrs Grant: Finally, how would you regard your relationship with the Ministry of Justice? Is it a good relationship? Does it need to be strengthened? Do they listen?
Andrew Bridges: I would say mainly very good, to be candid. It is worth remembering that in inspectorate terms we are tiny. Other inspectorates are much larger. HMIPs and ourselves are around the £4 million mark in terms of budget. If you look at Ofsted or CQC, they are considerably larger, in the three-figure area, and yet I think that the Ministry of Justice treats our Department very fairly and with a degree of respect, respecting our independence. They don’t try and compromise our independence. We have a good business-like relationship. There are always details that need sorting out, but, looking at it in the round, I would have to describe it in pretty positive terms. I don’t mean “cosy”; I mean a good, proper, business-like relationship.

Q319 Mrs Grant: But they do listen and they do take on board your recommendations and comments.

Andrew Bridges: Yes. Linking it to recommendations, we have had arrangements with both NOMS and the Youth Justice Board about where inspection ends and management begins. Something I have been very wary of is not moving into quasi-management. If you worry about local deliverers getting overly managed, one of the ways of doing that is if Inspectorates go beyond their role. We try and make it clear, “Here are the findings; here are the recommendations. Over to you. What are you going to do about it?” We have a conversation at the point of handing over. That arrangement has to change slightly because it has been done through the NOMS regions up to now, but the principle of doing it was well established and it is current business to talk about how it is going to be carried forward without the regional layer.

Q320 Chair: Let me throw a challenge at you. As you have just said, you cost nearly £4 million or a little bit less. If we didn’t have a Prisons Inspectorate, I think people would fear that there would be 24-hour custody and all sorts of quite dreadful things might happen, and therefore it has to be closely inspected. If we didn’t have a Probation Inspectorate, then some quality improvement and standard setting which you have engaged in might not happen. At nearly £4 million, don’t you have to work quite hard to justify it? Otherwise, could it be spent on more probation officers?

Andrew Bridges: That is an absolutely fair point. But there are two ways I would come at that. We have made sure that the inspection does what no one else can do; it is the quality of practice, if you like. No one else knows how to do that. We can help people self-assess, but, without a benchmark, self-assessment is useful for development but not very good for measuring. That is a key role, and I think it is one of the key reasons why we are seen within the NOMS and youth justice world as providing some unique added value, and, to be candid, at fairly reasonable cost. It is a half penny in the pound compared with what it costs to deliver both probation and youth offending.

In terms of the public, what has put the Probation Inspectorate more in the public domain than it ever used to be is when there are issues of public protection. There is a kind of irony about looking at the Prisons Inspectorate and Probation Inspectorate alongside each other. In a way, the Prisons Inspectorate is making sure that people aren’t dealt with indecently or unreasonably and so forth. We want to be reassured that people in custody are treated decently and properly. On this side, it is people in the community. Are they being managed properly to protect the public? In a sense, there isn’t someone else external and independent who can give an angle on that. To a large extent, we have to say, “That need to be backed up with indecently or unreasonably and so forth. We want to be reassured that people in custody are treated decently and properly. On this side, it is people in the community. Are they being managed properly to protect the public? In a sense, there isn’t someone else external and independent who can give an angle on that. To a large extent, we have to say, “That need to be backed up with other inspectorates, too, are finding that there is authoritative measurement.

As time has gone on, experience tells us that it is jolly interesting looking at management, but there is a certain degree of micro-management coming in with a national service. We evolved from 2001 to 2006 with a bit of a mixed economy. We are still looking at management but starting to look at samples of cases and developing the idea of what counts as doing the right thing with the right individual in the right way often enough. As time has gone on, experience tells us that it is jolly interesting looking at management, but there is an awful lot of work for not much added value with that. Increasingly, we found that the more we focused on the quality of work with individual cases, the more we can add value straight back to the body whose work we are inspecting, whether it is a trust or a Youth Offending Team, and a certain degree of authoritative measurement. Other inspectorates, too, are finding that there is limited value in saying, “We will give you a ‘Good’ or an ‘Adequate’ grading.” I just find myself thinking, “I don’t think this is really achieving very much.” You have to do it so that you break the work down. If the categories are too big, people can’t tell where it is they need to improve. If you do it too small, there is
Andrew Bridges: We have a principle already that, a difference? to focus the resources on those where you can make alone who are doing very well consistently as a way those that really need the help and perhaps leave those struggle? Is there an argument to do what Ofsted is To go back to Sir Alan’s point

Q323 Claire Perry: I think so. to this more complicated commissioning landscape.

Q322 Claire Perry: I have one final question, if I may, regarding the work you do on your thematic reports. I think you were looking at risk in the system and mental health. Are you satisfied with the way that the MoJ responds to those reports currently or would you like a more formal response system?

Andrew Bridges: It has been variable. Whereas there has been a system for the core reports, as I was outlining earlier, here it has depended on the individual report, the person or group unit that we are liaising with, and, to be honest, partly the amount of follow-up attention that we give it ourselves. I am struggling for an illustration at the moment. Sometimes I have thought, “Yes, they have been very assiduous in their response to this.” On a couple of other occasions I have thought, “Actually I don’t know what happened about such-and-such a report.” I would have to go back and go through them to give you examples of them, but the short answer is that it is variable.

Q324 Claire Perry: If I can push on that point a little bit, are you satisfied with the way that trusts respond to your reports? Is there any difficulty in that you don’t have enforcement powers over the recommendations that you suggest?

Andrew Bridges: I personally don’t think enforcement powers are necessary. Of course, in counterbalance to what I have just said, if inspection findings become part of the consideration about future contracts for providers, it will start to feel like it has enforcement powers even if we don’t exercise them ourselves. That will be something that future inspectors will have to work with if you are going to develop that positive relationship.

Local authorities tend to be a bit more political. You can get a bit more argument from local authorities who manage or have the final oversight of Youth Offending Teams. On the whole, with very rare exceptions, Probation Trusts engage with inspection in the right spirit, and, increasingly, most Youth Offending Teams do because I think they have recognised what the nature of it is, and it is about promoting improvement.

Q325 Claire Perry: I think so.

Q326 Chair: Did you contribute to the job description and the person specification for your successor?

Andrew Bridges: I was asked to, yes. The first draft was very good so I didn’t have much to add, but I did add the importance of the need to work with diversity practice and understand that work has to be equally applicable across different groups of offenders. The other main point I wanted to add was that you have to be an effective manager now. We are all called ‘arm’s length bodies’ now, as you may know, of Departments. They are all quasi-independent to different degrees. They are all a bit different, but we are all quasi-independent, attached to Departments. The Department has a fair point, by the way. Historically, some have not been well managed. They think it is an opportunity to do what needs doing and then the Department will pay the bill. They don’t want that to happen any more, and they are right. I felt from the beginning, because I used to be a Chief Probation Officer, that I was given a new unit to manage and you manage it properly. But I notice that hasn’t always
been the case. I am not talking about this inspectorate. I have noticed that hasn’t always been the case with ‘arm’s-length bodies’. I said, particularly nowadays, you are going to have to be assiduous as a manager as well as this cerebral and technical Chief Inspector. They put that in, and I think, as it happens, that fitted the Department’s agenda anyway—but I would support that view.

Q327 Chair: Is that a rather limiting factor in finding people to take these Chief Inspector jobs? In saying this, I make no implication at all about management skills. There is the kind of person you identify as having the qualities of independence and trenchant reporting which are valuable in an Inspector. Take someone, say, like Lord David Ramsbottom when he was Prisons Inspector, who may have been an excellent manager, for all I know, but I didn’t happen to observe that side of his work. But, in getting those qualities and a very competent manager together, you are asking for quite a lot, aren’t you?

Andrew Bridges: Yes, I am asking for quite a lot. Just as I was implying earlier with senior managers and Probation Trusts, they have to be good at managing upwards and good at managing downwards. You can’t let one be an excuse for not doing the other, whichever it is. Yes, I do think if a Chief Inspector is going to comment on the performance of a Trust, if you are not taking the trouble and making arrangements, whatever it is, to ensure that your own unit is managed in a cost-effective, transparent, accountable, responsible way, that would be poor. It has been a tradition in some quarters not to bother with that. I just think you have a responsibility to do that the same as in any other public service job. Yes, I suppose I have felt from the beginning quite strongly that that is an important part of the job.

It is an option, of course, to have a deputy and get that person to do it for you, but that is an additional cost. That has been a way of managing it in the past. I suppose I was arrogant enough to decide I didn’t need a deputy when I took over and thought I would do it myself.

Q328 Chair: But you make a fair point. It is rather difficult to criticise the management of an organisation if you are not managing your own.

Andrew Bridges: That is the view I have.

Chair: Mr Bridges, thank you very much indeed. Best wishes from us for the future.

Andrew Bridges: Thank you very much. I have been delighted to be here.

Chair: Thank you for the contribution you have made to the probation system.
Q329 Chair: Good morning, Ms Hall and Ms Webb from the Probation Chiefs Association and Ms Lawrie and Mr Cox from the Probation Association. I am sorry to have kept you waiting. We are glad to have you with us this morning. We are under a time constraint, but we understand that there are some things on which you agree, so it won’t be necessary for everybody to say everything this morning; maybe there are a lot of things on which you agree. Perhaps among yourselves, you can choose who answers. First, I want to ask about end-to-end offender management. Does it really work?

Sue Hall: Perhaps I can start with that. The concept of end-to-end offender management came in on the back of the Carter report in 2003. That report criticised prison and probation for working in silos. The notion or concept of offender management was brought in to introduce a process that would give an overview—a whole approach—to a sentence, from the assessment at the beginning of the sentence, the sentence planning and the implementation, through to review and evaluation at the end. The process that was brought in makes a good deal of sense. It makes a good deal of sense to try to tie together what happens during a custodial sentence and during a community sentence. For community sentences, the approach to the process of offender management is thoroughly embedded. I’m talking about the idea of an offender manager as a lead professional who conducts the assessment and pulls together a sentence plan, a package of interventions that meet the needs of the offender and the risk profile of the offender. In that sense, it has been effective and successful.

Where we have perhaps had less success has been in the full integration between prison and probation, and that’s primarily because of the volatility of the custodial population, with prisoners who tend to move around a lot under national prison population management procedures. It can be more difficult, therefore, for offender managers based in the community to manage that part of the sentence as well as the model would like them to. But as a concept, it makes sense and is analogous to case management in the care sector.

Q330 Chair: Does the OASys system—that’s a horrible acronym; I don’t even know what the letters stand for—work in most areas as a tool for this process?

Sue Hall: Offender management is predicated on OASys. OASys is a common assessment tool used across NOMS. It’s really important to have a consistent basis for making judgments about the risk that an offender poses, about the underlying issues that make them more or less likely to offend, so that you can decide on the allocation of resources—how much resource you need to put in and what you need to focus on. Because offenders don’t necessarily stay within one probation trust but move across geographical areas and potentially move in and out of prison, it is really important that you have a common, understood basis across trusts and prisons for how you assess a prisoner. So yes, it’s implemented. Certainly all 35 probation trusts actively use OASys and have been doing so for a number of years.

Tessa Webb: Can I add that OASys is the offender assessment system? That is where the acronym comes from. I think it’s important to say that it’s an internationally respected tool. Quite a number of other countries have been adopting OASys. It is seen as a very sophisticated tool. It’s used in the Prison Service as well, so the assessment is transferred across. It serves multiple processes. One of the criticisms of OASys is probably that the length of it has grown over the years and staff have found that cumbersome. That is partly because it was initially introduced as an assessment tool, but actually it’s very rich in data and analysis of different types of offenders’ needs and profiles. We have different pathways for managing offenders, so you need to know whether an offender is homeless; their accommodation needs are assessed. Drug and alcohol needs are assessed. Mental health needs are assessed. It systematically takes any offender manager through those assessment domains. You can imagine that if you’re sitting in Westminster, it’s very helpful to know how many offenders in England and Wales have an accommodation need, where the provision is and who you partner and commission with. It is serving two purposes, as well as helping the offender managers to prepare a pre-sentence report for the courts on what is the best sentence for them.
that you have a knowledge base as to which interventions are most successful. Is it the case nationally that we simply do not have that marriage, or are there areas where chiefs have reached out and queried the complicated police computer database and got the data themselves?

**Sue Hall:** The whole issue of how you measure reoffending is very complex indeed, as I am sure the Committee will be aware, as is how you make a robust judgment on the effectiveness of what you have been doing. We are aware that NOMS and the Ministry of Justice are reworking a measure of how you can do that; it is about assessment and evaluation during the lifetime of the measure. We are aware that NOMS and the Ministry of Justice are reworking a measure of how you can robustly look at reoffending, and apply that across the whole issue of how you measure reoffending.

**Claire Perry:** Effectively, it is a process management tool for caseworkers.

**Sue Hall:** Yes. Obviously, to judge reoffending, you need to look over time and at what happens after you have made your intervention. The current reoffending measure that we use within our performance framework only takes a snapshot of a cohort at the three-month stage. From where PCA stands, that does not give you a full enough picture of whether or not you have been effective. We would certainly welcome a reoffending measure that looked at six-month or 12-month progress because you would see a fuller picture. I do not think you can do that through OASys because often the offender will no longer be on the statutory order at the point that you are measuring whether or not they are reoffending. I don’t know whether that makes sense.

Q332 Claire Perry: It does make sense, but ultimately, offender X will have a case file on OASys generated during their interaction with the probation service will or will not reoffend within a two-to-five-year period. Presumably, putting that data together is helpful for probation officers.

**Tessa Webb:** It would be great if the probation service had access to the police national computer and we could track an individual cohort of offenders. At a local level, probation trusts are working very closely with the police to share information. In my own area in Hertfordshire, our profile of reoffending rates compared with the baseline is not good, although nationally, it is a low reoffending rate. We have done a localised piece of work, splitting it up by the 10 district councils, working with the community safety unit, realising that we had a shoplifting problem in one part of the county and going in and identifying that cohort of offenders and tracking them. We have local initiatives going on at that level. You can cut reoffending data in so many different ways and come up with the answer that you want it to say or that you don’t want it to say.

Q333 Claire Perry: Will you forgive me when I say that you can’t. Ultimately, there are certain categories of offence. Essentially, reoffending is how somebody reoffended. There is a relatively simple measure that we often lose: that person been reincarcerated and what was the outcome? I do not accept that you can cut reoffending data many ways and generate the result you want. You either know that someone has committed a crime or not. Presumably, that is relevant for a probation officer’s daily job.

**Tessa Webb:** It is highly relevant, but if you ask probation practitioners, they would go further than, “Have they reoffended or not?” They would want to know whether a prolific offender had reduced the level of reoffending. If we are talking about drug addictions, they would want to know whether the addictions are coming down. If you have a violent offender, they would want to know whether you had put an end to the violence. With dishonesty, you might find that some good work has been going on to address the risks to victims and serious harm, but they have still reoffended. You have to weigh up outcomes in a variety of ways. That is one of the challenges that the probation service really struggles with. It is about how we get across the complexity of our work. We see achievement with offenders, but it is two steps forward and one step back. That is particularly true of people with addictions. It is about how you measure progress. Desistance is the ultimate goal. The reason that we all get up in the morning is to stop people reoffending, but achieving progress has to be something that we measure as well.

Q334 Chair: But if the information is not linked up at all, then you haven’t even begun the process.

**Sue Hall:** We would clearly want to have access to reoffending data so that we could make sense of what is going on within our localities. That is clearly something that we would want.

Chair: I think that Ms Perry has the floor, and she might like to go on to something else.

Q335 Claire Perry: It is clearly a complex world, and I think you are absolutely right to highlight it. There is of course concern over the capacity of the service, given recent changes in funding allocations, to carry out the work effectively. What would your view be on the impact of efficiency savings on front-line probation work, and are you aware in your oversight role of any areas where there are pockets of money that trusts could save by doing things better or more effectively?

**Sue Hall:** If I can start by talking about the impact on the front line, and then hand over to Tessa to talk about other efficiencies. To prepare for this hearing we had a quick survey of trusts over the last few days. Because it is quite near the start of the financial year and it was quite late when we got our budget settlement, trusts are now implementing their savings plans. We know that we’ve already had a cut of about 7% over the last two years; the average cut this year is a further 5% and we have further cuts coming our way. The way we have dealt with cuts over the last two years has primarily been through restructuring, through streamlining management systems, through back-office systems, and what we are seeing with trusts this year is that the number of front-line staff is beginning to be cut.

By and large, trusts have been able to protect their front-line staff up to now, but they have been telling us that they have been losing front-line staff. Trusts
have been approaching this very responsibly, and have prioritised high-risk work and looked at ways that they can manage, for example, low-risk offenders differently. I have not heard reports of any trust telling us that they have stopped doing anything, or that they have withdrawn any front-line service.

However, clearly things are very tight, and we have seen real issues where, for example, national pots of funding have been withdrawn that were funding really important developments; for example, with intensive alternative-to-custody projects and women’s centres. Six intensive alternative-to-custody projects across the country have been running for the last two years, with very promising outcomes, but funding is totally withdrawn from this April. All the trusts involved are seeking to retain their intensive alternative-to-custody projects, but at a very reduced level in some cases, and they are having to make sacrifices in how they manage services for lower-risk offenders and others.

The other place where we are seeing the cuts hit is around partnerships, with some provision being cut back. For example, we have heard of some trusts withdrawing mentoring contracts and so on. There is a cutback in provision. There is also a reduction in services that we are getting from health and other community organisations. There is an impact, but in terms of efficiencies—

Tessa Webb: When all the probation areas in 2008–09 went through the trust applications, that was one of the key issues that we are all tested on. On the use of resources, we were asked to do a profile of where over a four-year period we would plan to make reductions in budget, and to report on the impact on front-line services. There was the principle of working to save front-line services as much as possible, and looking to go to the back office. That was something that we have been working at for some time. If you look across the trusts over the last two years, you’ll see that the management ratio has come down substantially, as has the back office; and there is shared commissioning and services for those initiatives going on.

Other work is going on at the moment, with trusts trying to make savings. There is quite a big shift in the use of court reports. Traditionally, the probation service had done full standard delivery reports that took 15 days; they were substantial documents. There is much more of a shift to raise that profile and to do reports on the day or over a five-day period, with shorter reports. That also gives us the opportunity to save resources, which will free up the front-line services.

Revisions to national standards were recently announced on the regulatory requirements that probation officers work to. That gives them a much more professional judgment, so they will be able to use their judgment to decide whether they review the progress an offender is making on their order. My hope—I think this would be the same for all the probation chiefs—is that our high-risk, prolific offenders will get a higher level of contact and service, but judgment will be used. If there is a low-level offender and he’s doing all right—coming in and complying—the time will not be put into doing a timely piece of work on review because that is what the book says. Judgment will be used, so some resource will be released in that direction.

The other bit is that the whole public sector is applying lean techniques, so we are looking at processes to see if there are any that we can take out or any that are duplicated—for example, can a referral form be completed only once and deployed in several places? All those initiatives are being deployed. The other thing is, are we making best use of signposting offenders to services that already exist in the community, so that we do not repeat them? For example, we used to commission and recruit a money advice service, but that provision exists in the community, so we should not be paying for it twice. There are those opportunities, which take us into partnerships and who you are working with locally in the communities.

Q336 Mr Llwyd: Briefly, I accept what you say about the trusts hitherto not having affected front-line services with their cuts, but it is known that many new potential entrants—trainees—were not offered contracts over the past two or three years. As far as I know that is getting worse not better, isn’t it?

Christine Lawrie: Perhaps I could answer that from the employers’ point of view. About 80% of each trust’s budget is spent on staff, and some areas have not been able to recruit new entrants; that is absolutely true and is entirely funding-driven. It is nothing to do with not wanting the people, but to do with having an absolute level of expenditure available to recruit them.

We are going through the pay round in the negotiations now, and we hope to negotiate as tight a deal for the employers as we can so that we do not have to make people redundant. We have been very successful at not making people compulsory redundant. That has been a success story over the past few years, but not all areas can take on all the trainees that they hope to—absolutely.

I would like to add one other thing to what was said about efficiencies. I think that we submitted our document, “Hitting The Target, Missing The Point,” about over-bureaucracy and over-regulation in probation. Part of the solution to dealing with efficiencies is to deregulate the service appropriately. We would say, for example, that it is critical to have outcome-based contracts, so you specify what people have to do and stop telling them what hoops to jump through; year-end flexibility on finance, so that trusts can carry over money that they have saved, because at the moment there is no incentive to be efficient; and the ability to retain or reinvest earned income and retain surpluses in the way that, I believe, foundation trust hospitals can. We would also like more efficiencies in the estate’s facilities management and ICT world.

Q337 Chair: Where you are committed to using a system that someone else has chosen, aren’t you?

Christine Lawrie: That’s right, and although I don’t think we want to go back to owning our own systems, we do want trusts to be treated as proper clients. The money is top-sliced from trusts’ budgets, and we want to be able to have a proper client function so that we
get what we need from what are very expensive systems.

Q338 Claire Perry: On that point, clearly the statistic on which people focus is that 24% of frontline staff time is spent in contact with offenders, probably for many of the reasons you are suggesting. We would not like to give up frontline contact, but would like to get rid of the huge majority of time spent effectively process-monitoring. Is your sense that you are being given enough help by central Government to do that? What you want is for the systems to go now rather than to have to lay staff off or not offer new staff contracts.

Christine Lawrie: Are you talking specifically about the ICT systems?

Q339 Claire Perry: Or just generally about all the non-frontline activities that are taking place. Have you submitted the list?

Christine Lawrie: Yes, we have submitted it, and I think there are very hopeful signs. The coalition Government have grasped that outcomes rather than processes have to drive the system—very much so. We have a sense that although it may take time, there is an open mind and a willingness to start to trust trusts to manage their own businesses and not have to be told in mind-bending detail how to do it. With professional practice, we know best. We have efficient ways of delivering things.

Q340 Mr Llwyd: You have already started answering my question. I was going to ask you what further changes you want to see on freedoms and flexibilities for trusts. You have read a few points out, but do you have any further points to put on the record? If you do, please do, otherwise I will move to my next question.

Christine Lawrie: We published a rather weighty document two years ago on business freedoms and flexibilities, which is on our website. We can send you a copy. It is an exhaustive document, which is probably only of any interest to those who are technologically-minded.

Q341 Mr Llwyd: Exhaustive, not exhausting.

Christine Lawrie: Yes, it sets out a complete suite of possibilities. It is particularly about outcome-based contracts, flexibility and the ability for trusts to commission all services, so that we can control what we do and what we spend.

Q342 Mr Llwyd: What was the experience of trusts in competing for provision of community payback? Have you learned any lessons from that exercise?

Christine Lawrie: Can we answer that in two parts?

Q343 Mr Llwyd: Yes, you choose the respondents.

Christine Lawrie: What I would like to cover is the process up until January 2011. It was a rather sorry tale. To start with, there was no consultation with probation about whether CP should be competed, and how it might be done. This was an entirely NOMS internally driven process. There were a series of unfortunate events. We were not invited to compete to tender to be on the framework for provision. We subsequently discovered that that was because it was intended that trusts would always be allowed to compete. There was a bit of confusion around that. Trusts were told in September to do nothing and that they need not worry about what was happening on the CP contract, because the matter was in hand. Trusts were advised—I am afraid that I do not have the documentary evidence—orally and anecdotally on many occasions, that any competition would be trust-based and that it would not be competed in wider lots than that. The trust would first be given the opportunity to improve its own performance. There would not be any competition unless a trust had demonstrated that it was falling below an acceptable level of performance.

Although we knew that competition was part of the new landscape and that CP was going to be the first element of work that would be competed, all the messages were that as long as trusts were performing well—most were—they need not concern themselves with what competition would look like. It was therefore a surprise to be invited to a briefing in November, and to receive subsequent letters later in November, to say that the decision had been made that there would be an open competition for which other providers could compete.

We had extensive written communication with NOMS to try to unpick why the process had been so unsatisfactory and why we had been left in the dark and how we had arrived at this open competition without knowing it would happen. We had some helpful answers, but also some less-than-helpful answers. At the final briefing in January 2011, we were told who was on the framework, that the competition would be on a six-lot basis, and that trusts were going to have to assemble themselves into lots that we are used to working in regions.

Sue Hall: We have good regional relationships and we are used to working in regions. It would therefore have been reasonable, we thought, that the lots might have related to regions. In fact, the lots, which we did not hear about until January, were completely irrational from our point of view. In my case, in Yorkshire and Humberside, South Yorkshire was linked with the Midlands. Northumbria, and Durham and Tees Valley came in with the three other trusts left from Yorkshire and Humberside, while Cumbria and Lancashire were divorced from the North West and brought into our lot. The rest of the North West was allied with Wales. You can see that that does not make sense from our point of view, in terms of the relationships that exist and the working relationships across trusts.
We were not, therefore, natural alliances, and we had no idea who we might have to work with. We had between January and the initial stage closing last Monday to get ourselves together, agree a lead bidder, work out a preliminary model, and get that into the sort of shape that would get us through the pre-qualification framework that closed last Monday. We have done it, and it has been a very interesting and, in parts, exciting process of trusts coming together. However, it would have been more reasonable to have an idea of what the lots were, so that we could have spent more time putting together more robust organisational frameworks—consortia, for example. There was no chance to get any sort of legally based consortium together. We have had to work very quickly to get ourselves into shape.

If future competitions are going to be based on big national lots, we hope that there is consultation about what those lots are, so that trusts have a fair chance to get themselves into the right organisational shape to be able to bid easily.

**Tessa Webb:** Can I make another point that I think would be worth the Committee reflecting on? The lots mean that we have gone for scale—for large-scale efficiency—but that seems at odds with how I deliver community payback in my local community. We have lots of small, voluntary sector or third sector organisations. They have not had an opportunity to compete, but they have a very deep, vested interest. It might have been a competitive process, but involving the smaller, third sector organisations that know their local communities would have been much more inclusive. By going to scale, at this stage, there are some concerns from those partners that we are working with.

**Q348 Mr Llwyd:** So the benefits of locally commissioned services and local accountability—all of that—are likely to disappear under the mega-structures that have been put in place at the moment.

**Tessa Webb:** We will have to see how the competition framework process works out, and how much they actually test for that. My lot—lot 6—goes from Surrey and Sussex up to Northamptonshire. That’s not local.

**Q346 Mr Llwyd:** Wasn’t the whole reasoning behind trusts that you would know your area, and that you would know what is necessary for your area? Doesn’t this defeat the object?

**Christine Lawrie:** That is exactly so.

**Q347 Mr Llwyd:** So we are going down a rather dangerous route, aren’t we?

**Tessa Webb:** There is a real tension between the localism agenda and the efficiencies, and the fact that you have to save the public purse, and make savings. Obviously, as you scale up, there are opportunities. At that size, it is far more attractive to the larger, private sector companies to come in on a large-scale basis. I am not sure that they would be particularly interested in delivering on a micro level, which is perhaps how we operate at present.

**Q348 Mr Llwyd:** In terms of trusts being commissioners as well as bidders, how on earth will that be a fair process? Who will judge whether a trust unfairly favoured one of its own bids against another?

**Christine Lawrie:** Is that specifically in relation to—

**Q349 Mr Llwyd:** It is a point that I have put to Ministers more than once, and I have not had an answer yet. In the commissioning process, there will be extraneous bidders. There will be a trust bidder, probably, and the trust may well decide ultimately to give it to the in-house bid. Who will know whether that is the better bid of the two, and what recourse does the unsuccessful bid have?

**Christine Lawrie:** In relation to CP, the trusts have no decision-making ability at all. The NOMS commissioning unit will make the decision about who wins each lot.

**Mr Llwyd:** Thank you for that, because I have not had that response from any Minister so far. I am very grateful.

**Q350 Chair:** That doesn’t apply to all the services that are going to be commissioned.

**Christine Lawrie:** No, it doesn’t. At the moment, CP is the only service-delivery service, apart from estates, FM and ICT, that has been commissioned at the national level. In relation to other services that trusts commission themselves, they obviously have to decide who is going to provide the best service, and sometimes they are judging themselves against other providers. We say that it’s very simple—the mechanism of the contract between the Secretary of State and the trust should be what drives the trust to pick the best value-for-money provision. It has to be ruthless about assessing its own capacity against that of another provider.

**Sebert Cox:** May I just make it clear that we are not against competition? We want that to be firmly understood. The concern here is that we have been thrust into this particular competition without any consultation whatsoever. If we had had that, we might have been able to advise on the best route to take to end up in a place where we will save money and possibly keep the localism agenda intact, because lots of work has gone into ensuring that services on the ground have been properly thought through with partners and so on.

Having accepted that we have probably lost that argument about the way forward, the concern is to ensure that, when contracts are let, if trusts are winners—we sincerely hope that they will be—they are not hampered by processes that were designed to facilitate the private sector’s approach, because there are particular things that constrain us as a public sector organisation. For example, we would want to be sure that, in the efficient delivery of CP on the ground, any potential saving—that’s part of the reason for going down the competition route—is something that a probation-led consortium could use to reinvest to develop further. We want to begin to think not just about this round, but about what happens in the round after. Going forward, it is very important that the level playing field that we have been asking for will be there.
Q351 Mr Llwyd: Following what Mr Cox has just said about there being inadequate consultation with regard to this round, you know that the Government intend to publish a comprehensive competition strategy for prisons and probation, I believe in June. What discussions have there been with the Ministry of Justice or NOMS about what you would like to see in that strategy? How hopeful are you that it will deliver what you desire?

Christine Lawrie: The short answer is nothing.

Chair: You are unanimous—a chorus.

Mr Llwyd: So that has also fallen down in terms of having any reasonable consultation.

Q352 Mr Buckland: There is a section about PBR and localism that I wanted to ask you about, but we are already discussing that. I want to clarify one point. Like a lot of us, I have talked anecdotally to practitioners in the Midlands, in particular, who are very concerned about the configuration you talked about. Are you saying that the mechanism of delivery of CP is still unclear? Have the commissions or NOMS clearly set out—whether for a probation trust or an acute operator—how the delivery will be operated on the ground? In other words, is there a commitment? My understanding was that 50% of the delivery would have to be delivered by small, local—

Sue Hall: The specification has not been published. We are all operating on that basis, and each lot may have made slightly different judgment calls about the balance between local and lot-wide delivery. I imagine that each of us has put forward a bid that encompasses that, but the specification and the requirement from the centre have not yet been published.

Chair: We are turning to breach in the last group of questions.

Q353 Mr Buckland: I see. I do not know whether you can comment on this, but I know there is some concern about enforcement and the difficulty that may come when you have different agencies responsible for enforcement. You can end up, for example, with a breach proceeding where suddenly you have different agencies instructing different lawyers and either a plethora of people coming to talk about the same breach issue or—worse than that—sometimes a failure to enforce. That is a concern that has been expressed to me, and I do not know whether you have any information.

Chair: We are turning to breach in the last group of questions.

Q354 Mr Buckland: Yes, I thought I had better raise it now. I don’t know whether there is any particular information that you have about that issue that you could help us with.

Tessa Webb: There are some similarities with some of the concerns that are being expressed in health. If we go for a competitive environment and increase the range of providers there is a risk of fragmentation, and there is a risk of communication not passing through. Potentially, it could increase costs. If you look at anything that goes wrong in children’s services or in probation, often it is about information being passed from one provider to the next. As we increase the number of providers, we would expect that there is a potential risk that will need to be attended to.

Sebert Cox: That is exactly why we have argued that it is important for trusts to hold all licences and orders to ensure that even if discussions are taking place within particular partnership activities, at the end of the day, it is very clear who is responsible for actioning breach.

Q355 Mr Buckland: I was going to go on to deal with PBR, because I thought it was a logical time to deal with it. I think we have dealt with a lot of the issues about commissioning, and we know that things are still emerging, but I think it is right now to look at payment by results. How do you see those programmes fitting in with existing models of commissioning at local level?

Tessa Webb: We very much welcome the shift to becoming more outcome-focused, which I think is driving the payment-by-results approach, so I think that makes a lot of sense. The concern is that the probation service is not the provider of a lot of the interventions that are needed to reduce reoffending, so on the ownership of the results there needs to be a multi-agency partnership. Accommodation is absolutely critical, because if you have a homeless offender the likelihood of offending rises. We are not accommodation providers, however, so we need to be talking to our local authorities and housing providers. Health has the resources for the drug interventions and mental health treatments. The Department for Work and Pensions is involved, as well as the Department for Education through colleges.

Our concern is that although payment by results makes sense and would be a very helpful lever to get improved multi-agency ownership of reducing reoffending, if it is put as an outcome for probation on its own to deliver we are at the mercy of a lot of other public sector providers delivering or not. Given the current environment of austerity and the savings that are being made, there is a battle on because offenders will not be the most deserving cohort in the community for other Departments to be attending to. That is why it is really important that we work at that local level. The police have a key role as well.

Sue Hall: The financial incentives models that are being developed in Greater Manchester and London at the moment are still at the very early developmental stage, but they are looking at how you can have a multi-agency approach that is based on the payment-by-results model. It sounds really quite complicated in the early briefings that we have had, but I would say that it is a positive way forward that builds on the experiences, for example, of the Total Place pilots and the community budget initiatives that are around at the moment.

As far as our case load is concerned, the main savings come from preventing people from going to prison. That is the expensive part of the system. The cashable savings that you would get from doing things well at our end with higher risk offenders would not come within probation. The savings would be made elsewhere in the system, because hopefully at the end
Christine Lawrie: report. consistent with our previous justice reinvestment resources from prison to probation. That is very preparing a business case for reduction in the use of recommendation about the Probation Association it appears in the evidence, which is your interesting attention to a quite different point, not least because Q357 Chair: Noticing the time, I just want to draw people for achieving a narrow range of results. systems so that you build in incentives for the whole project—but it is important to retain the integrity of that—Sue has talked about the Greater Manchester particular projects are managed, commissioned and they should be looking at how public services can be incentivised to do better, work more efficiently and achieve more. We have talked about the problems of the CP competition, and its being a hived-off process that is commissioned from the centre. One of the risks with PBR is that it becomes a mini-version in which particular projects are managed, commissioned and then contract-managed by NOMS in a silo alongside whatever the trust is doing. They won’t all be like that—Sue has talked about the Greater Manchester project—but it is important to retain the integrity of systems so that you build in incentives for the whole system; you don’t try to slice off bits and then pay people for achieving a narrow range of results. Q357 Chair: Noticing the time, I just want to draw attention to a quite different point, not least because it appears in the evidence, which is your interesting recommendation about the Probation Association preparing a business case for reduction in the use of short-term prison sentences, with a transfer of resources from prison to probation. That is very consistent with our previous justice reinvestment report.

Christine Lawrie: It is Sue’s point about savings arising somewhere else in the system from activity in probation.

Q358 Chair: Is there any reason why you shouldn’t be preparing a business case for that? Christine Lawrie: I suppose the short answer is no, but we would want somebody to invite us to do the work because we might end up doing a lot of work. If it is something that no one is prepared to consider, there is not a lot of point in us doing it. Certainly we think that a whole-system approach is the way to go, and if we can be incentivised to save money elsewhere in the system, that’s great.

Q359 Chris Evans: I want to go back to what you were saying about the breach of community sentences. Is it not the case that judges are incentivised to become very tough—the tougher the sentence, the more likely the defendant is to say, ‘Bigger this, I’m not going to turn up today.’? How do you deal with that tension, and stop tough community sentences causing offenders to say, “Well, this is just a waste of my time.”?

Tessa Webb: Enforcement performance in probation services has changed dramatically over the last 10 years. We can be very proud of the fact that there is strong delivery of that. The toughening-up of community sentences is a perennial problem; it has been around for a long time. The public perception is that community sentences are not tough. Actually, offenders do a great deal more now than they used to when I trained as a probation officer, but that is not always seen. How do you get across the complexity of changing people’s behaviour? It does not sound like punishment. “Community payback” does sound like punishment, and people can get their heads round that and talk about it as tough. We have seen an increase in the use of the suspended sentence supervision order over the last few years, at the expense of the community order because, perception-wise, it sounds tougher. That has created some issues.

Sue Hall: Our experience in West Yorkshire, where we have two intensive alternative-to-custody projects—one based in Leeds, one in Bradford—is that members of the judiciary have been very enthusiastic about them. We have a judge sitting on our steering group in Bradford. Many, many sentencers recognise the futility of people going through the revolving door in and out of prison, but by the time you get to the Crown court, you start running out of options. These are serious offenders, they’ve offended before and a prison sentence is looming. Having a really robust, intensive alternative that sentencers help to design and put in place can make a real difference. Therefore, I would not say that sentencers always want to carry on giving more and more punitive sentences. Sentencers are often very keen to find sentences that work and help stop the same faces from coming back before them time and again.

One thing that we have learned, if I can just put in a plug for intensive alternatives to custody, is that if you engage with offenders really early in the process—even, potentially, before they have been sentenced by the court—so that they start actively engaging with issues around their offending early, and you work motivationally with what the issues are for them and where they are with their lives, you can actually have a dramatic turnaround. The emerging results from intensive alternatives to custody projects are very promising indeed. It is therefore disappointing that we’ve had the sort of funding issues that we have had around them, because I think that they are one of the hopes in the criminal justice system.
Q360 Chris Evans: I went to a church in my constituency that had a community payback project—working in the gardens at St Catherine’s church, Crosskeys—and it seemed to me that the success there was that local people bought into it. A lot of comments were, “Couldn’t they get into trouble more? Because they do a wonderful job.” Is that an example that is just happening in Crosskeys, or is it widespread across the board? How are trusts encouraging young people and local people to get involved in community payback schemes?

Tessa Webb: I would say that that is widespread and right across every probation trust. Members of the public can make nominations for community payback projects through the probation websites. Certainly all the district councils are nominating projects in their local communities. They are very helpful, actually, in promoting the scheme. They have done a lot of work through the local papers in promoting it. The police have also promoted community payback strongly in Hertfordshire. The police, in their victim surveys, ask victims, “Do you know about community payback? Would you like to make a nomination?” That is a kind of partnership activity. Primary care trusts have put up posters about community payback. We did a test locally, and 69% of the wards came back saying they knew about community payback. That bit has been quite a success in the last few years. There is good public understanding. I have been quite surprised. We have had feedback on offenders being congratulated by members of the public while on a project: “You’re doing a really good job here.” That is really good for their rehabilitation and reintegration.

Q361 Chris Evans: Will offenders buy into it? We did a visit as a Committee to a couple of projects in Lambeth, I think, in September. Some of the people we spoke to said, “I’m not going to come back.” Others said, “Well, I’m just going to do my time; nothing can stop me.” I remember one guy was particularly anti-community payback. How are offenders brought into this? Is community payback right for every single offender?

Tessa Webb: A critical bit in offender management is to make an assessment about what somebody is suitable for. Community payback is primarily a punishment. It is about reducing crime and putting back into the community. It is not going to address drug and alcohol needs or accommodation needs. It is not supervision. People need to be clear about that. Sometimes it is presented that all our caseloads are under supervision, and we’re watching them all 24 hours a day. A larger number are on straight community payback orders. They come in, they do their hours and they go away again. That is what they have been asked to do, and that is what we have been tasked to deliver.

Q362 Chris Evans: Do you think there is a widespread public misunderstanding of probation and what it can do? Do you think that that is exaggerated by television, documentaries, programmes and things like that?

Christine Lawrie: Absolutely. We talk to representatives of national magistrates’ groups, and one of them has said to me, “Can you get me a meeting with Crispin Blunt? I want to tell him that sentencers think that probation has changed massively over the past 10 years. That seems to be at odds with what the powers that be think.” There is a massive mismatch, I think, between what is presented as the public view about probation and what those people who have a more intimate and informed knowledge actually think. Sentencers are critical; I think that they now have, by and large, a very high opinion of probation, because they have seen the evidence of what it does.

One of our problems is that if you look at other public services such as health and education, most people have a general knowledge from their own experience of what they are like. They have a view about the NHS and about education, but most people do not have their own view about probation. All they get is a diet of largely bad news stories in the press. That is what people want to read, so that is what the media produce. When people hear about a case in a particular area, they think that it must be typical of probation. Most people know that Harold Shipman wasn’t a typical GP, and most people know from their own experience that some of the disasters that have happened in hospitals—for example the Mid-Staffordshire case—are not typical, but they have no way of judging whether a probation bad news story is typical. We are struggling uphill, because it is very difficult for the public to get that kind of general everyday informed sense of what we do. I really urge people to listen to what sentencers say, because they are the ones who know; they have to trust probation to supervise—and they do—and that seems to me the critical issue. Probation is as good as any other public service.

Q363 Claire Perry: I just saw an announcement that NOMS and the Corston coalition have indeed kept the funding for the women’s community projects, which is excellent news. The funding is secured for the following year, and I certainly support that. I hear what you’re saying, Ms Lawrie, but the problem is, I think, that there just isn’t enough focus on the outcome, which is to reduce reoffending across the whole system. For example, community payback is fantastic and it works very well, but we know, based on the latest data, that a quarter of people breach. If you look at the facts, and the reoffending, there is a real lack of confidence that the system is focused on what we all want, which is that people complete their punishment and that we stop them reoffending, so the more you can do to push for transparency and data, so that we can demonstrate that certain interventions work and certain others don’t, the better.

Christine Lawrie: We agree with you. We should be driven towards those kinds of outcomes, unmuddled by lots of other subsidiary ones. We would like reducing reoffending and public protection to be among the key drivers for us, and we want to be...
incentivised to achieve them, rather than having to jump through a plethora of hoops, which might not be directly serving that outcome. So, we are with you on that.

**Chair:** Thank you very much, both for your evidence today and for the written submissions from both organisations, which have given us a lot of other very useful material. We are very grateful to you.
Tuesday 17 May 2011

Members present:

Jeremy Corbyn
Christopher Evans
Mrs Helen Grant
Ben Gummer

Claire Perry
Elizabeth Truss
Karl Turner

Examination of Witnesses

Witnesses: Jonathan Ledger, General Secretary, Napo, and Matthew Lay, Chair, Probation Committee, UNISON, gave evidence.

Q364 Chair: Mr Ledger is from Napo, with which many of us are quite familiar. It is the trade union and professional association for family court and probation staff. Mr Lay is from UNISON, as are many members working in this field. We are very glad to have your help this morning. Can I just start by asking you about the streamlining of national standards? Is it a good thing and do practitioners have the skills and knowledge to operate outwith such standards if they are either moved or made much less specific?

Jonathan Ledger: Good morning, and thank you. Going back over the history of the national standards and having represented Napo when they were first proposed in the mid-1990s and when some of our concern was expressed, we would have to say broadly that we certainly welcome the streamlining of the national standards that has recently been implemented. It does have our support, not least because it improves and increases the discretion of probation staff, which is one of the criticisms we had of the original standards and indeed the way they were revised in subsequent years.

Our feeling is that returning greater discretion to probation staff will be good for a variety of reasons, which you may wish to explore. I certainly am confident that our members in our unions and working in the Probation Service have the skills. They have begun to work in what might be described as a slightly different culture over the last 10 years or so where an enforcement priority has characterised the approach very often, with perhaps a move away from what we see as a slightly more professional approach than was previously the case. But, certainly, I would be very confident that the skilled and trained staff in the Probation Service would be able to work in a more streamlined environment and are quite capable.

Q365 Claire Perry: In many ways I feel very sorry for the service because I feel you have been put under many conflicting burdens over the years and this is a welcome step in trying to say professional judgment really matters. But I suppose I am worried about the implementation of it. Does it just become another process-heavy exercise that does not actually deliver what I think we want, which is more professional judgment? Stepping back a little, do you think the offender management framework, if you like, which underpins both the older system and perhaps this system, has been effective? Has that allowed staff to manage young offenders effectively or does more need to be done?

Jonathan Ledger: Theoretically, we would be supportive of the offender management approach because we are fully supportive of the idea of end-to-end joined-up thinking and process of the way we work with offenders, whether it is in prisons or in the community. In practice, we have struggled to see it work properly, it has to be said. Not least, a lot of that process is that staff are familiar with it. Therefore, any move away or change will impact on staff in terms of how they view that. In terms of streamlining of the national standards and the move towards greater freedoms and flexibilities for practitioners, that is also going to be taking place in an environment where there are reduced resources and therefore potentially additional pressures on those individuals. That, potentially, could create some vulnerability.

Q366 Claire Perry: Thank you for that. If you look at the model, though, and I do not know how it works on the ground, we have this slightly confusing definition of the four worker roles, all essentially circling around the same target, who is the person for whom responsibility has been given to the Probation Service. Is that efficient? Is it confusing? Does it work well in practice? Does it mean that people are reluctant to exercise professional judgment because it might be somebody else’s role? How does that actually work in practice?

Matthew Lay: I do not think that is the case. There are blurrings in terms of people’s roles and boundaries, but they are well established in terms of the way practitioners go about their work. Yes, it is...
Jonathan Ledger: I think the Probation Service has a great history of partnership and co-operation. It is a very inherent part of the way the service works. I let Matt go first here, because I am some years out of practice, but I was a probation officer for 16 years. The instinct is always to work both internally within the service but also with other agencies in a co-operative manner. That has not gone away, I believe, and I think we have adjusted okay.

Q367 Claire Perry: Just following on from that, clearly the drive is towards more localism, whether it is through commissioning or provision of services. Do you feel that the current system can support that more local assessment and local provision or commissioning of services?

Jonathan Ledger: We get close here to the heart of some of the issues and problems that we have highlighted as trade unions for some time. We get confused by the messages as to whether it was working it was on behalf of our members. On the one hand, there has been a focus on the concept of localism, and that has been around for some time, as you say. In general terms, we would support that. Again, the Probation Service developed out of that local work, whether it was in the courts and the communities. That was the focus. However, the creation of the National Offender Management Service has confused—muddied the waters, you might say—the situation that we have faced. Certainly, at times, it has to be said, for the workers and the staff on the ground, and for us sometimes as unions representing them, we are unclear where the responsibility lies effectively. Is it at a national level with the National Offender Management Service and with the Ministry of Justice, or is it with local trusts who are trying to apply the localism agenda, perhaps? At times it seems rather selective, according to what national policy seems to be. That has confused the whole agenda, I think, substantially.

Chair: We are going to explore that more fully the further we get on in this session.

Q368 Claire Perry: I have two more quick questions. One is OASys, which is clearly a very useful source of data. Does that currently deliver what it could in terms of helping trusts to make individual decisions about offenders?

Matthew Lay: There is a lot of support for OASys from practitioners, and we have had dialogue in the past about whether that could be made more user-friendly and some of the processes could be adapted to make it more streamlined. But I think there is generally support, particularly amongst our members, for the concept of OASys and what it delivers in terms of effective risk management and analysis of that risk.

Q369 Claire Perry: There is a lot of potential with that data to go further.

Jonathan Ledger: I think this has already probably been said to you, but using it is quite cumbersome for staff. That is certainly the message we get. I would have to be frank with you. Within my union, there is quite a divided opinion about the value of OASys. Sometimes it is a generational view, it has to be said, where the debate takes place; those who have grown up with it more probably like it more. It has value in terms of what it sets out to do in terms of risk management and assessment, which is fine. But the process by which it is used, the time it takes and certainly where it is encountered electronically has been cumbersome. Again, that links into those familiar statistics you have about the amount of face-to-face time staff have with offenders.

Q370 Claire Perry: It always seemed slightly that the missing link in the OASys data pool was the lack of correlation of that with re-offending data. The ultimate next step is to make it very transparent as to what interventions and case management plans work in terms of reducing re-offending. We have heard from several witnesses that it has been a latent attempt, if you like, to add proper re-offending data into the mix, and that would be one way, presumably, to get your union members to feel that was something quite valuable, if you could really see the results of a particular intervention.

Jonathan Ledger: Yes, I think we would support that, if that link could be made. It is not entirely easy. Again, assessing progress and rehabilitation is always a complex matter and we would always argue is not simply about recidivism rates. It is about far more than that. In principle, making the tool more applicable to all the evidence is sensible probably for all concerned, but certainly streamlining it and making it more user-friendly would be a key component of that.

Matthew Lay: There was some work undertaken and we were in a sense promised a more refined version of it. That has not yet materialised. Whether that is a project that has now bitten the dust I am not quite sure. It is one of those projects that has not really come about.

Q371 Claire Perry: We had a very interesting session with clients of the Probation Service, current and previous, many of whom were repeat visitors. We were very struck by the testimony of a woman in her mid-40s, who said, ‘I don’t want my probation officer to be some young kid who takes me out for coffee and has a chat. I want somebody to say, ‘Get your head in gear. Get your act together. Stop mucking about. Sort yourself out’.” Many of us were really struck by that. It may have been a one-off example. Do you think that is an accurate reflection of the way that the relationships have been going? You obviously have lots and lots of experience in the profession. Is there a role for a slightly tougher management system, if you like?

Jonathan Ledger: I would be rather sceptical about that as being a general characteristic of the way the Probation Service staff now work. In fact, if anything, since the infamous Paul Boateng speech about us becoming a law enforcement agency, the shift has been more to a punitive approach, one could argue, rather than a more compassionate one. It depends how you wish to characterise it. The idea of being soft is...
a misrepresentation of the general way staff indeed have to work these days in the context of enforcement and accountability. However, as you know, there has also been an increasing return to the concept of those one-to-one relationships and the key abilities and skills you need in order to develop relationships with the people with whom you work and for whom you have responsibility. If you do not now know how to engage with people, how to get alongside them, you are very unlikely to start to be able to challenge them and make demands of them in terms of the behaviour they are presenting and actually effect change. You need those skills where you have the empathy and you know how to communicate with people.

Beyond that, though, it builds in a permission, once you have built that relationship, to challenge people about the sort of behaviour they are presenting, the things they have done and the problems they have that might be contributing to that. I would re-characterise it. Yes, we need people who are compassionate, who understand and have those instincts to form relationships, but that is combined with the ability then to confront people and challenge them. That is what being tough is about. “Tough” is sometimes misrepresented somehow as being distant and hard. But we do not need that; we need people who can get alongside others and then challenge and have some impact on people’s attitudes and behaviour.

Matthew Lay: It is very easy to characterise the work that probation staff do with offenders as being soft, in a sense, and there is a bit of a myth out there. But if you came into any probation office on any given day of the week, where offenders are coming in and out, you would see the relationship that there is between the staff and the offenders. It is very professional and the staff are diligent. There are times where staff need to spend additional time with offenders. I just don’t buy into the fact that staff are going out having cups of coffee because there just is not the time available. But there may be the opportunity and it may be right for one person to go out and have a coffee at that particular given moment in time because that is the right thing to do. Generally speaking, if you go into any probation office, you will see it is a hub of activity and very businesslike. Offenders are treated with courtesy, yes, but there is clearly an importance for enforcement, for ensuring that offenders are compliant and making sure that they understand what they are doing and why they are on probation, etcetera. I am uncomfortable in a sense because it is such a common myth that is always out there. Our staff and our members are always having to battle against that and I do not think we will ever necessarily achieve that.

Jonathan Ledger: Can you forgive me for just being anecdotal on one point from practice? I can remember one time in 16 years taking a young offender out for a cup of coffee, essentially. He was a 17-year-old who had not eaten or drunk anything for several days, who was extremely vulnerable and ended up being murdered on the streets of London not long afterwards—in the midst of committing an offence, it has to be said. But that is the only occasion I can remember doing it and there was a very particular context. As Matt says, it is a false characterisation.

Q372 Chair: The point was not about coffee; it was about challenge.
Jonathan Ledger: Indeed.

Q373 Chair: It is fair to say that we have also had offenders in front of us, two of whom had committed offences in order to get back inside away from programmes which they found too challenging.
Jonathan Ledger: Precisely.
Chair: They preferred the comfort of jail to the continuance of the programme.

Q374 Karl Turner: The Ministry of Justice needs to make savings of 23% by 2014–15. I wonder what the impact on efficiency savings and cuts to the front-line service has been as a result, and whether there are any further areas where efficiency savings could be made.
Matthew Lay: One thing that you also need to add, and it is very important in the context of the modern Probation Service, is that we have those efficiency savings to reach, which are broadly around the 10% mark for most trusts over the CSR period. You have to add on to that the fact that Probation Service trusts up and down the country are involved in lots of relationships with local government and with the police, and they are also cutting back. In the Humberside area, in the Hull area, the Integrated Offender Management Project has had significant reductions in the amount of resource that is going into it. Prisons are returning seconded staff. Because prison staff are civil servants, they need to make redundancies and make their own savings. They are returning probation staff, adding to the burden that the probation staff are being taken out of prisons, which is a bad thing.

If you add to that a whole series of other things that are going on in terms of the partnership organisations that we work with in local government and the police, the impact is magnified. It would be easy to say that 10% efficiency savings are manageable, which is what NOMS and the Ministry of Justice say. We would argue that they are not, but, generally speaking, if you compare all the other cuts that are being made, it is not the worst. But if you add to that all of our staff, our members, who are engaging in lots of other projects, and these projects are being axed, it is creating a bit of a headwind which is going to lead to significant problems further down the line.

Jonathan Ledger: It is difficult for us to answer your question about making efficiencies. You will understand, from a trade union perspective, that our major concern is about the jobs of our members, as you will appreciate. Having said that, we have also been working very co-operatively with the MoJ, NOMS, the employers and trusts to try and calculate and work out how changes and cuts are being implemented with the least harm to the staff and on the service delivery that then follows. The risks of it are that the sort of cuts that are being made are generally probably targeted on what would be deemed as lower risk areas of work. We know from the experience of representing probation staff that risk is a very flexible and mobile issue. Somebody can be low risk one week and perhaps change in terms of how you might assess them within the next week or...
so, according to various problems or issues that may arise. In that respect, the danger is that, in looking at what might be seen as more easily reduced areas of work, we are having a longer term impact on risk for the communities we serve.

Q375 Karl Turner: What is your current estimate of the volume of the decline in the front-line probation work force then?

Jonathan Ledger: I saw the figures last week, which are the most recent figures produced from within the MoJ, which interestingly suggested there had been a very small rise in the number of probation officers. That is probably because all of those from the outstanding old training arrangements—I say “all of them”, but many of them—had been employed. Where we have seen a significant front-line loss is obviously probation services officers, which both our unions represent. That reflects to some degree the point I was making about lower risk and lower priority, and therefore maybe that area of work being seen as one where cuts could be more readily made. There is certainly a measurable drop in that area of staff.

Q376 Karl Turner: Would you say that the workload is going up for individual probation officers and probation services officers?

Jonathan Ledger: In general terms, workloads over a number of years have gone up significantly. That was during a period where there was significant growth in the staffing of the service as well. But of course it is now going up because there are less staff to do the work, so de facto there has to be an increase in the workload. In general terms that has not changed significantly. The other workload implication of all of this is that we have seen a lot of very experienced probation staff lost in recent times through voluntary redundancy or early retirement packages. There is something of a generational loss going on for the newer staff who are coming through, who, before that, would have been able to turn to a lot of experienced staff to act as mentors and provide support in a very positive way.

Q377 Karl Turner: What is an acceptable caseload for a probation officer or a probation services officer? I have some experience of Humberside. In my experience, they are extremely committed and extremely busy, but remain very professional. I see them with many, many files, dealing with many, many clients. What is acceptable? I do not think they have an awful lot of time to do anything, never mind have coffee, to be perfectly honest.

Jonathan Ledger: From our point of view, this has been a 10-year question in trying to define an acceptable workload. The problem is that there are so many variables you have to take into account, which include the level of risk and presenting problems of any individual, which means a certain type of case has to be weighted more heavily than another. But the fact is that the sort of description you have of Humberside is true across a range of probation trusts for our members. They are making workload measurement decisions all the time. They are calculating on a one-by-one basis what they have to prioritise because the structure is not there within the Service to control that. Generally, workloads go up and up without any great control, except by individual regulation.

Matthew Lay: It is true to say that some trusts manage it better than others in terms of their internal processes, and where there have been disputes locally over workload it is generally because those trusts have not been flexible or worked with staff effectively to manage that. I just wanted to come back in terms of staffing numbers, because it is worth bearing in mind that, for probation, we have been on a downward path for about three years now, and resources have been largely frozen or reduced over that period of time. In a sense, the CSR has come on top of a couple of years where there were already reduced resources. In terms of staffing numbers, that pattern has been following that. As Jonathan said, a lot of experienced staff through voluntary redundancy schemes have been able to leave and there has been no real recruitment going on for the last two or three years. That will have impact further down the line, no doubt.

Q378 Karl Turner: Given what you have said, it is probably a leading question, but what is the impact on face-to-face engagement with clients? Is there any impact?

Matthew Lay: It comes back to the questions about how we interface with offenders and particularly about streamlining national standards, for instance. It is all well and good having that flexibility for practitioners, but, if they have less time because they have more offenders, some of it becomes a bit of a pointless exercise. Therefore, we have to balance that and we have to observe that, if staff are going to engage more effectively with offenders in terms of face-to-face engagement, they have to have the time to do that.

Q379 Karl Turner: That leads me to ask you about risk management and whether the existing system for risk management is fit for purpose.

Jonathan Ledger: We touched on this earlier with the discussion about OASys. We said it does provide the basis of something that does that job. But, again, it has a bureaucratic impact which affects the amount of time, and then this goes back to your earlier question about the amount of face-to-face time people can spend with those they are supervising. Every day, individually, people and the individual team level local managers are making decisions about where to prioritise time and focus. A lot of people have been very concerned that a sort of “tick box” approach to people coming in for supervision is not acceptable, but workload pressures sometimes created that situation. We do not support that. We think that is an indictment of some of the pressures on the service.

Matthew Lay: In terms of managing risk of harm, I think the Probation Service does a very good job overall and I think OASys plays a part in that. One of the interesting things about the debate on sentencing is that the focus is on those offenders who do not have probation supervision or generally have limited probation supervision and re-offend many times.
Matthew Lay: alternative to custody. What is your view about that?

Jonathan Ledger: This is a very grave worry because, quite clearly, if the Probation Service is not able to provide the range of alternatives, there must be a risk that sentences where they might be looking for community alternatives. Certainly, from what we have been picking up, there are cuts taking place to some of the partnership approaches that we have had, and this will impact on things like drugs and alcohol dependency work, in domestic violence and programmes generally that we provide looking at offending behaviour.

We have also seen long delays in the take-up of those programmes. When courts are sentencing, obviously there is a significant delay sometimes and that undermines court confidence to some degree in the impact of what they have sentenced. We would support the fact that you need to pick something up. Once sentence has been passed, you should be picking up and intervening quickly. If you take the approach Napo have been talking about in terms of an intensive programme approach, then you need to do that quickly, soon after the sentence is passed, otherwise its relevance begins to get lost. That affects the motivation of the individual offender but it also undermines the confidence of the court.

Once sentence has been passed, you should be picking up, there are cuts taking place to some of the programmes, and a trust does not suddenly get any more money to respond to that because it is very fluid. You are right that sentencers will have to fall back on short prison sentences if the Probation Service is not funded to provide the range of alternatives, there must be a risk they start to see that those things that they previously would have offered are not there.

Jonathan Ledger: We could provide examples. We have been doing so because we are doing surveys of our branches. We will continue. I know MPs get a lot of information from us on this sort of area. We survey our branches in order to get that sort of information. I think your question also links to the quality of the court reports that have been produced as well and that is another area we would be very happy to discuss with you if you wanted to pick it up with us.

Karl Turner: Finally, how could the cuts in trust budgets have an impact on sentencing outcomes and can you give any examples?

Jonathan Ledger: What you are saying highlights my own experience. Sir Alan made the point, I think. In my experience, I have had clients who have asked me not to try and persuade the court to give them a drug treatment and testing order, as an example, because a short prison sentence is actually much easier for them. My concern, though, is whether a probation officer, first, is going to be around to assess the client prior to the sentence, and whether the resources are going to be available to offer that as an alternative to custody. What is your view about that?

Matthew Lay: We are seeing cuts to—

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Jonathan Ledger: We could provide examples. We have been doing so because we are doing surveys of our branches. We will continue. I know MPs get a lot of information from us on this sort of area. We survey our branches in order to get that sort of information. I think your question also links to the quality of the court reports that have been produced as well and that is another area we would be very happy to discuss with you if you wanted to pick it up with us.

Karl Turner: Finally, how could the cuts in trust budgets have an impact on sentencing outcomes and can you give any examples?

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Matthew Lay: We are seeing cuts to—

Q382 Karl Turner: Do you have examples? I am sorry to interject. I am trying to get an example from you.

Matthew Lay: There are examples all over the country, because of the money for work with offenders who have drug misuse. That comes through a different channel. We know that money has been cut back. That impacts on the ability for practitioners to do that sort of work. Working with drug users in particular is quite intensive. If it is to be effective, it needs to be intensive, and there is a resource element to it. As you reduce that, you clearly are unable to offer those services, and that goes for a range of other probation interventions that are currently provided.

One of the things around sentencing culture is that in a sense we are not there yet. A number of the cuts and the impact in terms of being able to offer services to the court take time so that some sentences are not going to be necessarily influenced at this moment in time. It will be two or three years further on before they start to see that those things that they previously would have offered are not there.

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Matthew Lay: We are seeing cuts to—

Q383 Jeremy Corbyn: Following the points that Karl Turner just made, how many of your members complain about levels of workload and allocation of caseloads? I spent some time at a local probation office last year, and the point they put to me was that it was the one Government service that had no choice in the number of cases it had to receive. The workload appeared just to grow and, with increasing levels of probation, keeps on growing, and the staff levels appear to be failing.

Jonathan Ledger: I think that is right. In a sense, what we were saying earlier picks up that point. Certainly it is the perennial concern and issue that probably impacts across the whole of our membership most consistently. Talking for Napo here, we have been in national dispute with the probation employers for some four years about workloads, in an attempt to try and force some form of agreement that we can apply.

Q384 Jeremy Corbyn: Do you have a fixed number of clients per officer?

Jonathan Ledger: No, there is no agreement. As Matt was indicating, some areas have systems—they sometimes apply a traffic light system as a warning process to try and control these things, and some of those do work reasonably well; it is not a consistent picture across the board—but most do not. There is no figure, and there is no system of control.

Q385 Jeremy Corbyn: Is there no management guidance?

Matthew Lay: Interestingly, there has been some movement in terms of some of the work that was undertaken by NOMS in the specification benchmarking and costing exercises because they are trying, in a sense, to deliver unit costs for everything that goes on in the justice system. There is obviously work that has come through which analyses that, but they are tools that are inordinately complex and areas need to manage them and interpret the data and respond to that because it is very fluid. You are right to say that the number of people that are committing offences and going to court and then require this, this and this are not governed by the Probation Service. They are the recipients and manage that accordingly, and a trust does not suddenly get any more money to...
employ more staff if there is a surge. They have to manage it. The complexities of that make it inordinately difficult to manage demand and ensure that you are supplying the right number of staff to do that. Most areas will try and do that using their own management tools effectively to do that. As I say, some trusts do it well and some less well.

Q386 Elizabeth Truss: I am interested to understand your position on the restructuring that is taking place in NOMS. I know that you were certainly critical of its establishment in the first place. Clearly, Government have now taken away the regional level. Do you see more scope for savings at a senior level? Does the Government have now taken away the regional level. Do you see more scope for savings at a senior level? Does the Government have now taken away the regional level. Do you see more scope for savings at a senior level? Does the Government have now taken away the regional level. Do you see more scope for savings at a senior level? Does the Government have now taken away the regional level. Do you see more scope for savings at a senior level? Does the Government have now taken away the regional level. Do you see more scope for savings at a senior level? Does the Government have now taken away the regional level. Do you see more scope for savings at a senior level? Does the Government have now taken away the regional level. Do you see more scope for savings at a senior level? Does the Government have now taken away the regional level. Do you see more scope for savings at a senior level? Does the Government have now taken away the regional level. Do you see more scope for savings at a senior level? Does the Government have now taken away the regional level. Do you see more scope for savings at a senior level?

Matthew Lay: Both unions were critical of the creation of NOMS. In a sense, our criticisms were well-founded at the time and they have proven to be correct in that the whole level of bureaucracy that has been created and the need to almost give them something to do to manage the Probation Service has been shown by the inefficiencies and the duplication of what is already taking place. Just to deal with your latter point, I think it was the Justice Committee that produced a report a couple of years ago called Primary Justice, which was quite an extensive piece of work which looked at how justice could be better managed locally. In terms of synergies and savings, it is clear that until probation is put back together in terms as a local service, with the freedoms and flexibilities that even now they do not have over things like estates, for instance, those efficiencies that would be relatively deliverable are not going to happen. There are partnerships that used to exist with local authorities going back many years which were very successful in terms of the economies of scale on estates and things like that. Those things are not there now, but they could be recreated and those partnerships locally could be re-established.

Q387 Elizabeth Truss: You are essentially saying that they would be democratically accountable to the local authority.

Matthew Lay: I am not saying that is necessarily the solution. What I am saying is that there are synergies locally that have been removed through the creation of NOMS, which could be re-established and which would deliver greater efficiencies. Whether you have democratic control—that did not exist previously, because there used to be a committee—is, in a sense, an argument by which, as a trade union, I am not easily fazed. It is the efficiencies and the ability to return money into the operational level to ensure that we have the right staff that is critical here, and those efficiencies could be delivered.

Jonathan Ledger: I do not want to rake up too much old ground, and Matt has just covered some of that, but we would have to ask whether the regional approach in NOMS ever properly existed anyway. I think we are sceptical about that. One of the problems that is a consequence of that is that, from our members’ point of view, there is a huge amount of scepticism about the waste that seems to have gone on in creating, first of all, regional offender managers and then directors of offender management. We never were very clear what they did. For years we used to argue as unions, “Could you show us the ROMs’ job descriptions?” No one ever did, and they had been disbanded or removed before they ever appeared. You can appreciate then, especially in the context of the more difficult financial times that we are in, for our members, the probation staff working on the ground, there is a fair degree of cynicism created about the whole NOMS project from the very beginning and I do not think that has ever gone away. As you may be aware, Napo is now arguing that there should be separate arms, essentially, in terms of the way it used to be with prison and probation.

Q388 Elizabeth Truss: Could you just try and quantify what you think the proportional cost taken by the NOMS overlay is and, also, how much of that has been removed by taking away the regional tier? How much more fat is left in that organisation that could be disposed of?

Matthew Lay: It is worth noting that the savings we have been informed of that are taking place are quite big. The issue is not just about whether they are absorbing too much money. It is also about whether they are, in a sense, diverting priorities and creating work that need not necessarily be required. There is duplication as well, certainly when there was a regional level. It is worth questioning whether that regional level has yet been removed. Where there is a regional level there were duplications. There were trusts doing work and there were regional managers doing the work, and they were not even necessarily communicating about who was doing what. I think there are huge issues on that. Clearly, that has been dissipated, but then they have recreated it nationally anyway.

Jonathan Ledger: I think our argument would be that it is difficult to quantify and we would obviously be careful about where we do not represent staff, to comment too much about how you might reduce staffing within the NOMS organisation. But, certainly, under this proposal we are developing whereby you have a probation and a prison arm working closely together but separate because of the different focus they have, you really need only a relatively slim, small umbrella organisation to co-ordinate that. That is probably the area we would be talking about.

Q389 Elizabeth Truss: It strikes me that the reason NOMS was created was because of the silos within the different services. If we simply went back to the previous structure, there is a danger of that being recreated. The issue was that NOMS was at a national level, so it failed to engender the level of co-operation at a local level. Do you think more could be done to create genuine end-to-end offender management? I was struck by your answer to Claire’s question about the four different stages in that process. Would there be a possibility for one individual to take responsibility for managing an offender through their entire case history so you did not get the sense of being passed on? One concern I have in this discussion about computer systems is that we are getting away from the judgment of a qualified
professional at a local level. What NOMS has done nationally is to partly take that away, but also having somebody passed on from officer to officer may be diminishing the ability of somebody to make a judgment. Would you say that is a fair comment?

Jonathan Ledger: It is a fair comment. At the macro level, we have always said that the problem with NOMS, especially since 2008, is that essentially it was a hostile takeover of Probation by the Prison Service. Whenever a balance of voices within NOMS to make sure the Probation perspective was adequately there. That really picks up your local application point. I think we would support you in arguing for continuity of contact. I do not know whether or not one could realistically do that within a prison environment and then within the community, because the prison perspective can be done there. But with good communication and consistency of the person who is there for the Probation Service and consistency within the Prison Service, then you would achieve a lot more of what you are describing. I would hasten to say that that was more or less how it used to be. It was not perfect but we used to have that going on. There was not the need or desire to constantly change the responsible officer.

Q390 Elizabeth Truss: Could you just comment on the specifics between the Prison Service and the Probation Service. Would it be the case that both of those services could learn from the cultures of the other Service? I would be interested to understand what you thought the Prison Service could learn from the Probation Service in terms of the way you deal with offenders. Clearly, the re-offence rates are better in the Probation Service. That may be just a selection issue about the type of offenders who go to prison versus those who serve community sentences, but how do you think that could be better integrated and how could the different cultures in the two separate organisations learn from each other?

Matthew Lay: One issue that is paramount right now is that a lot of prisons are removing probation staff from those establishments. For many years prisons seconded probation staff to do offender management work with prisoners. Due to resourcing issues within prison trusts and not civil servants and that has clearly ended; therefore those prisons are losing a very valuable resource. Some of it comes down to the simplest of factors. In the whole of the NOMS exercise, probation staff remained employees of local trusts and not civil servants and that has clearly skewed how the processes of saving money take place. That has had an impact. It can be overdone in a sense. When you had probation staff working in prisons, they did that work very professionally alongside prison staff. They did not operate in a silo in the prison. They worked cheek by jowl with other staff and with the offenders. That is now being removed. That is not a good thing.

Jonathan Ledger: The two cogs are complementary. Maybe we have spent too much time worrying about somehow trying to subsume them and, in fact, we should recognise that they are very different because imprisonment and community supervision are very different concepts. But there is a lot they can learn from each other. That is not of itself an argument against a lack of communication. The roles are different but they are complementary roles. There is evidence that people are learning from each other, and Matt is right to highlight the positive work that goes on in prisons and has gone on in prisons where probation teams have been established and are working alongside prison colleagues very effectively.

Q391 Ben Gummer: In your submissions to the Ministry of Justice in the Green Paper, both Napo and UNISON touch on an implied criticism of the Probation Service. I have to say from my own personal experience—I am sure this is shared by other members of the Committee—whenever I meet probation officers they are incredibly committed and professional people but working in a pretty dysfunctional structure, which you have touched on. That seems to be the impression, too, of Ministers. Given that—I say that merely as a preface to talking about payment by results—you are right that, if you set up an involvement of the private sector where the interests are unaligned, you are going to end up with improper outcomes. But if you were able to get the profit motive aligned with offender rehabilitation in a true and pure payment-by-results model, how could that not be a desirable end?

Matthew Lay: I would say one thing. That is inordinately hard to achieve. One of the concerns right now about the payment-by-results model is that the providers are setting the framework by which they will operate because of the commercial risk. Therefore, in a sense, the balance is skewed. There is not a huge amount of evidence anywhere else in the world around payment by results in terms of criminal justice. It is not a well-trialled method. Therefore, there has to be some caution about how that is approached. Clearly, in an ideal world, there may be merits in that process. Can it really be achieved or is it simply going to be handing money over and, as we have now long discovered with PFI, simply another avenue by which companies can make more revenue out of the state than previously was the case?

Jonathan Ledger: I am grateful for your initial comments, which reflect our beliefs and views. The problem, I suppose, is that the core problem, the idea like payment by results has run quite against the traditional approach of the Probation Service, which is very much based on altruism and the belief in co-operation, and the sharing of ideas and views. One of the great strengths is where academics or probation practitioners have developed work. I know work with racist offenders or hate-based crime, where a lot of very good and excellent work has been done in the Probation Service. That has been shared. It has not been something to sell or to keep to yourself in order to compete over it. It has been something that has been promoted across the whole service, because it is recognised that we have a collective duty to do the very best work possible and reduce risk. From our concept, payment or reward is about the success we have with those with whom we work. We want it to be recognised that we reduce offending, we change people’s lives, we have less victims and we protect our communities. We would say our reward is
achieving that. It is not about receiving some sort of financial incentive to get there, because we don’t need it, actually. We believe in it. Fundamentally, that is what the service is about.

With regard to introducing an element of competition, we have seen it elsewhere. We have seen it in the Prison Service where the previous Chief Inspector of Prisons highlighted the fact that in some competition processes one prison had developed some brilliant work with the prisoners they were responsible for but were not sharing it in their region in case it had to be put out to competition. That runs against the very fundamental concept of trying to do excellent work across the piece within the Probation Service. I have to say that some of where we are coming from probably starts from that thinking and that attitude.

Q392 Ben Gummer: I do not want to get dragged too far down in that. I take some of your points. Of course, it is possible still for people in the private sector to be working out of altruistic motives, but for the allocation of investment resources it probably drives better decision-making sometimes than NOMS has actually. Why don’t we try it another way? We had a very interesting evidence session in this Committee with the back-to-work, payment-by-results providers, which, if you have not read it, is worth reading, because it was fascinating. They made a similar point. It really took 10 years to get to the point where you are able to get the interests aligned and the early PbR models were not working well. Do you think that the unions have a positive role to play in trying to form good PbR contracts so that we can get through that initial period where contracts do not work so well, or is it just going to be, “No, we don’t agree with it” in that consultation with the Ministry of Justice?

Matthew Lay: I think we have a duty to represent the interests of our members and to secure for them the best outcome possible, aligned with the fact that our members live and work in communities where crime is an issue and therefore they want to see the best for their community and for society in general. We have been very proactive and flexible in terms of working with employers, with NOMS, with anybody frankly, to align those ends. It is just, in a sense, frustrating that the skills and talents of our members have not been perhaps fully utilised by the structures, but it seems to move on and we have to throw all of that out to move to a competitive environment where we know the public sector, as in our employers, the Probation Service, the back-to-work, payment-by-results providers, which, if you have not read it, is worth reading, because it was fascinating. They made a similar point. It really took 10 years to get to the point where you are able to get the interests aligned and the early PbR models were not working well. Do you think that the unions have a positive role to play in trying to form good PbR contracts so that we can get through that initial period where contracts do not work so well, or is it just going to be, “No, we don’t agree with it” in that consultation with the Ministry of Justice?

Q393 Ben Gummer: Your point on the estates is a very good one and well taken, and you are not allowed fair competition across the two sectors. You talked about the skills of your members. A consistent theme I have picked up from management is that those younger members of the service who came in on a more target-driven culture and feel comfortable with that find the idea of a freer and looser environment and structure more frightening than the older members of the service, who are used to self-management motivation, more performance management, and deciding how they are going to engage with offenders rather than ticking boxes. They are the ones, interestingly, who are more interested and excited about the possibilities within the Green Paper. Do you think there is a generational problem?

Jonathan Ledger: I mentioned it earlier, didn’t I, in the context of OASys and the perception, and inevitably there are generational issues. As we also highlighted, though, we are losing a lot of that older generation through the cuts process, and that is deeply regrettable.

People are capable of adjusting, and what is probably positive in this context is that it opens up a debate about what sort of working environment people want, and what freedom and discretion mean. It should not mean that you are without support and guidance in the decisions you make. Neither do we want a situation where people are so restricted they have no discretion at all, and of course they end up doing things by the number rather than making proper assessments. There is a tension there, but I do not think it is an insurmountable one, and it will be a debate. In our unions and the sort of structures we have, we encourage those debates and discussions and we will engage in that. We would be confident that people will work through that.

Matthew Lay: It is not necessarily destabilising, but it is interesting to acknowledge how, when the centre decides it wants to have a different approach, that skews how people do things. When the centre wanted very tough enforcement, that was driven in to change the culture of the organisation. When that increased enforcement led to higher rates of breach and return to custody, then they said, “We now need to not do that. We need to do something else.” It is the same with training. Now we need to have practitioners who can tick all the boxes and do this and do that. Yes, clearly, as you move through those processes people’s anxieties are heightened, and as we get into it, people will be anxious necessarily about those changes. But they will adapt, because they are professionals, and ultimately they are in the business of trying to turn around an offender so that they are no longer an offender. That is the level they will operate at. Sure, those changes are destabilising, but ultimately you come through the other side. I have to say, though, I have not picked up a huge amount of optimism around the future, whether it be moving to payment by results or working for other providers. It is the opposite. I do not think that our probation managers are saying that our younger members are suddenly enthused by the prospect of potentially losing their pension or having their terms and conditions changed.

Ben Gummer: No, that wasn’t the question.

Chair: I think we need to move on, actually.
Jonathan Ledger: I completely agree. This is the perennial issue and problem that arises of course, as you have raised it. On the sentencer side, a lot of us regret the passing of the liaison committees that used to take place between the Probation Service and the magistrates’ courts, because people got alongside each other and talked about the work. They sometimes talked about individual cases where they had all worked with the same person, or perhaps a family, and shared ideas and views and got more informed about the sort of work that was taking place. The confidence of sentencers increased as a consequence of that.

As far as the public is concerned, we have often said that politicians bear a lot of the responsibility here rather than sometimes the focus on the Probation Service itself. We do obviously want to communicate and speak out, and studies have shown that, the more you tell people about the process of sentencing, what the outcomes are and what the background to a case is, the more understanding the public are of community-based interventions, for instance. It is a process, essentially, of education and communication. We need politicians sometimes to be brave enough, whichever party they are in, to speak out and say, “Actually, this is okay.”

I would cite the example of the recent furore over the prisoner voting. It seemed to me it was a relatively side issue at one level in terms of the overall scheme of things in criminal justice. Yet the reaction to it did not make sense for me, when it was something that was encouraging a debate about civil responsibility and potential rehabilitation in the context of people engaging with a constructive process. But again, it was represented as somehow being about being liberal and wishy-washy. You would have thought people were going to be let out of the door to vote rather than having to do it in some controlled environment. I think we have to have a more grown-up and mature discussion about criminal justice sentencing policy if we are going to help the public understand what it is we are doing.

Q396 Mrs Grant: But do you think politicians should take more of a lead on getting this message out about the effectiveness of these community options?

Matthew Lay: I think the narrative in the Green Paper—

Q397 Mrs Grant: Can you just finish that?

Jonathan Ledger: I will be fair and say, obviously, when you are elected and when you are accountable to your constituencies, you have to take into account the various opinions and views that are out there, so it is not simple. But occasionally we would benefit certainly from senior politicians saying, “This is a complex area of work. It is a difficult and demanding area of work, but actually it is valuable”, rather than falling back on a more, I have to say, tabloid approach to the way we communicate now.

Q398 Mrs Grant: Do you think that short-term prison sentences are less effective for women, and robust community interventions could be much better in terms of reducing re-offending and stopping all the chaos and family breakdown and children being taken into care when a woman goes to prison?

Jonathan Ledger: That is a very good and strong point, and absolutely, we completely support that point. One of the problems when you take people briefly out of their living environment for quite a short period of time is that you impact upon families. For women, it has a profound impact in terms of the dependent care responsibilities so often falling in our society in that way. But, also, you disrupt people’s living and working arrangements, and they come out
with more problems than they went in with because a short-term prison sentence does not allow any work to be done anyway. It is counter-productive in terms of what it is intended to do.

Matthew Lay: The Corston report was a very impressive report and some of the actions on that need to be followed up and given additional resources because it is clear that there can be a good payoff in terms of putting those resources in. I do not think we, in terms of probation practitioners, will ever satisfy the need for people to want people to go to prison, which exists in sections of the population. We will never achieve that. We can do better. But I think one of the pleasing things about the Green Paper, in terms of our response, is some of the narrative around trying to get a debate about alternatives to custody, trying to work with offenders in the community and on building up restorative justice. Restorative justice already does exist, and there are thousands and thousands of beneficiaries every week from restorative justice through unpaid work schemes and voluntary organisations. Huge projects are being undertaken. We just need perhaps to sing a bit louder about it.

Q399 Mrs Grant: Can you just let me have your views on curfews and electronic monitoring, please? How effective are they in reducing re-offending, Mr Ledger?

Jonathan Ledger: From our experience and what we have been able to establish, we have not been terribly impressed with the impact, in fact. Given the cost and the amount of resources that have to be put in to provide that service, and it is a significant cost, we think the return on that has been pretty poor. The fact is, it does not really have any intervention. It is a controlling element, and it produces a prison-like situation in the home, but beyond that, so often it appears to be a cause for resentment rather than understanding, in terms of why the constraint has been placed on the individual. In the short term, to get out, people may well think it is a good idea, but experience placed on the individual. In the short term, to get out, they can do better. But, for instance, in London, from the figures we have accrued as a union, there is something like a 40% attrition rate. That is a very significant figure at a relatively early stage of the application of the PQF. We are really concerned and we think a lot of that links to the lack of time off to study and do the academic side of the work that people need to do. We are very concerned that something that, in principle, is very good, by being delivered at a local level with local agreements rather than national ones is in danger of being lost, probably because of the cuts and the lack of prioritisation of training in the context of lower budgets, being lost.

Matthew Lay: We are also seeing money, in a sense, returned back, because they are not attracting enough people to go on to the training and to develop the skills. We strongly support the PQF development, primarily because a large element of it is on the job and upskilling staff particularly around the PSO grade, which had received very scant resources prior to the development of the PQF. But, unless there is a clear incentive and a clear pathway for people to develop those skills and move on, there are going to be some barriers to that development. What we have also seen, and members will have observed this, is that under the previous system trainees have developed their skills, gained the qualification and then they haven’t got a job. The state has invested millions of pounds in trainee probation officers and then they have been desperately trying to secure employment and work. That legacy is still there and people are thinking, “If I am going to expose myself in that way, I am better off not doing it.” That is a real problem.

Q401 Chris Evans: The other thing I was quite interested in is that, in the Napo memorandum you submitted, you say: “As far as post qualification training is concerned, little if any occurs and the situation is unlikely to improve in the foreseeable future.” What did you base that on, and, Mr Lay, is that your experience as well?

Matthew Lay: Yes, we would echo that.

Jonathan Ledger: I was just trying to think at what point that was written. I think it was—

Q402 Chris Evans: It was point 7.37 and it was under the subsection headed “Is the provision of training adequate?”

Jonathan Ledger: We were certainly concerned about the fact that training opportunities appear to be disappearing within the Service. Of course, we were linking a lot of this to the cuts and the fact that opportunities were gone. That is why we were investing quite a lot of energy in the PQF being seen through and developed in this way. But, as I say, it
links to the point we were making that if there is not an agreement—and we think it needs to be national—about the numbers that are needed to be put through the various gateways, there is a real risk of a shortfall of sufficiently qualified staff to take on key jobs further down the line. That is where we are really concerned that people in principle have something that is very good and a framework that is very positive, but they will be effectively denied the opportunity either because areas cannot afford to put them through it, or because when they do it, they do not have sufficient time to study.

Q403 Chris Evans: How far away from a national unit are you? Are you a million miles away? Jonathan Ledger: We are nowhere near it, because there has been a resistance to the idea. It was something that the unions put forward, and we said there ought to be a national agreement on it, but in fact NOMS and the employers did not agree with us. I am afraid we are not in a position to see any agreement at the moment.

Q404 Chris Evans: What is your experience, Mr Lay? Matthew Lay: Likewise. We argued also for protected learning time. We were not successful in securing that. Clearly, the PQF is a very good model for training, it encompasses all practitioner staff and has been moving now into supporting case administrators as well. But until there are the resources, and there is adequate planning going on in terms of work force and protected time, there are these barriers that prevent people from reaching their potential.

Q405 Chris Evans: Do you envisage serious problems if there is no post-qualification training? Jonathan Ledger: I am sorry. I missed that.

Q406 Chris Evans: Do you envisage serious problems if there is a continued lack of support in qualification and training? Jonathan Ledger: It is a numbers issue. The framework is fit for purpose. We have supported its development and now we are working on a casework administrator, in extending that, and that is again a very positive development. It is all about whether there is going to be an investment in it. Individual trusts, you can understand in a way, might argue that that is not a priority. The development of staff is not a priority for them at the point when they are struggling to deliver on the various fronts they need to cover. Given, as Matt said, that half the NOMS budget that was put aside for training and development was lost in the last year because it was not taken up, that demonstrates that areas clearly are nervous about how much investment they can make. We think this does need to be owned nationally, and the resource issue needs to be addressed nationally, so that areas can prevent a crisis in the future in terms of sufficiently qualified staff.

Q407 Chris Evans: I want to move just quickly on to sickness. The trusts have been successful in reducing their sickness absences. What do you think the reasons are for them achieving this? Matthew Lay: It is an example of where we have worked constructively with NOMS and with the Probation Association to hammer out agreements. Locally, again, there have been variances which have been problematic, but when the NAO report a few years ago was highly critical of staff absences we sat down and we hammered out an agreement. We have taken some flack from members potentially over it, but we felt that, in general, it was a positive move. Members who are at work suffer when people are not at work and vice versa. We had a constructive engagement. That has delivered some returns and has contributed to the reduced absence. We have also focused on well-being in work and ensuring that people are respected. Those areas that are fitter, sickness or good attendance at work generally are better places to work and have probably better local employers.

Jonathan Ledger: I would need to say just a little word about disabled staff, because certainly we had concerns from some of our disabled members, who talk about a greater focus on times and pressure at times on them in the context of some of the criteria that are applied. But Matt is right. Where an employer has been reasonable and flexible in their application of this, then it is possible to improve the working environment from everybody’s point of view.

Q408 Chris Evans: My last question is directly to you, Mr Lay. In your own evidence you report a number of local disputes about workload pressure. Can you give some examples of these types of disputes and more detail about it, please? Matthew Lay: We are aware of them. They are generally joint disputes between ourselves and Napo. The most recent one was a Napo dispute in Nottinghamshire. The key issue is that there is a dispute process where we are alerted very early on to problems and we seek to intervene to try and bring about a positive outcome. It comes back to the earlier discussions we had. Workload is a perennial problem. We, as trade unions, seek to intervene to protect staff to make sure that they are able to do their job as effectively as possible. Where there are disputes cannot be resolved, often through something intransigent that sometimes exists locally, then they will rear their head in terms of a dispute.

Jonathan Ledger: We have managed to resolve most, but they will continue to arise for the reasons and the discussions we have had earlier, because of the pressures that arise. It usually reflects the attitude of employers locally, as Matt says. Nottinghamshire was the most extreme example we have had recently, and we did have a ballot. You are talking about an environment, the Probation Service, which has pretty good employment relations. It has a history of very strong employment relationsactually. That is something we have all generally been committed to. It is quite an event and an issue when a ballot takes place about something like workloads, as it did in Nottinghamshire. We managed to find an agreement there and we did manage to get back on track with things. But we cannot say it will not happen again
because of the current pressures which we have been discussing today.

**Q409 Jeremy Corbyn:** Do you do any surveys of your members on workload levels so you can collate it into both a regional and a national picture?  
**Matthew Lay:** We did a big member survey last year around a whole range of things. Workloads was an issue. It was not the foremost issue for our members, but workloads are an issue.

**Q410 Chair:** Did you publish the survey?  
**Matthew Lay:** Yes. We can leave you with a copy, which I will do. I have a copy with me. You will not be surprised to learn that the biggest concern of our members is job security. That dominates proceedings, but there is a lot of detail in that. Work pressure is a key one for people, because they want to be able to do their job as effectively as possible.

**Q411 Jeremy Corbyn:** When you came to a settlement in Nottingham, did you agree on a figure of caseloads for the future or what was the outcome?  
**Jonathan Ledger:** It was not a number-based settlement. It was a process-based settlement. Essentially, it was the traffic light system with red and green, etc. There is a ratio that is applied and it was putting something in place which already had been in place but essentially was not being implemented. It was getting agreement to implement that and that is what was achieved in that particular example.

**Q412 Jeremy Corbyn:** Did you do a survey from your union?  
**Jonathan Ledger:** We have done previously. Not as recently as Matt’s, although it is a perennial issue. As I said earlier, it is always top of the agenda, virtually, for our AGM and the discussions we have. But over the years we have done research on the figures, calculating what the workloads are to which people are working. We have information, although, as I say, I think Matt’s is more up to date than ours at the moment.

**Matthew Lay:** Our survey showed, with regard to perceptions of staff over the past 12 months, that 80% of our members had a perception that workload pressure had increased over the previous 12 months, which is a very significant number, and we had a high level of response to our survey. It does demonstrate that, and that clearly has an impact in the workplace.

**Q413 Chair:** I am not sure I have ever seen a survey result in which members said that the pressure on work had decreased.  
**Matthew Lay:** That is quite a good observation, I am sure.

**Q414 Ben Gummer:** I have two very rapid points. The first one is, again, a point made by management to me on a number of occasions. It is their wish to have more ability to performance manage, which I suppose might, if it is a good manager, remedy some of the points you are making about the caseload in a more organic and responsive way. Is that something that you would welcome?  
**Jonathan Ledger:** I would want to have a discussion about it, to have a good understanding of what it was that was intended, because I recognise that sometimes you get into phrases that can mean different things to different people. As we said in the context of attendance and sickness, where there is good joint discussion, we recognise we have a joint responsibility to ensure that the best professional practice is delivered. It is about how you get there. A good performance manager might assist that, but it needs to be a two-way street rather than a top down approach.

**Q415 Ben Gummer:** I think most of us agree with you entirely about the takeover of a functional organisation by a dysfunctional one in the creation of NOMS, and the problems that you were raising, Mr Lay, about probation officers in prisons. However, there is a good argument, which follows on from your points about the haphazard nature of some of these pilots being put out, for one pilot being on a vertical integration model where you take a Probation trust area, a number of prisons in that area, and you manage an end-to-end offender process in the way that my colleague was discussing. That has problems within it with your relationship with the POA and how that would be structured. I just wonder if I could put that to you as a possible pitfall and one on which you might like to comment.  
**Jonathan Ledger:** We work very closely with the POA already, so I think in that respect I would be more confident of our ability to work out the working relationships than I might be of the structural tensions that might apply.

**Chair:** Thank you very much, both of you. We are very grateful for the time you have spent with us this morning and the answers that you have given us.
Wednesday 18 May 2011

Members present:
Sir Alan Beith (Chair)
Mr Robert Buckland
Jeremy Corbyn
Chris Evans
Ben Gummer

Mr Elfyn Llwyd
Yasmin Qureshi
Elizabeth Truss

Examination of Witnesses

Witnesses: Clive Martin, Director, Clinks, Rob Smith, Chief Executive, Youth Support Services, Chris Wright, Chief Operating Officer, Catch22, and Andrew Neilson, Assistant Director, Howard League for Penal Reform, gave evidence.

Chair: Good morning, Mr Martin, Mr Smith, Mr Wright and Mr Neilson. We welcome you very much and the help you are going to give us because we are working on the role of the Probation Service. There is so much change going on, and we have so much experience collectively at this table that it would be very helpful for us to have the opportunity to ask you some questions about it. I am going to ask Elizabeth Truss to begin.

Q416 Elizabeth Truss: I start by asking about the impact that the creation of NOMS has had on the ability of the voluntary sector and other groups to get involved in probation services.

Clive Martin: In principle, it has had an effect in that it has been very welcoming to the voluntary sector. It has clearly put the voluntary sector as a key player in a mixed market provision. Over and above that, the ambitions that were stated in the original creation of NOMS have not materialised up and down the country. There have been some interesting initiatives but they have not really materialised. There has been a warm embrace, and that is not to be underestimated given some of the hostility that the voluntary sector faced in the past, particularly in prison establishments and elsewhere. It has not necessarily transformed the sector and it has not transformed the volume of provision to offenders by the VCS, in my view.

Q417 Elizabeth Truss: Would you say that that is partly to do with the level at which NOMS was introduced? You had end-to-end offender management, but starting at a national level rather than binding those local services together.

Clive Martin: At the point at which NOMS was introduced it was enormously ambitious. There were so many things going on. It was trying to implement regional commissioning, a mixed market, end-to-end offender management and through-the-gate provision. There were a number of things in the package.

Q418 Chair: They are mostly expressed in a jargon that outsiders would find very difficult to understand.

Clive Martin: The appointment of regional offender managers was a step or a nod in the direction of regional government, which was the flavour at the time and is no longer so. It was a step of decentralising towards regional structures. The appointment of regional offender managers was also an attempt to draw together the management of the prison and probation services, which had been entirely separately managed up to that date. The way the sector worked prior to that was very much in prisons or in the community. That had previously always been quite protected because it was seen in terms of security and necessity.

The introduction of NOMS was a very ambitious programme, trying to do lots of reforms all at the same time. That led to quite a bit of confusion. Going back to your point about whether, if things had started on a more local basis, it would have been successful, we just don’t know. Particularly the Prison Service, at that time, was a culture that was very centralised. People locally were very nervous to take decisions that could have been out of step with what the centre proposed. Andrew Neilson: Can I just pick up on Clive’s points there? It is symbolic of the difficulties that NOMS had that it did not have a definitive strategy for dealing with the voluntary sector until some four years after NOMS was set up. The interesting thing from the Howard League’s point of view is that we have seen a gap between rhetoric and reality around the creation of NOMS and the engagement of the voluntary sector. The very things we hear, politically, that people value from the voluntary sector—smallness, localness, diversity, innovation and distinctiveness—are the sorts of things that have found themselves in difficulty under the market reforms that NOMS introduced. We saw a lot of small providers finding it very difficult to get engaged. That is partly to do with the language problem, and the bureaucracy and forms that they had to fill in. Also, as Clive was saying, it was to do with the drive to scale up things and the difficulty for small organisations to do that.

Q419 Elizabeth Truss: Have you seen a change in the culture of both the Prison Service and the Probation Service, and whether there is more willingness to work together to create an end-to-end solution?

Andrew Neilson: There was a willingness, but the symbolic incident or process that happened that sums up why NOMS really failed was the C-NOMIS IT system. That project was all about linking prisons and probation; they would have the same IT system. If they can’t share information easily, it is very difficult to have an end-to-end system and it is very difficult to design a market around it. In the end, that failed.
They do not have an IT system that they can share. It works only in prisons; it does not work in probation.

Q420 Elizabeth Truss: In an ideal world, how would things work best for you to be able to fit in at a local level as appropriate? What sort of structure would work for you?

Clive Martin: With both prisons and probation.

Chris Wright: There has to be some clarity around commissioning—who is responsible for commissioning and what is it they are commissioning? One of the challenges of NOMS over the past few years is that it has been very internally focused. It has made a lot of very positive external noises about what it wants to achieve. We have had a whole range of different commissioning strategies developed, first by regional offender managers, and then directors of offender management. The problem has been that they have not translated into an operational reality where there has been a coherent approach to commissioning at a local level. We want to have some clarity.

Q421 Elizabeth Truss: Essentially what you are saying is that the commissioning role should be clear and it should be at a more local level than the regional level. The regional level is too distant to achieve that.

Chris Wright: I am not sure I am saying that. I am saying I think there needs to be greater clarity around commissioning and it may happen at a number of levels, depending on the types of services that are being commissioned. Of course there will be services commissioned at a local level but, because of issues around scale, there will be services that need to be commissioned on a more national and regional level.

Q422 Elizabeth Truss: Rob, do you generally agree with that?

Rob Smith: Yes, absolutely. There has to be a mixed approach. On any national or regional commissioning basis, what we are constantly striving to achieve is to make sure we have that local agenda—that localism—with small and medium-sized voluntary sector organisations engaged. There is a tension within the system when you start moving to regional and national commissioning arrangements, particularly when you have prime providers, about how you engage with them. That has been a concern from smaller—

Q423 Elizabeth Truss: Who should be the commissioner?

Chair: That is a good question.

Chris Wright: It is a very good question. There is a real tension at the moment around probation trusts and the role that they will play—whether they are going to be providers or commissioners of services. Clearly, NOMS has a responsibility to set out a framework that facilitates commissioning. We perhaps anticipated that probation trusts would take on the mantle of commissioning at a local or sub-regional level. Going back to an earlier question about how the Prison Service and Probation Service have responded to the voluntary sector, it is very difficult to talk about the voluntary sector as though it is a collective whole because it is very different. We are a relatively large voluntary sector organisation, but we take pride in operating at a local level. We are still waiting to see the Probation Service engage with the commissioning agenda and open up opportunities for the voluntary sector. It has become almost a joke that until a few years ago, when probation areas were required to spend 10% of their budgets on the voluntary sector, they didn’t manage to do that.

Q424 Elizabeth Truss: But essentially you are saying that it should not be the probation trusts that have that commissioning role.

Chris Wright: If they have a commissioning role, they have a commissioning role. It is not necessarily to be confused with a provider role.

Q425 Elizabeth Truss: Is there scope to have a broader commissioning role that encompasses both prisons and probation? That strikes me as one of the issues.

Clive Martin: If you get probation as the sole commissioner, you get probation commissioning. If you have the Prison Service, you have the prisons. If you are trying to get a joined-up service for someone who is in custody, outside custody or returning to a community, then you need a commissioning structure that reflects all of that. There are similar structures like a local criminal justice board or whatever. It’s a cliché, I know, but if you want some sort of joined-up, holistic service, and you don’t just want that pandering to vested interests but you want some innovation and something different in there, you have to try and change the commissioning structure to do that. Something that makes sure that you bring in those community organisations or even things like local authorities is key.

Q426 Elizabeth Truss: Essentially, though, if the commissioning body is also a provider, you are in severe danger of a conflict of interest, aren’t you?

Clive Martin: I don’t know whether we have one view on this, I would certainly see that one of the difficulties of NOMS being a commissioner is the fact that it is a commissioner and a provider. I guess it depends on how much you believe in the ability of internal glass walls and all those sorts of things to overcome that sort of structure.

Q427 Chair: But if probation trusts aren’t both commissioners and providers, the way we are heading is that there will be nobody local enough to engage people like yourselves in projects. We are going to come on to this in more detail in a moment. The probation trust might end up as the only intermediary between a very large commissioning body and yourselves. I am thinking of yourselves now as locally-based groups of people providing a service. If the probation trust itself cannot take on some of the work and sub-contract it to people like you, there is no opportunity for you, is there?

Clive Martin: Rob might want to talk about that. The shift to seeing the probation trust as being a local broker rather than a local provider—and included in that might be some commissioning role—is a way to
I am just trying to work out in my own mind what, specifically, small and medium-sized probation trusts would be looking to commission. There is more in terms of their role of being a broker and a co-commissioner and influencing other commissioners locally, particularly within the local authority, to have the other contributors at a local level in terms of accommodation providers, education and training, and all the different seven reoffending pathways, and getting those other agencies involved in commissioning services that specifically meets the needs of offenders.

Probation is a very small organisation at a statutory level locally, but it has the ability to be strategic and to influence those levers to allow housing organisations, CABs and mentoring organisations to deliver services on the back of other commissioning strategies. That is the trick at a local level for probation to be able to pull off.

**Q428 Mr Llwyd:** I should declare an interest. I am on a Howard League panel that is reporting in June on the preponderance of ex-service people in the criminal justice system.

The Government’s *Breaking the Cycle* document refers to “a need to signal a clean break with the controlling, centralising tendencies of the past by making a clear commitment to decentralisation”. I know, for example, that members of Clinks have said that they very much approve of measures to devolve delivering accountability to the local level. On Monday of this week, I was at a conference in Manchester. People’s biggest concern—and I am speaking of those within NOMS and without—was that, for example, Wales and the north-west was one commissioning unit. It seems to me that that is going to militate against any idea of local delivery, quite frankly. Are we not going to end up with a few very large providers and maybe a very few voluntary organisations just chewing at the edges?

**Andrew Neilson:** That is one of the reasons why the Howard League has advocated in the past more local authority involvement in criminal justice. I know that the Committee previously also looked at that in its justice reinvestment report. Is the regional level really the right level for this? In Scotland, they have criminal justice authorities where probation is within the authority alongside local authorities, police forces and the Prison Service. It is a more localist model, whereas we seem to have a lot in the centre and then at the regional level.

**Q429 Chair:** These are not regions, are they? These are arbitrary constructs, including West Yorkshire with Northumbria, but South Yorkshire in a different region. They are vast areas.

**Rob Smith:** These are what I would call pan-regional lots. West Mercia is the same lot as the Isles of Scilly. I stand to be corrected, but in relation to the specification for the community payback, which is being let on that basis, we don’t yet know what scope there will be in terms of incentives and the ability to get those prime contracting organisations to engage at a local level. We don’t know the detail of it. There is a big concern there because community payback, in particular, is such a large provision in a probation trust’s activities on a local basis. Locally, within West Mercia, there have been some incredibly innovative ways of delivering community payback, which is heading towards cost-neutral in some cases. Will that be lost in these large commissioning arrangements? Will local voluntary sector organisations lose out? Our concern is that they will.

**Q430 Mr Llwyd:** To sum it up, you are all saying that there is a lack of clarity here that is rather worrying, given where we are.

**Clive Martin:** The other issue on commissioning is the fact that in this area the evidence of what works is not entirely clear. We have a recent tradition, for example, of lots of money being invested in cognitive behaviour programmes. Some have worked and some have not. We now have some alternative theories about what works in terms of desistance theory, both from North America and this country. From our point of view, it doesn’t feel as if there is a clear consensus around the evidence of what works. Therefore, there is a slight danger at the moment that you could get commissioning that is a bit arbitrary and based on almost historical practice. Some probation and prison investment is still quite heavily loaded towards cognitive programmes, whereas the desistance theory, which is very compatible with the way in which voluntary sector services are delivered, is not entirely embraced by the whole of NOMS. You have this question of what evidence there is for what works and what counts, and shifting investment in the face of new evidence.

**Q431 Mr Llwyd:** Is there not also a problem that, if you have a very large commissioning area, it is going to be difficult to bid in order to provide for, let us say, certain forms of prevalent crime within inner city Liverpool and, say, rural Lancashire and rural north Wales?

**Clive Martin:** Yes, very much so, and in terms of different communities as well. You have parts of the country, for example, where the number of offenders from black and minority ethnic communities are disproportionately higher than others. You need very localised commissioning in order to meet the needs of those people to ensure safer resettlement. The closer you can get to the commissioning matching the needs of the local population, the better.

**Q432 Mr Llwyd:** A general question: what does the voluntary sector have to offer that the probation trusts currently do not have?

**Rob Smith:** It depends what the role of the probation trusts is going to be to a certain extent. In West Mercia, the YSS is a voluntary organisation that has a preferred partnership arrangement with the West Mercia Probation Trust. What it is asking us to concentrate on and what it feels our set of skills and abilities is about is offering that key relationship with individual offenders, which is different from the offender management role. The offender manager is almost distant doing that analysis and that case
management role, whereas we will concentrate on doing that one-to-one relationship role, bringing local providers into that network of provision that we are developing. It is almost a split between offender management and offender interventions. They recognise that other organisations are far better placed to deliver on offender interventions from the local community than probation trusts. We have seen a split there between the roles. They recognise we have a little more flexibility and freedom to operate. We can be more responsive to the needs and risks being posed by individual offenders. We are able to project-manage in a way that is different from being posed by individual offenders. We are able to have a little more flexibility and freedom to operate.

We have seen placed to deliver on offender interventions from the local community than probation trusts. We have seen Probation Service representing a national expertise around offender management and so forth. I think it is broader than that. There are lots of organisations that have an expertise and knowledge about how you can help and challenge offending behaviour. I believe commissioning provides an opportunity to bring some of that experience and talent to delivery.

Chris Wright: I don’t think any sector owns the total knowledge about how to do things. Commissioning should be about creating an opportunity to bring in different delivery models and ideas. We are an organisation that are in the bounded of the Probation Service, back in the days of the London Police Court Mission. It has almost come full circle in a way. The important thing is to commission the right kind of services that are going to achieve the right kind of outcomes.

In his evidence to you, Ian Poree talked about the Probation Service representing a national expertise around offender management and so forth. I think it is broader than that. There are lots of organisations that have an expertise and knowledge about how you can help and challenge offending behaviour. I believe commissioning provides an opportunity to bring some of that experience and talent to delivery.

Q433 Mr Llwyd: How would you respond to the notion that subjecting a large part of the probation trusts’ work to competition risks fragmentation and ultimately the very future of the probation trusts themselves?

Clive Martin: That is a key issue at the moment. The market is fragmented. So long as we have services put out to compete against each other, it is going to lead to thinking about the process of how they are joined up for the person who is at the receiving end of them, we face a real danger of fragmentation, which is heightened by the fact that there is no common, usable IT system that can transfer records. It is almost like thinking about the NHS trying to work without patient notes. It is the equivalent in some way, because you have records about people, and their needs and services, held in different places. There is no common way of sharing that without some quite complicated to-ing and fro-ing of people.

You make a system more complicated for people who don’t start in a positive place about the system’s ability to meet their needs. You then make it more complicated for them to access that system. It is not a happy mix. That is where the voluntary sector helps, particularly in relation to things like mentoring and assisting in that joining up. It is interesting that the payment-by-results pilot in Peterborough prison is not so much about the provision of new services, but about the joining up of services for people who are on short-term sentences. There is some limited money to provide new services, but the bulk of the investment is around joining up and making the service a comprehensive whole.

To touch on your previous question, the other issue about the voluntary sector is around public confidence. The public generally still trust charities and the voluntary sector more than they do others. When you have voluntary sector engagement, you have voluntary sector governance. You have volunteers. You have a huge group of the public who are able to get involved in the criminal justice system in that way. Public engagement in the criminal justice system is quite key to confidence in the criminal justice system. That is quite an important and distinctive role of the sector as well.

Q434 Mr Llwyd: You will know that the Government intend to publish a comprehensive competition strategy for prisons and probation in a month’s time—in June 2011. What would you like to see in that strategy, apart from clarity?

Andrew Neilson: Detail.

Chris Wright: This issue around fragmentation is critical to that. The existing arrangements, as Clive indicated, are pretty fragmented. A large amount of activity that is required to address offending behaviour is outwith the budgets of probation trusts and/or NOMS. This is probably me being very tedious, but it is about commissioning. It is about making sure you have proper co-commissioning arrangements, where each and every agency that has a responsibility for services which can be directed at the offender, can bring them in order to address their issues is working collectively. The competition strategy cannot be seen in isolation from a whole range of other organisations that have a responsibility for commissioning services for those who offend. That is one point.

We want to see something in the competition strategy that addresses some of the barriers to entry. I appreciate this is not necessarily a popular point. It is very difficult for us as a voluntary sector organisation to pick up so-called statutory work from the Probation Service because we can’t handle some of the risk around public sector pensions and so forth. That acts as a major block for even decent-sized organisations. Smaller voluntary sector organisations will be able to pick up only the so-called “add ons”, I guess. We have to deal with that around creating some kind of level playing-field.

There are ways around it. I understand that the NHS pension scheme has something called NHS Directions
that allows voluntary sector organisations to join. The ongoing liability of the pension fund is the responsibility of the NHS pension scheme itself and not the provider, whereas with the local government pension scheme, of which I believe the Probation Service staff are part, the responsibility for the pension pot transfers with the transferee to the provider. That creates a major block to the VCS.

Q435 Chair: Essentially, you can put the people who are employed in the schemes into the NHS pension scheme.

Chris Wright: You can, yes. For example, in substance misuse contracts funded through the NHS, yes, that can happen.

Q436 Chair: But you can’t do that through a local government scheme.

Chris Wright: You can’t do that in a local government or, indeed, a civil service pension scheme. It is a real challenge.

Q437 Chair: When that is the case, what do you do for your employees?

Chris Wright: You make a decision that you can’t take the risk. You can’t bear the risk and therefore you decide not to compete for the opportunity.

Q438 Chair: You are not in a position to offer them a job with contributions to a private pension scheme, and it is for them to decide whether that is an acceptable option for them.

Chris Wright: This is the pension code—I can’t remember the exact title of it. It is not so much the issue of TUPE; it is to do with the pension code. You have to offer a broadly comparable pension to the pension that is being provided by the existing service delivery organisation. We are in a position where we can make the contributions—if the employer’s contribution is 9% and the employee’s contribution is 16%, that is fine—but it is the gap that grows in the fund which we can’t carry the risk for. Unless we deal with this, the market will be open to large-scale private companies who are able to carry the risk, although they indeed will be quite concerned as well.

Q439 Chair: They are unlikely to offer the same provisions as the NHS.

Chris Wright: No, but they are more likely to be able to carry the risk of the gap in the pension pot at the end of a contract. If they lose the contract and it goes back to whoever, the gap in the pension fund is more back to whoever, the gap in the pension fund is more.

Chris Wright: You make a decision that you can’t take the risk. You can’t bear the risk and therefore you decide not to compete for the opportunity.

Q440 Ben Gummer: Just to flesh out one point, because you were talking about the pensions and it not being an issue of TUPE, I have heard consistently from providers that TUPE is an issue as well as pensions. Can I get that as a confirmation from you or do you disagree with it?

Chris Wright: If we have a blanket argument that TUPE is a problem, I think it is elements within TUPE which are the issue. Within TUPE, there is flexibility around economic, technical and organisational reasons for changing the staffing structure. It is about whether the funding comes across to cover redundancies and so forth. I wouldn’t say there are no problems with TUPE. I think the biggest barrier to entry is the public sector pension issue.

Q441 Ben Gummer: The thing that strikes me about this discussion, and it reflects the inadequacies in the MoJ’s pilot projects so far, is that it is still built around our existing understanding of geographical commissioning. In fact, if we are going to try and look at this in its purist form, we should be commissioning by person at the nearest point to sentencing as possible. Geography ceases to matter at that point apart from the local provision of services, which would naturally flow from commissioning locally at the court or as close to the sentence as possible. As a preface to a question about the information provided that you would need to be able to bid successfully and the size of the commissioning unit itself, if I can put it inelegantly like that, how small could you bid for contracts? In the final event, could you get to a point where you are bidding a month after sentencing for individual customers to take them on through their offending rehabilitation journey from end to end?
**Rob Smith:** On a spot purchase, we haven’t, no. On a small scale, yes.

**Chris Wright:** It is scale; it is about quality as well. It is about how you ensure you have sufficient awareness of the money you are bringing in to make sure your staff are adequately trained to do the work that you require them to do. It is an issue of scale. Smaller organisations are still going to have their fixed costs to cover. It is how clever the commissioning arrangement can be which allows some funding up front to cover some of the fixed costs and have the availability there.

**Q442 Ben Gummer:** Do you have any idea of how large that cohort would be? I know it is an impossible question.

**Rob Smith:** It depends on the service.

**Chris Wright:** The idea of having that kind of very, very local commissioning would scare me. Having the right kind of capacity and resource available which is fit for purpose would be quite a challenge. There would be costs that you would be bearing which you might not be able to cover.

**Andrew Neilson:** The problem also with the criminal justice system is its focus on the individual with the term “offender management” and the management of individuals. A lot of the lessons from America and elsewhere recently, in the movement of justice reinvestment, show that place is important. It is just how big the place is and how you structure it. Two of the payment-by-results pilots are going to be local authority-based. Personally, I think they will be the most successful because of that. I wouldn’t overly obsess about the individual. The system has struggled to do that. In the hypothetical situation that you are posting, we are very far away from having the infrastructure and ability to do that.

**Q443 Ben Gummer:** That is a very fair point. On that basis we can talk about the financing of this. Let us assume that you reach a point where there is a realistic group of people that you can bid for. I know it is the worry of smaller organisations that they won’t be able to find the finance to pay for the PBR journey. The medium and larger-sized organisations that they have spots, at least. Don’t worry about that so much, but they are concerned about their interaction themselves with smaller organisations that they want to involve on a local level. How are you developing your thoughts about financing and your relationship with larger organisations?

**Rob Smith:** I was just surprised by the comment of medium and larger-sized organisations not being concerned so much about the payment-by-results model, because it is absolutely critical. It means so many different things to different people and there are so many different versions of it out there. If you are talking about a payment-by-results contract where maybe 70% of the funding is potentially guaranteed subject to satisfactory performance, and then 30% is an element of outcome-based targets that have been agreed, perhaps in negotiations in the contract, a smaller and medium-sized organisation might be interested. If you are talking about a switching round of those ratios—and I am not speaking for your organisation, Chris—even for an organisation of your size that would be critical.

**Chris Wright:** It would. Working capital is a critical issue. We have a payment-by-results contract at the moment where we are trying to resettle young men coming out of prisons in and around London and get them into employment. The payment is based on sustainable employment and it is a challenge. On this particular contract, the funder paid an initial start-up fee that gave us the capacity to get going. In order to ensure that we cover our costs each month, we have to hit our targets and get people into employment. That is a risk we have to factor into our overall financial arrangements.

We are the delivery partner for Serco at Doncaster prison. We will be running the PBR element of that contract, and Serco will be managing the cash flow, so working capital isn’t going to be an issue there. Obviously, the issue for us will be in ensuring that we deliver the outcomes and do not expose ourselves to financial risk. In principle, I am very enthused about PBR. We enthusiastically welcome the idea that you are commissioned to deliver outcomes, as long as there is the corresponding relaxation around input control and so forth, but we have to deal with issues around working capital. The difference with the social impact bond, where the investors carry the risk around the funding, is, maybe, a way forward. You may ask questions later about the big society bank.

**Q444 Ben Gummer:** I am sorry; it is my fault for not explaining properly. You have just demonstrated my point. For an organisation that is set up to have those relationships, financing is possible, but for micro local organisations it is very frightening. There is not the infrastructure in place anyway to get working capital to bid for contracts of the kind you have at Doncaster and elsewhere. How do you see those relationships being managed, either with yourselves being prime contractors, or as small local organisations wanting to take on contracts themselves? Is it not a very level playing field, is it?

**Chris Wright:** It is not a level playing field. I was just going to go on to say something about the big society bank. Will that raise also an opportunity for providing working capital for those small organisations? The mindset will have to change fundamentally.

**Rob Smith:** It is a complete culture change, yes.

**Clive Martin:** Both your questions are really interesting. In some ways it depends what is happening in a locality. For the spot purchase question, for example, if you take somewhere like Scarborough, where you probably have a number of voluntary sector organisations involved in getting people who aren’t offenders into employment, and you have a fairly low number of offenders returning to Scarborough, you can perfectly imagine spot purchasing something from an established organisation, the bulk of whose business comes from elsewhere, to deal with this client group. If you are talking about some other areas of the country, where you don’t have a local infrastructure already to spot purchase from, or you are talking about a service that is particularly needed, it becomes much more
complicated. It slightly depends on what is happening locally. It is the same in some ways with payment by results. The social impact bond is interesting, where the risk is not with the deliverer but with the investor. It also depends on a number of fairly strong organisations within that locality who, at the moment, are not running by payment by results. They are running by a grant system, a contract system or whatever. At the moment, it seems that payment by results, in its transition stage at least, will probably have the best chances of success where there is quite a strong local mix of voluntary sector organisations that can sometimes pick up payment-by-results contracts and spot purchasing. If that is the totality of their funding mechanism, they will probably be in trouble.

Andrew Neilson: You have to recognise as well that social impact bonds and payment by results are two different things. Peterborough is doing something the statutory sector doesn’t do. It is providing support to short-sentence prisoners when they leave. It is funded by social finance. Anecdotally, I have heard that almost all the social finance that is interested in criminal justice is currently sunk into this project in Peterborough. If we are talking about putting that to scale, where is that money going to come from? Peterborough is quite a long project. I don’t think it is going to attract huge amounts of new social investment very quickly. The answer is that it is going to have to be private investment. If we are going to have some model where investment is put up front and the risk is not taken on by the provider, it will have to be private investment. Again, they will not take on huge risks.

Q445 Ben Gummer: I have one final question about inputs and outputs. You talk about reducing input controls from the commissioners. Could you say how far you would like that to go? In terms of outputs, should there be one output only—reoffending? You can judge how you wish to do that and leave that completely up to the provider.

Chris Wright: You need to have a minimum standard of expectation in terms of the service you are providing, and that needs to be specified. In terms of how you do it, if you are going to put yourself at risk around the contract, you need some flexibility about determining what kind of service you are going to provide. Hopefully, you will look to the evidence base to construct a service that is going to deliver the kind of outcomes the evidence suggests might be achievable. That is a big challenge around private investors. They will be looking very clearly at what the evidence base says before they are prepared to put up money in the hope of getting a return. Managing some public sector commission contracts is an experience to behold because of the micro-management and the almost total control that is placed on us. The smaller you are, the more control they try and impose; the bigger you are, the more you can fight back a little bit.

Q446 Ben Gummer: I am asking what controls are absolutely necessary over the kind of contract that we are envisaging. What would you pare it back to? Would it just be public safety?

Chris Wright: Absolutely. Obviously there is financial prudence and so forth, but it is not telling you how many times an offender needs to visit a probation officer, for example. That must be determined by risk and judgment. If the probation officer gets it wrong, there will be some kind of accountability built into that.

Andrew Neilson: Can I clarify whether you are asking if there are measures other than reoffending?

Q447 Ben Gummer: Yes, but that was the second question. You have dealt with inputs. I suppose you agree with that. In terms of outputs, should it be only reoffending, or should it be reoffending, job, home and health?

Clive Martin: My gut feeling about this is that you have to think about the offence. If, for example, it is a sexual offence, you definitely need the measure to be a binary one—they don’t offend again and that is it. That is the reality of the situation and that is what we all want. The reality is that someone who is a persistent drug user is going to be a different situation that has to be dealt with. It is probably completely unrealistic and setting the situation up for failure if you go only for the reoffending measure in the first instance and don’t do some intermediary measures such as registering with a GP and being on a drug treatment programme. I know it sounds a bit like fudging it, but it seems to me that only thinking about it in one way is probably not helpful. We probably need to think more about the offence, the evidence about how that offending is stopped and the public interests in that.

Q448 Ben Gummer: But that should be left up to you, not to the commissioner of the contract, shouldn’t it? If it requires someone to get off drugs and not to reoffend, stopping them reoffending would be a function of the success that you have had in getting them home and off drugs.

Clive Martin: Yes.

Q449 Ben Gummer: That shouldn’t be measured within the contract, should it?

Clive Martin: It might be in terms of being a different time period. It depends how long the time period is there and the timing of the point at which the measure is made.

Andrew Neilson: The one you would want to be wary of is public safety. Public perceptions of safety often have very little to do with crime in their actual local area. All you need is a big, lurid national story in the tabloids, and, if people are asked how safe they feel, they will say they don’t feel very safe at all. That may have no bearing on how safe they actually are and how safe their neighbourhood is.

Q450 Mr Buckland: I want to come back to commissioning and look at the reality of the process. A defendant is convicted or pleads guilty. A defendant is convicted or pleads guilty. A defendant is convicted or pleads guilty. The pre-sentence report really initiates the process in every case. They assess the offender and then they
innovative project in West Mercia is to develop a provide to sentencers and offender managers in our on a local basis. One of the things we have tried to but still be a high-risk offender and have a whole Rob Smith: something that has nothing to do with them. Government double pays, triple pays or is paying for somewhere else? There is a danger that the reoffend has nothing to do with any of these people Mr Gummer's point about the around payment by results is seeing it across public national and local.

Chris Wright: It is about the contracting arrangements you have in place. You may well have a framework-type contract with a range of providers available under the framework and you can draw down to respond to the specific requirements being sought. When trying to answer hypothetical questions, my response is informed by the reality that we currently experience. You suddenly think, “How can that be achieved?” because it is quite complicated as it is. We have a whole lack of clarity around commissioning, as we have indicated already.

The point you make is a good one. When magistrates or judges sentence, they read the pre-sentence report and are obviously influenced by its content and the proposal laid out. There is a sense of, “Right, yes, we need these kinds of interventions in order to mitigate the risk this particular person poses.” Working back from there, there is a logic to it, but it is how you do it and the complexity of that. The point you make around more acute services being commissioned on a larger scale, maybe looking at a framework arrangement, could be a good way forward.

Andrew Neilson: The complexity is also beyond the criminal justice system. One of the problems in envisaging the ambition that the Government have around payment by results is seeing it across public services. But if you look at a hypothetical, I like to think about “Bob”: Bob is on a community sentence and it is payment by results. Bob doesn’t have a job, so he is also on a payment-by-results scheme through the DWP. If he doesn’t go on to reoffend, who is paying there? Is it the MoJ or is it the DWP? What if Bob was depressed and he was also on a payment-by-results scheme with the Department of Health? Who then pays? In fact, what if the reason that Bob did not reoffend has nothing to do with any of these people but that he found a good woman or he moved somewhere else? There is a danger that the Government double pays, triple pays or is paying for something that has nothing to do with them.

Rob Smith: He could also be on community payback but still be a high-risk offender and have a whole multitude of complex issues that need to be dealt with on a local basis. One of the things we have tried to provide to sentencers and offender managers in our innovative project in West Mercia is to develop a menu of provision for the offender managers. They will tick a tick-box based across the seven reducing reoffending pathways, based on the intensity and responsibility of an interventions programme and what it needs to look like. We try to align resources locally to be able to meet that. Sometimes that is about influencing local commissioners; it is about drawing down funding ourselves; it is about using probation resources. The idea of creating a menu that works across all of the needs of an individual and tailoring it around them is what we are trying to provide locally.

Q451 Mr Buckland: It is also emphasising the fact that it is not just a responsibility for the Probation Service but there are other agencies and departments that need to be involved. 
Rob Smith: Absolutely, yes.

Q452 Mr Buckland: I want to ask you about capacity. I think we touched on it fairly substantially in some other questions. Obviously we have had an economic downturn. Do you think that has had an impact on the existing voluntary and charitable providers in terms of the potential market that is out there for this provision? Has the downturn had a negative impact on the range of providers?
Clive Martin: We have just surveyed our members. There are some stark figures in that. Over 60% of them are currently using free reserves to support front-line delivery. That is a fairly dramatic situation for a voluntary sector agency to be in because free reserves are quite precious things. The Charity Commission has some quite strong guidance about that. About the same number of people are on redundancy notices and, at the same time, we are expecting an increase in demand. You have all these internal pressures going on and you have an increase in demand. It is a combination of the reality of what is happening now and the fear of what might happen. Those two things are going on at the same time. Combined with that, there is a lot of fluidity in the statutory services themselves, feeding the uncertainty—people they may have dealt with in the MoJ or whatever it is. It is quite dramatic how rapidly that is changing. There is both the financial impact on the operational viability and also the restructuring of organisations that is going on. Yes, it is a big issue.

Q453 Chair: Mr Neilson was rather pessimistic earlier about the potential for more finance coming from social impact bonds. We have had at least one witness who was quite optimistic about that. Prima facie, if more people were aware that this was a developing possibility and if they saw more examples of it, it seems to me fairly likely that there would be more people who would want to engage in some kind of positive ethical investment and might come into this field.
Andrew Neilson: But not necessarily in criminal justice. There are all sorts of areas where social impact bonds could flourish. What we have found, at least in terms of voluntary donations from the public, is that the criminal justice sector doesn’t attract that much interest. There are more appealing groups that receive voluntary income. That could—who knows?—be reflected in social finance.
Peterborough is a six-year project, and if we are talking about the effects of the downturn, the Ministry of Justice is engaged in 6% budget cuts year on year right now for the next four years. Payment by results will not be able to prove itself in that time frame. So what happens? In the end it comes back to a favourite of the Howard League, which is that you cannot talk about criminal justice without going back to law, policy and attitudes. How many people are actually in the system and should all those people be in prison or even in contact with the Probation Service? That is going to become more and more urgent to consider when you do have lowering budgets and yet the numbers are staying high. Payment by results is not going to reduce those numbers any time soon.

Rob Smith: In terms of the social impact bond, we have been doing some work trying to develop a project region for the last two years. The scale you have to get to in order to make the cashable savings for the Treasury appears so large and is very difficult to overcome. Agreeing a set of metrics to a more rigorous standard that had probably been initially worked out for the Peterborough model is making it impossible to develop anything at present.

Andrew Neilson: I know you had previous evidence from people involved in the Work and Pensions programmes. They took 15 years to come up with what they felt was a robust metrics. We won’t have 15 years to do it in Justice.

Clive Martin: For social financial investment, the key place it works is where the social cost of something not happening is very high and the level of investment you need to correct that is relatively low. In Peterborough, there has been a high social cost of people coming out of prison unsupervised and a relative investment to achieve a change in that, so the savings are quite remarkable. There is this ratio between the cost of the investment and the savings it generates.

You can see that working in some other parts of the criminal justice system if you look at statutory retraining. You can see local authorities wanting to invest in keeping young people or women out of prison because the social impact cost is so much higher. Outside that it is quite limited. In some ways, you could imagine that insurance companies would have a vested interest in trying to bring down rates of burglary because they pay out on it and therefore their cost is high. Taking the model of car crime, it wasn’t solved by the Probation Service or anyone else; it was solved by the manufacturers.

Where are the opportunities to get private company investment where they are currently experiencing high costs and a low investment rate would bring that down? That is where some of the interesting thinking could go on about it. Without that, it is quite difficult to see where it would happen. The thinking at the moment is that the investment has mainly been through trust funds, the Big Lottery fund and others.

The return is quite high—it is 7% or something—if it works. The risk is still high for anyone else, so the market is quite sceptical because of the risk. In the long term, it might well play out as different players come in, but at the moment it feels like it is still too risky an investment to think of the whole sector being funded in that way.

Q454 Chris Evans: I want to talk about community engagement and service user involvement. Last Friday I had someone come to see me who worked on a drug rehabilitation project. What he found was that people were given drug rehabilitation orders, completing them and then going to voluntary detox. What was happening was that these people lived very chaotic lives and they were disappearing. They would appear again only once they were in the criminal justice system. He found that these people would come through the criminal justice system six or seven times. The point that he was making was that nobody had ever asked the offender and those who worked with former offenders what could be done to improve this. What does NOMS do to listen to ex-offenders and work on actively engaging them in the process? Can you give any examples of when policy has been changed through speaking to ex-offenders?

Andrew Neilson: It is more common in the youth justice sector. The youth participation agenda is starting to hit youth justice. The Howard League runs a lottery-funded project around that. We would hope that that would start to bear fruit in terms of young people saying something and then it reflecting policy.

Within the adult sector it is fairly limited.

Chris Wright: There is evidence that co-design is a very effective way of achieving programmes that are going to have an impact. Going back to commissioning, you have to ensure that you commission the right kind of services. Commissioning itself can be influenced by those who are about to benefit from the services. It is a mindset thing.

Andrew is right: it is very common in the youth sector. Much of our activity is in the youth sector. Participation of the young people we work with is absolutely critical to what we do. The views of young people in custody have just been surveyed by the Youth Justice Board. We need to translate that from the youth sector into the adult sector because there is very strong evidence that engagement is a powerful way of addressing offending behaviour. Desistance theory points to offenders who have made a decision not to offend any more. They point to the things in their lives that have helped them make that decision by putting something back into the communities in which they live. There is a strong evidential basis behind this.

Clive Martin: We published a report on it a couple of years ago.

Q455 Chris Evans: That is what I want to come to next. Could I ask you a question just to guide your comments a little bit? I haven’t read the report but I have some key elements of the report in front of me: personalisation, influence, ownership, responsibility and expertise. I want to focus your comments more than anything on this coming from a base where there doesn’t seem to be much offender involvement, how would we formulate policies and guidelines that encompass all the aims that you include in the report?

Clive Martin: There is some engagement. The field is changing rapidly. There is an acknowledgment now
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that we need to engage sensibly with offenders’ views. In some prison establishments it happens. There are prisoner councils. They have various roles, ranging from peer mentoring-type roles to much more engagement around food, visiting hours and things like that. It seems to me that we need to have direct discussions with offenders around policy issues.

All sorts of work has gone on around peer mentoring, all of which is good. That needs to happen with an idea of what makes sense in terms of how you influence policy and how you sequence events in an offender’s life in order to change things round. Things like sending someone on a drugs treatment programme when their preoccupation is getting in touch with their children, and acknowledging that as being a genuine issue, need to be reconsidered. There is also the idea of prioritising resources so that an offender is enabled to express what they think might make the most difference to their lives in terms of reducing their reoffending rather than what is available in terms of a programme.

It needs a systematic engagement. There are problems with it. Some probation trusts, for example, have experimented with having an offender on the board and that is quite complicated because they have different powers from the other members of that board and so on—they don’t have the same legal responsibilities. NOMS is moving to a position where it is trying to understand how it can set up a direct dialogue with offenders. It is quite a skilled role from an offender’s point of view, so there needs to be some training and support for that. People are also speaking specifically around the issue that affects them rather than a more generic, “Let’s talk to an offender about what their experience was of being in prison.” That is not the point. The point is, “What would be your guidance around how the service should be designed for drugs?”, if you are a drug person, and so on.

That is our thinking on it. The reason for that is we think that there is no real public service that has transformed itself without engagement with service users. If you go to a Mind conference now, you will find that 70% of the delegates are ex-users. Service users have transformed service provision. That is why, in our view, it is so crucial.

**Q456 Chris Evans:** What type of offenders are you talking about when you are engaging with them? When I was speaking to this chap—and we had a very interesting conversation—he said that, particularly with drug offenders, he found that they could stay clean for six months but then all of a sudden hit a brick wall and their life descended back into chaos. He said that the major problem with designing anything was that they live very chaotic lives of which many of us don’t have any concept. We get up in the morning and go to work, whereas these people have no concept of that. When you are working with somebody, you are not doing it to them—you are doing it with them. You are working alongside them and getting them to engage in what is happening around them. That is the issue. The vast majority of offenders are chaotic.

**Q457 Chris Evans:** It has been very worth while hearing from you this morning and it is all warm words when we are sitting here, but the huge issue that we are now facing is nimbyism or the rise of nimbyism. When you talk about community engagement and community rehabilitation, I can think of several examples—even from before I became a Member of Parliament—where there was strong local opposition to any form of rehabilitation programme or any form of community engagement. How can we overcome this rise of nimbyism that has come about in the past 10 or 15 years?

**Chris Wright:** I don’t necessarily share a negative view. A lot of people in the community want to provide support and assistance to people who, within their communities, might be causing difficulties. Some 10 years ago I was involved in the roll-out of the referral order in the youth justice system, which required a recruitment campaign of volunteers who would be involved in making decisions around what activities young people would be required to undertake as part of a referral order. This was in Nottingham. We were inundated with requests from the community to participate in that. They were not from people who had a particular punitive response, but from people who wanted to make a contribution. Part of our working methodology at Catch22 is around volunteering. We don’t have a problem in attracting
volunteers. Of course there will always be some people who have very negative views.

Q458 Chris Evans: They are usually the loudest voices and they are usually on the front of the paper. Chris Wright: But you can find mechanisms for engaging people. There is an issue around democratic accountability as well. What the referral order did was to identify the failings of the statutory services to be delivering the kind of interventions which might have prevented young people from ending up in the position they were in in the first place. We have to approach it from a very positive point of view. There are people out there who want to make a contribution. There will always be people who say, “I don’t want a bail hostel in my back garden.” But the reality is that there are a lot of people—and historically this has been the case—who also want to manage and contribute to their community and make it a safe place to live.

Rob Smith: I don’t think probation is very good at marketing and communications in terms of the effectiveness of what it does. There are some really good projects, particularly about community payback. The Probation Service feels very opaque to members of the public. They don’t really understand what it is and how it operates. Myths and urban stories are in place and you really have to work hard to overcome them. When you get the opportunity to sit down with people to explain, usually you get a very good reaction.

Clive Martin: I have to say that in the 12 years I have been doing this job, in countless number of churches, local community groups and chambers of commerce—when it is done in a structured way and you invariably have an offender with you and you talk to people—I have never experienced that it ends up in a negative place. It happens when you are firefighting; when someone wants to build a sex offender hostel, it has been sprung on a community and they haven’t heard about it. It happens then but, otherwise, in terms of a structured discussion, my gut sense is that there is still a huge amount of public opinion that is about wanting to do something positive in a managed and structured way. We do our communities a disservice by just being panicked by that one presentation of it. I am still amazed that when you go out and engage with people that is generally the response.

Chair: We will have to stop there because we have run out of time and we have a private session after this one. I thank you all very much for bringing your experience to the witness table. It has been very helpful to us. Thank you.
Monday 23 May 2011

Members present:
Sir Alan Beith (Chair)
Mr Robert Buckland
Mrs Helen Grant
Ben Gummer
Claire Perry
Elizabeth Truss

Examination of Witness


Q459 Chair: Mr Narey, welcome. We are very glad to have you with us. We won’t keep you too late. We apologise that you have been somewhat inconvenienced, first of all, by the switch of timing because of the debate on sentencing this afternoon, and the fact that that ended even later than we thought. Mercifully, we didn’t have a second vote or we would have been later still. We are very glad to have the benefit of your experience in this area. I am going to start by asking you a few things about your past experience and then move on to where we are at now and what you think about how the system could be developed. Finally, there will be some discussion about evidence-based policy.

You were the first Chief Executive of NOMS. This is not so much a personal question as an institutional question. To what extent do you think you were able to fulfil the purpose for which NOMS was created?

Martin Narey: I didn’t, Sir Alan. Ultimately, I guess, that is why I resigned and moved on to do something else. I thought NOMS was a courageous venture but could have been delivered—

Q460 Chair: Did you say, “This is courageous, Minister”?

Martin Narey: No. I very much wanted to do it and we worked hard to achieve backing from No. 10, the Treasury and the Home Office all at once. But certain things happened. Ministers changed and the commitment changed. The absolute foundation for making NOMS a success was getting some handle on sentencing. When a change of Home Secretary led to the abandonment of that, I knew that NOMS couldn’t work.

Q461 Elizabeth Truss: One of the issues that seems to have come up before the Committee when we have been looking at NOMS is the national nature of the structure and being quite siloed between the various services at a local level. What do you think was missing to prevent end-to-end offender management happening at a local level?

Martin Narey: At the time that NOMS was created as part of a working group between the three Departments I have mentioned, the term “offender management” had barely been heard. What it was to me and what I wanted to do was give probation officers much more authority and influence over what happened to their offender when they were in prison, rather than the Prison Service, which I led for seven years, taking them over and doing what they thought was best. I thought that from the moment someone arrives in prison, unless they were a very long-term prisoner, the probation officer as the offender manager should be preparing for their release and making sure that the things that happen to that prisoner while inside, as far as the resources allow, contribute to a successful release.

Q462 Elizabeth Truss: Why didn’t this happen at a local level? What were the barriers to that happening? Do you think the very existence of a national structure helped prevent that localism?

Martin Narey: No, I don’t. I think difficult public services like Prison and Probation need some firm national direction. It is simply not remotely possible that any Home Secretary as was, Justice Secretary as now, would not want to direct the activities of those two very large services. They also needed driving and some reform. I inherited a Prison Service which was very much on the mend but had been in a mess. When I took over responsibility for the Probation Service I thought there were significant flaws in that service. We tried to drive improvements from the top while building up a great deal of autonomy at the local level. Probation chiefs, and indeed prison governors, continued to have very significant levels of autonomy to make the right decision for the offender in a particular case.

Q463 Elizabeth Truss: Do you think having those existing structures, though, prevented the proper introduction of contestability—the fact you have existing bodies doing the commissioning who are already providers?

Martin Narey: No, I don’t. Ms Truss. What happened with contestability was that, again, a change in Home Secretary and a lack of momentum in the process of establishing NOMS led to much less enthusiasm for contestability. I have been a public servant most of my life. There was a time, when I was a prison governor, when I was fiercely opposed to the use of the private sector in prisons. I was utterly wrong, and I am very proud of opening 10 of the 12 private sector prisons. They offered good value for money and, more importantly, they treated prisoners with decency and dignity. I wanted to introduce the role of the private sector much more widely in prisons and then in probation. The change of Home Secretary, when David Blunkett was succeeded by Charles Clarke, rather changed that. Charles was the Home Secretary, and, as was absolutely his right, he was persuaded by the TUC to take a gentler approach to contestability.
Q464 Elizabeth Truss: Do you think these two different cultures in the Prison Service and the Probation Service operating separately—and you have alluded earlier to having end-to-end offender management—could be restructured with the Probation Service being based out of prisons? How do you make it into a single end-to-end service, which hasn’t been done and you get different approaches, but ultimately the output should be the same? It should be to try and have people in the community who have been rehabilitated, regardless of whether that is in prison or in the community.

Martin Narey: You are absolutely right about the cultures. Although there has been some merging of the cultures, they remain two very different services. The Probation Service is largely a graduate work force, and the Prison Service is largely prison officers, many of whom joined before there was even a requirement for five GCSEs. The cultures are very different.

Elizabeth Truss: That is interesting.

Martin Narey: A big step into putting that right for me was to give greater influence to probation officers. When I was told to go about it when they were going into prisons that I was running, I was very struck about their sense that they weren’t treated with respect and that their opinion wasn’t taken seriously. I wanted to blitz through that and make sure that they were in charge of what happened to their offenders when they were in prison.

Q465 Chair: You made a very interesting comment which would have been relevant to today’s discussions when you said that “for most of the people we incarcerated, the children and young people in particular, there was generally just too much poverty, too much disadvantage, too much educational failure and too much poor parenting for prisons to overcome”.

Martin Narey: Yes; that is absolutely the case. I believe prisons can work. I worked in and out of prisons for 23 years and I regret not a day of it. In the right circumstances, prisons can make a dramatic difference. Relevant to the current debate, when people are just in prison for a handful of weeks and they don’t get any of the things that might address poor parenting and poor education, it is pretty much a waste of time, I am afraid.

Q466 Mrs Grant: Do you think there are many similarities between the current Government’s plans and the original aspiration for NOMS? If you were the Chief Executive now, is there any particular advice that you would give the Government?

Martin Narey: This might relate to your question, Chair, on evidence-led policy. The terrible problem with this issue is that you can have very intelligent and sound discussions within Ministries, and certainly historically within this Committee, but you get a very immature discussion in the media and the press. I think that the current Justice Secretary is absolutely right to try to get some measure of management over who goes to prison. He is absolutely right. It is something I believed in passionately, and that belief was the foundation of NOMS.

What would have made NOMS a success was what was an historic agreement between David Blunkett, who was then Home Secretary, and Lord Chief Justice Woolf. They agreed that the prison population would not be allowed to rise above 80,000. It was about 76,000 at the time. We were on the verge of putting that into legislation. If that had happened, and through sentencing guidelines we had been able to manage the prison population a little better, then I am very clear that we could have found some of the resources to put into the probation side of NOMS to make offender management a success.

Q467 Mrs Grant: How realistic is it to try or seek to reduce the cost of correctional facilities?

Martin Narey: To reduce the cost? I am not close to correctional facilities now. I have been looking away for five years while I have been running Barnardo’s. I wouldn’t suggest that things can’t be done better and more efficiently. Greater use of competition will drive equality and costs in the provision of correctional services, but I don’t think correctional services are flush with cash. They are very hard-pressed because of the number of offenders that are going through the criminal justice system.

Q468 Mrs Grant: What are the benefits and limitations of the recent decision to remove the regional tier of NOMS, in your opinion?

Martin Narey: I have to say, Ms Grant, I am not very close to what is happening now. I couldn’t tell you what the current arrangements are. There has to be a balance between national direction and local autonomy. It is a nonsense to try to direct what happens to individual prisoners from the centre. If there is one line in the current Green Paper I disagree with very much, it is the suggestion that NOMS or prisons and probation have been dominated by a belief that Whitehall knows best. That is not the case at all. I think NOMS was built on very, very strong evidence about what was likely to work in dealing with offenders. In the very early years of NOMS, before it was overtaken by population problems, we did deliver for the first time statistically significant reductions in reoffending by prisoners.

Q469 Chair: Can I put it to you that your model relies quite heavily on a degree of national management and you have tried to use national management opportunities that you have had to improve the service? But the climate might be changed much more dramatically if the same local or regional body was commissioning custodial provision as is commissioning non-custodial provision. At the moment, there is a provider which provides custody, whereas at local level a series of bodies have to find ways of providing not just probation and community payback but drug rehabilitation and all manner of other things. It is a completely separate process. If those two processes were brought together, would it not be more likely that you would see the kind of shift in resources that you would agree is necessary?

Martin Narey: I think you would see that shift in resources if you could arrest the inexorable advance of the prison population. I am feeling a very old man...
these days. I can remember in my early years in the
Prison Service working for a man called Alastair
Papps. I know you knew him very well, Sir Alan.
Chair: Yes; he is a friend of mine.
Martin Narey: We were horrified at that time at the
prospect of a prison population which might reach
40,000. We now have a population of 85,000. There
is no end to this. You only have to look at what is
happening in California this week, where the courts
are now directing the California legislature to reduce
the prison population, because they are breaching any
minimal sort of health regulations. You can’t feed
the appetite of a media frenzy which suggests that more
and more people need to be sent to prison. Until you
can do that, I don’t believe you can get the rational
redistribution of resources. I was an incredibly fortunate Director General of
Prisons. I started in 1998. There was a lot of public
spending. Jack Straw gave me a lot of money to pour
into education and drug treatment, but the money I
spent per prisoner barely increased at all over the
seven years, because the number of prisoners rose just
as fast as the money I was getting to educate them. I
didn’t make the progress that I know I could have
done with a reasonably static prison population.

Q470 Mr Buckland: What you are saying is
extremely interesting, but it would be wrong of us as a Committee not to challenge, perhaps, one of the
assertions that you made, which was about the agreement reached between the then Lord Chief
Justice and the then Home Secretary about putting a
ceiling on prison numbers. Many people outside this
room would say that putting targets and arbitrary
numbers on the prison population masks the real
problem here, which is the quality of the treatment of
individual people within the criminal justice system,
whether they be in prison or not, and the danger of
imposing targets is that you then put an additional
pressure on sentencers to take into account frankly
inappropriate considerations when trying to assess the
best outcome for the person they have in front of
them.
Martin Narey: I do understand that criticism. I stress
that what was anticipated at the time between David
Blunkett and the Lord Chief wasn’t a possibility that
any judge would ever be told, “The prisons are full;
you can’t use custody today.” The sentencing
guidelines would be crafted in such a way as to
influence the size of the prison population. It was open
to the Lord Chief to come back to a future Home
Secretary and say, “Look, we will need 81,000 places
next year.” It didn’t mean that for all time
the population wouldn’t have risen, but it would have
locked down the population. I know people find that
very difficult, but why are prisons alone a public
service which we don’t ration? If I want some
healthcare, if I am ill, I will have to wait in a queue.
It is a much shorter queue than it once was, but I will
have to wait in a queue for treatment. Today, no matter
how many people are sent to prison, prison governors
around the UK accept them all.

Q471 Chair: That comes back to my earlier question
of the judge or the magistrate sitting on the Bench
with someone in front of them. If it is a custodial
sentence, a van will roll up outside and take him away.
Martin Narey: That is right.

Q472 Chair: If it is a drug treatment facility, he
would have to inquire whether that is available and
whether the resources are locally available for it.
Martin Narey: That is right. One of the very small
things you could do is delay the introduction of some
custodial sentences. Prisons have a bit more space in
summer and at Christmas. You could delay some
sentences until space was available.

Q473 Mr Buckland: This is totally off the brief,
frankly, but this is an interesting exchange. You were
certainly heavily involved at the time the custody plus
proposals came forward. You remember the
legislation was passed?
Martin Narey: Absolutely.

Q474 Mr Buckland: And everybody turned round
and said, “How are we going to deliver this?” I just
wondered whether you could very briefly talk us
through your take on what is seen as a huge failure of
both legislation and policy. Why did it fail?
Martin Narey: It didn’t fail, because we didn’t try it.
I was a great fan of custody plus. I spent a lot of my
time running prisons and then moving to the Home
Office to run prisons and probation. Unlike the current
Chief Executive of NOMS, I was also the senior
official advising on sentencing policy. The reason I
thought custody plus was necessary was because I felt
there were too many magistrates and judges who, for
a given offence, could not swallow a community
penalty, but they could if it was, say, seven days in
Strangeways and then a community penalty. Every
time I spoke to sentencers I was told over and over
again that they could swallow a community penalty
on that basis.
I believe it was abandoned—I had resigned before it
was abandoned—because it was considered that there
would have been too much use of custody plus and
there would have been a smaller use of
straightforward community sentences. I am not sure
how that opinion was arrived at. My view is that it
could have been managed and it might have made
quite a significant difference. The seven days would
still have been pretty much a waste of time, but if that
was the price to pay for getting people sentenced into
the community, then I would have been very happy
with it. I think it could have worked, and I still believe
it could work.

Q475 Mr Buckland: It would be particularly
effective perhaps for first-time offenders, bearing in
mind what we know about the disproportionate impact
that even a short term of custody can have on a first-
time offender.
Martin Narey: I hate to disagree, but I am not sure
the evidence holds together for that. There are some
very tempting statistics in this area. I remember once
telling a previous Home Secretary, Jack Straw, that
prison had a salutary effect on first-time offenders.
Actually, I think I was wrong. The problem is that the
sort of people who go to prison for their first offence
have committed something pretty serious straight away, so they get more time in prison, they get more treatment and more rehabilitation. A lot of them have committed some offences which are not volume offences. This is not the young person repetitively committing criminal damage, burglary and theft.

Q476 Mr Buckland: Perhaps I phrased it inelegantly. I should have said somebody who was facing custody for the first time, not necessarily somebody who had not been in the system. There will be people who build up to a position where suddenly they have committed an offence and the threshold is there.

Martin Narey: Yes.

Q477 Mr Buckland: Does the argument still hold water then, or do you think that perhaps this idea that you can make an impact in only a few days of custody and then go on to the custody plus option is overplayed?

Martin Narey: It is very difficult. All that we know about deterrents is that, regrettably, prison is not a deterrent. Most of the offenders we are talking about here are young men, and you don’t have to spend very long with young offenders to realise that that is the case, because they never think through the consequences of their actions. The research shows that the thing that deters people from offending is the belief that they will get caught. Characteristically, a lot of the young men we lock up, no matter how inept their crime, somehow believe they won’t get caught.

Chair: Can I draw you on to this business of the role of the Probation trust?

Q478 Mr Buckland: Yes; that is a very interesting discussion. I want to come back to the commissioning issue. As a Committee, this is one of the issues that we have found is a potential problem, not for you but Probation trusts being providers, commissioners, co-commissioners all at once. How do you see that developing?

Martin Narey: It is not ideal, but as a way of introducing some competition, I think it can be made to work. When I was Director General of Prisons—my job before taking over NOMS—I was running the public sector and as a commissioner of the 12 private sector prisons. There are real problems with that, and sometimes private sector operators were worried whether they were going to get a fair deal from me. When I first returned a private prison back to the public sector, because the public sector had responded to the competition and really done well, the world pretty much fell around me with suggestions that there had been foul play. But, overall, it could be made to work, and it led to the private sector getting a very significant foothold in prisons. Private sector prisons, despite all the criticism of PFI, have continued to offer really good value relative to the public sector alternative.

Prisons are hard to manage. The Prison Officers Association is an unconstructed trade union. They survived all the reforms of the 1980s and 1990s almost unscathed. The world changed for me as Director General of Prisons when the POA understood I could go somewhere else and that I could find other people in terms of Serco and Group 4 to run jails. They started to reform as a trade union. The great benefit of privatisation in prisons was that we got a much better public sector work force. When we said to a prison, “You must dramatically improve in 12 months or we will put you on the market,” they invariably dramatically improved.

Q479 Mr Buckland: Just developing that, some concern has been expressed by Probation trusts that making the provision of quite a proportion of their work subject to competition will fragment the service and may undermine the future viability of the trust themselves. Do you share that concern?

Martin Narey: No. It is like saying that privatisation of telecoms fragmented the phone industry. We have all been massive beneficiaries of the fragmentation of that industry. Competition has made phones, which were once an expensive commodity, a very low cost indeed. There would need to be some management co-ordination. It is simply the case in my experience, and I felt exactly the same in the five years that I ran Barnardo’s, that services which are delivered without any form of competition like prison running are unlikely to be well-run services. Although the Probation Service is full of terrific, dedicated people, certainly when I was running it, I thought some things done by the Probation Service, such as the management of unpaid work or community punishment as it was, were done very badly and very expensively. I always suspected from my own observation that the statistics we read about the number of hours of unpaid work that are not completed were a significant underestimate.

Q480 Ben Gummer: I appreciate your bracing honesty, especially after the few hours that we have spent in the Chamber. You make a very interesting parallel here with the phone industry. An economist will say that competition works, if you have common standards for information and transparency of information. In the phone industry you have GSM standards or whatever you choose to have, which allows everyone to work on a common platform. Yet my understanding of the way that prison and probation works now is that there is no commonality of information. So, from the police to the courts to prison, and prison to probation, let alone integration with education, if it is a youth offender, or social services, no one really exchanges much at all. That was a preface to saying, is it possible to create that interchange of information without a huge great Government IT project which won’t work, or is there another way of doing it?

Martin Narey: Certainly as I left, and I doubt very much whether this has changed, there were some continuing problems with the so-called “level playing field”. I have observed that, for the last five years, in running a charity in local authority commissioning, Barnardo’s would compete for a lot of work that was previously delivered by local authorities, and sometimes I didn’t think local authorities got their costs right, and underestimated, for example, back-room and pension costs. That criticism could be aimed at the early privatisation that was taking place in prisons and probation. I think we still managed
through that. The growth of the private sector in prisons, which has pretty much come to a halt in recent years, was a demonstration that there was a way of getting it right. Although competition might be imperfect, it was better than no competition at all.

Q481 Ben Gummer: It can work reasonably well, therefore, in the absence of commonality of information. 

Martin Narey: Yes, it can. You could improve commonality of information. Whenever we held a competition for the running of a prison we tried to be as honest as we could, irrespective of who the provider was, about who was offering us the best value for money. Although there might have been flaws in that—and I would have to plead guilty to accepting that we didn’t understand public sector costs in as sophisticated a manner as we should—there was still sufficient purchase to attract the private sector and for them to come in and say, “We want to do this work.” They came in and they did it well.

Q482 Ben Gummer: One of the things that has struck everyone on this Committee is how poor the evidence base is within the MoJ for assessing the efficacy of punishments and understanding reoffending. This doesn’t necessarily seem to be a British problem: it is a global one. I wondered whether you had any thoughts about how you would improve that evidence-gathering rigour of data.

Martin Narey: I would suggest the evidence base is really quite good. If you look at the annals of the research and statistics department or whatever it is called now in the Ministry of Justice and the Home Office, you will find no end of very significant and very high-quality peer-reviewed research. The problem is that it doesn’t tend to do very much to influence the political debate.

Q483 Chair: Sometimes it has been more influential in other countries. We found that, when previous members of the Committee were in Germany, they were well aware of research material produced often in Cambridge or elsewhere in the UK, which the MoJ had, but they were making more use of it than the MoJ was.

Martin Narey: The Institute of Criminology at Cambridge is an outstanding establishment. I digress. The only Bill that Rab Butler had, who was Home Secretary for six years, was to create the Institute of Criminology at Cambridge. It is outstanding. You are right; it probably has as much influence internationally as it has here. The debate about crime and justice is at a troublingly low level in the UK. Sometimes, when I would meet people running prison services and probation services in the rest of Europe, they just couldn’t understand why crime and punishment was always, always on the front page of newspapers in the UK, and it has been really for some years, but not always. I remind you that, when I was a very young prison governor, Douglas Hurd was a Home Secretary working for Margaret Thatcher, when he coined the famous phrase, “Prison is an expensive way of making bad people worse.” He talked down the prison population by 4,000, by 10%, from 43,000 back to around 39,000, and he was working for Margaret Thatcher. The level of debate was, I am afraid, significantly more mature. I was a Private Secretary to a Minister of State when the 1991 Criminal Justice Act went through. It was very much Douglas Hurd’s creation, but David Waddington was Home Secretary when it went through. I was working for a Lords Minister. I followed that Bill through 13 days in the House of Lords, but there was no party politicking at all. There was almost complete unanimity about the intellectual basis of a Bill which set out to move people from short-term prison sentences into community penalties.

Q484 Ben Gummer: It is a function of the centralisation of the service that, the more you do that, the more a Minister is responsible for the individual. Is that the core of the media problem, do you think, and what you run up against?

Martin Narey: It might be possible to do that. I have to say that, much as I loved my time there, trying to keep Ministers from getting involved in day-to-day happenings in individual prisons and probation services is pretty difficult. They invariably do. Part of the reason for that is, if something goes very wrong, then it is an issue in the House of Commons. I suspect only you, Chair, witnessed the time that Michael Howard was Home Secretary following the escape of some category A prisoners from a prison in Cambridgeshire, and then another group from a prison on the Isle of Wight. It very nearly cost him his job. Things that go wrong in prisons have an immediacy and a vulnerability for Ministers which makes it hard for them not to want to have some assurance that things are being done properly in every local place. When I became Director General, the rough deal with Jack Straw was that he would give me lots of money for education and drug treatment if I stopped escapes of category A prisoners and riots, because that is what brings Ministers down.

Q485 Ben Gummer: Can I just ask one final question on that? It is on data. You talked about bringing reoffending rates down at the beginning of your period at NOMS. How easy is it to measure these things against general European trends?

Martin Narey: There are two things that I wanted to say before I left the room today. I must have been saying this for 20 years now. The way we measure reoffending is almost completely useless. The reconviction measure is utterly useless. First of all, it measures reconvictions and not reoffending. Secondly, even if it is a proxy for reoffending, it measures no reoffending. What we need to know when we are looking at what we do with offenders is whether they offend less, both in terms of quantity and gravity of offending. If someone leaves a prison after a 10-year failure, when actually that is probably a great success. We are still sufficient purchase to attract the private sector and for them to come in and say, “We want to do this work.” They came in and they did it well.

Q486 Claire Perry: I am sorry I was absent earlier. I was participating in a juvenile level of debate on police and crime taking place in the House currently.
Could I press a little bit on the failure of the reconviction and reoffending measure? One of the rather startling things we have heard, particularly from the Probation trusts—and it is not because they are bad people or don’t get it—is just how difficult it is to get almost any data on reoffending and also how unimportant that measure is in assessing what kind of job they do. Lots of people have criticised the current measure. Why is it so difficult to get people to focus on a simple measure of reoffending across the system, with all the flaws that you have raised with that simple measure?

Martin Narey: It is very difficult for a number of reasons. One is that there is such a long time between somebody finishing a community penalty and leaving prison and getting involved again in reoffending, certainly before they get through the criminal justice system again and are reconvicted. In my view, it is sometimes very difficult to draw the causal link between events. That is why I was very much in favour of more straightforward proxies. Despite the flaws in the research, what the research tells us over and over again is that, if you get a prisoner, or someone on a community penalty, somewhere to live and into employment or training, they will offend much less, by about a half. There is lots of analysis to prove that. A valid measure of success for community penalties or for prisoners would be having somewhere to live and in a job after release. That would give you a dependable indication of the likelihood of someone not reoffending. It would be in the hands of the Probation trust or the prison to do those things.

Q487 Claire Perry: I agree with you in terms of the causality, although I suppose it is a little bit more difficult to justify it if you are doing payment by results—to be paying for actions rather than results—but does the data exist in the system? I accept that it is complicated, but we are not Amazon; we are not trying to ship out 1 million parcels a day. We are trying to deal with the offending habits of effectively 250,000 people who are in the Probation Service at any one time. Why is it so difficult just to get the basic data in one place and track a person through their prison and probation journey?

Martin Narey: I don’t think it is intellectually difficult, and it could be done. There are identifiers now on individual offenders and it is possible to track their time through the justice system, but there is such a long delay. If someone leaves a prison and gets straight down to reoffending again, as some do, it is going to be a long time before they reappear again on a reconviction statistic. Offenders are disarmingly honest about what they have done. Self-reported studies on offending are much more accurate as a way of telling you what people are doing after release. But I couldn’t stress too much the fact that the reconviction measure as a measure of offending or non-offending is virtually useless.

Q488 Ben Gummer: On the back of that, because I think it is a fascinating point you are raising, as we are moving towards PbR, what outcomes is it appropriate to use for letting those contracts? Would you favour going for a single outcome on reoffending or reconviction, whichever you wish to use, or do you want to have a whole series? I know that Barnardo’s might be interested in this.

Martin Narey: I have left Barnardo’s now so that wouldn’t matter. I don’t feel I know enough about the formulation of the current contracting process, but my view is that you need measures which are easy to obtain. If I were giving advice to Ministers now, I would advise them to look at some fairly straightforward proxies which are very easy to measure, such as having somewhere to live and in employment. I stress that it should not be the week after a sentence finishes but three months after a sentence has finished, for example.

Q489 Ben Gummer: As well as the reconviction rate or reoffending rate.

Martin Narey: I could put an argument together for abandoning the reconviction rate.

Q490 Mr Buckland: What about the reconviction rate of sentences of equal or greater seriousness than the index offence? Isn’t that a valid measure?

Martin Narey: Yes, it is a measure but we don’t have the reverse measure. It is a very important measure to see whether someone’s offending has escalated and is getting greater and probably greater in seriousness, but we don’t record the victory when it goes the other way.

Q491 Chair: I am all in favour of raising the level of debate, but that wouldn’t convince me that I could persuade the public that somebody committing another rape was not a relevant piece of information when assessing what had happened since he left prison from the previous rape.

Martin Narey: I would accept that entirely, for offences like that. I am not suggesting that you wouldn’t follow people’s individual criminality and watch what happens to them. As an overall measure of what happens to prisons, obviously I haven’t read the details of the debate you have been involved in today, but the bandying about of statistical shifts of 5% or 6% in a reconviction rate over time is in my view fairly useless. I have no confidence that there is any significant causal link which has made that difference. Even though I was pleased to have driven through the first significant statistical reduction in reoffending, I never pretended to any Secretary of State I worked for that I thought it was terribly important in the real world.

Chair: That is a few salutary words.

Martin Narey: If I may say, this Committee, when it was the Home Affairs Select Committee, did a really impressive piece of work looking at something called the drug testing and treatment order. That was largely abandoned, because reconviction rates were seen as high, and they were, because this was an order given to drug addicts. The Committee here did a fantastic piece of work which demonstrated that, although
reconviction rates were high, the amount of offending done by people on that order was significantly lower than before the order. But it didn’t save it in the political world.

Chair: Mr Narey, thank you very much indeed. We really appreciate it. We appreciate your patience as well in being messed about with timings. Thank you again, Mr Narey.
Tuesday 24 May 2011

Members present:
Sir Alan Beith (Chair)
Jeremy Corbyn
Chris Evans
Ben Gummer

Yasmin Qureshi
Elizabeth Truss

Examination of Witnesses

Witnesses: Sonia Crozier, Chief Executive, Sussex and Surrey Probation Trust, John Steele, Chair, Sussex and Surrey Probation Trust, Leighe Rogers, Operational Director, Sussex and Surrey Probation Trust, and Linda Beanlands, Brighton and Hove City Council, gave evidence.

Q492 Sir Alan Beith: It is a pleasure to be in the magnificent surroundings of Brighton’s Town Hall. It is a very fine building. We are grateful for Brighton’s hospitality in allowing us to use it today. I remind Members that when they speak to ask a question they need to press the microphone button and switch it off again when they are finished.

We have come here today to take evidence from people and bodies who are involved in probation and dealing with offenders in the area, and we are very grateful to the witnesses who are coming before us today who can tell us of their experiences. There are two panels of witnesses, and we are going to begin the questioning of the first panel of witnesses, which consists of Sonia Crozier, Chief Executive of the Sussex and Surrey Probation Trust; John Steele, the Chair of the Sussex and Surrey Probation Trust; Leighe Rogers, the Operational Director of the same Trust; and Linda Beanlands from Brighton and Hove City Council.

We are the Justice Committee of the House of Commons. We have been engaged for some time in looking at the role of the Probation Service, and that in turn follows on from the work that we have done previously about Justice Reinvestment, looking for ways in which we can use the money that we spend in the criminal justice system to reduce reoffending and reduce offending in the first place from those who become involved in crime. I am going to start by asking members of our first group—please answer as seems appropriate, whichever of you seems like the right person, and hopefully you all mean to say the same things.

I wanted to establish first of all whether there was a shared understanding of what offender management means among Sussex and Surrey Probation staff and local partners. Is it a confusing term? Has it become confused with Integrated Offender Management in broad terms?

Sonia Crozier: Sir Alan, shall I start by answering that question? Good morning. I’m Sonia Crozier, Chief Executive. I don’t believe the term is confusing locally. I think there is a clear understanding that the offender management model requires one individual who holds responsibility for the administration of the sentence and that they are then supported by other partners in terms of delivering interventions to ensure that that individual’s likelihood of reoffending is reduced. With the arrival of Integrated Offender Management, the model has now been developed in the sense that it is not always a probation officer who actually acts as the offender manager, and in fact, in the multi-agency teams that we now have located in Brighton and Hove, we have on our books individuals who aren’t actually subject to a statutory order of the court but have been sentenced to prison and then offered a voluntary contact after release, and are then assigned an offender manager, who can be a probation officer but may equally be a police officer, for example. It just depends on who is the most appropriate person to have oversight and offer contact with that individual. So I do believe there is clarity in terms of the model and what it is designed to achieve, but I don’t know, Leighe, if you would like to offer any other advice on that.

Leighe Rogers: Yes. I would just like to endorse what Sonia said. I agree with her that there is clarity about the offender manager being responsible for that whole offender journey. Who that is actually does vary, so in terms of the Probation Service, who are increasingly working with higher-risk offenders, that tends to be a probation officer, but obviously there is a continuum, and some of those lower-risk offenders are managed elsewhere. A good example of that, I think, in Brighton, is where we have a partnership with several women’s organisations that come together under the banner of Inspire, and they work with our women offenders. With that particular group, there are stand-alone orders made by the court for specified activity requirements where, in essence, the offender manager is actually the worker from that group of women, so there was a clarity about the role, but the role was not necessarily invested in any one particular person—for example, a probation officer.

Q493 Sir Alan Beith: There is a balance to be struck between professional standards, professional judgement, professional autonomy, and the setting of externally determined standards, the bounds of which have changed. Are you comfortable with the way that has gone or is going?

Sonia Crozier: In respect to some of the changes that have been made to Probation National Standards?

Sir Alan Beith: Yes.

Sonia Crozier: We’re absolutely delighted. Surrey and Sussex Probation Trust has been the host area for the national pilot, so we were asked in May of last year to develop a framework whereby we would give our probation officers and probation staff more freedom in terms of how they would make decisions around
how they would manage individual offenders. Rather than following a one-size-fits-all model, they were given the autonomy back to ask, "How do I want to spend my time? What’s going to have the best impact in terms of the offenders I’m charged to supervise?" What we have learned over the year of running what has been called the “Professional Judgement Project” is that the probation staff feel more in control. They feel they have been given the right to apply common sense in terms of how resources are allocated, and they can also be more responsive to the offenders, so if people’s circumstances change, they can either up the contact because it seems clear that more contact is required or they can make a sensible decision to reduce contact if in fact there is clear evidence that progress is being made. It has been absolutely welcomed and endorsed, and it has now informed the implementation of the revised National Standards that were released on 1 April this year.

Q494 Sir Alan Beith: Where does the tiered approach to determining the level of resources, frequency of contact and content of interventions fit in with that?

Sonia Crozier: The tiering model: there were four tiers. Tier 1 is for your lowest-risk offenders, where you would be looking at a sentence that requires punishment or simply the administration of the sentence, like a stand-alone community payback order, and then it goes up from there to tier 2, tier 3 and tier 4. What the Professional Standards Project has allowed for is more creativity, more thought given about how the change component in tier 3, which is about rehabilitation, is delivered, so it hasn’t undermined it and required a significant shift to it, but it has required us to think a bit differently about how the different components of the tiers are delivered.

Q495 Sir Alan Beith: Local area agreements and the duty for local partners to reduce reoffending: how is that developing since you made the Trust?

Linda Beanlands: It might be helpful if I take that one.

Q496 Sir Alan Beith: Just explain what your role is.

Linda Beanlands: I am a Commissioner for Community Safety, so in essence I fulfill the statutory duty on behalf of the local authority but also on behalf of the whole of the community safety partnership to deliver all those duties that came with the Crime and Disorder Act. The local area agreements, which of course for the first year are not in place now, I think were hugely important to all the partners within the community safety partnership, police and probation in particular, in terms of making sure—enabling a process of being really focused on the big outcomes that make a difference for the city. It was the vehicle through which we were able to engage local authority services right across the piece in the work of probation services to reduce offending, so it was hugely important. Within the local area agreement, we had the particular experience, through the local public service—the LPSA process—of then being able to develop the Priority and Prolific Offender Project, and that became a very important way of us being able to share responsibilities across all services for some of those core activities of probation and police services, so it was very important and very useful.

Q497 Sir Alan Beith: Did the system that you had up until now make it more difficult to achieve those sorts of developments because of the silo separation in how you deal with it?

Linda Beanlands: Yes, I would say that it certainly did. The local area agreement really enabled us to change that whole process. I would say that that process of change is now well established and we are continuing to build on it, so I don’t see the fact that local area agreements have now come to an end as being a problem. It did its job at a very important time, when we really needed to focus all our shared activities around particular indicators, and we carry on building on that within the community safety partnership.

Q498 Sir Alan Beith: In Breaking the Cycle, it is argued that the “Whitehall knows best” approach has stifled innovation at both national and local levels by concentrating on a process. Was that the experience of this?

Sonia Crozier: As Linda has said, the local area agreements were important for their time, but with the passage of time, I think, certainly in my experience, they were somewhat over-engineered in terms of the whole raft of national indicators that at local level we are expected to pick up. Also, Government Office often used to mandate down to local areas which of those national indicators we were required to pick up rather than it being perhaps a more bottom-up approach, with local authorities and police and probation knowing their communities and make those decisions for themselves. So yes, it was over-engineered, but it did serve a purpose and, as Linda has said, it’s also given us a very strong foundation now in terms of that collective responsibility to reduce reoffending, but now we have greater freedom to determine exactly how we do that and where we prioritise.

Q499 Sir Alan Beith: Obviously, Brighton would have its own particular characteristics and problems because of the kind of economy it has and the activity it generates. Has this meant that you have wanted to do different things in Brighton than you might do even elsewhere in the Trust and certainly in the country? Have you been inhibited from that by the way the system has traditionally operated?

Sonia Crozier: The answer to that is yes, because essentially the imposed targets that were put upon us gave us very little flexibility in terms of doing something different, and an example of how we have now changed that is that the centrally imposed targets around programme delivery have been lifted, to some degree, which has given us some resource that we’ve now been able to convert into delivering a service that is more locally tailored. An example of that is the introduction of specified activity around hate crime that is going to be available to our local courts. You mentioned things that are quite different about Brighton and Hove, and as I’m sure you’re probably
aware, Brighton and Hove has one of the largest gay and lesbian communities in the country, and there are incidences of homophobic crime in this area—hate crime—so we are actually able to introduce the sentence of the court that is very tailored to that particular local crime issue, and that is a freedom we have that we didn’t have previously. Leighe, I don’t know if you wanted to add to that.

Leighe Rogers: What I would add to that is that what partners are doing. I think, more than ever and what has helped us in this is the duty for agencies to cooperate around reducing reoffending—in particular, I might say health in terms of bringing health into that agenda—is that we’re all sharing the data that we have, perhaps in a way that we haven’t done before, to look up the services we have in different localities, map those services, talk to people in terms of what those needs are and then begin to build services that actually respond to those needs in a very joined-up way. It is much more looking at outcomes for real people and for the community, and that is a journey, in a sense, we have been fully on now probably for about the last two years, in truth, in terms of building that. We have a very strong practice in the community and responds to what is going on in different localities.

A good example of that would be Brighton in terms of mental health. We know from our mental health colleagues in our forensics team who work in our cells in Sussex that Brighton has a particular prevalence of people with mental health problems, so we were there in response to a national pilot around a mental health court, which came to Brighton probably about 18 months to two years ago. What we are looking to do with that is take the next step post-Bradley as a partnership to take that further and take it pan-Sussex in an even more joined-up way than we have before by also incorporating drug and alcohol abuse into that one assessment. You can see that would be a much more efficient approach, and I think the partnership structures we have here now actually allow us to do that, even allowing for changes in commissioning. We have to talk to GP commissioners, and obviously we need commissioners coming into public health, and sometimes they are split. For example, in Brighton we are having a mental health commissioner who sits with the GP Consortium, and substance misuse, which sits with public health. We have those challenges, but I think what really helps is the strength of the partnership that we’ve built and also that clumping around reducing reoffending, which everybody has a duty to do, and that has really helped us.

Q500 Ben Gummer: I just have a quick point on the issue you were raising earlier, Ms Crozier, about your probation staff. I understand from other trusts that there was almost a generational difference between the staff’s reception to changes. Those who were older remembered more freedom and welcomed this, and also some of the younger members of your probation staff who had been brought up in a more target-driven culture found quite difficult to adapt. Clearly, this is a problem for management, and you need good management to make this independence work. Do you think the probation trusts across the country have the qualities and skills of management you have clearly shown here in Brighton?

Sonia Crozier: Part of the process of hosting the Professional Judgement Project was that we were able to create the learning and the information to enable other probation trusts in the country to make the decisions about the impact of adopting more freedoms for their workforce. That information is now out in the public domain, and probation trusts have a year by which to make decisions about how far they want to introduce the freedoms that we have deployed. I believe that probation trusts will make that transition safely, informed by the information that we were able to gather through the pilot. We are also able to give some very clear indicators of things that trusts will need to put in place to bridge that generational gap and give freedoms to a whole generation of probation officers who were trained in a very rule-based approach.

It might be interesting at this point to ask John Steele, Board Chair from Surrey and Sussex, to give his view, because clearly boards will be holding that responsibility in terms of the safety issues as well.

John Steele: Just to add a slightly different perspective on that, clearly it is a concern when you go into new territory. I sat on the programme board, in fact, for the project, and it was interesting to see the journey, and there were anxieties among some staff about letting go, but we helped them through that. We helped them through that with a number of techniques, one of which was to ensure that they record what they do, and actually, they haven’t been used to having to record what they do. They had to tick the box. Now they have to write down what their thought process was, and that has been a learning exercise. Sonia knows it better than I do, but one of the things that some different probation officers have said is that the nature of supervision changes. The nature of what makes a good probation officer has changed. It used to be the person who ticked all the boxes and got everything in on time. Now you’re looking for slightly different skills and a slightly different approach.

It has been a very interesting and exciting journey, and I’m sure, as Sonia says, other trusts will pick this up in a way that is appropriate to them and that maintains public safety, and they won’t all adopt exactly the same approach or exactly the same freedoms. It will depend on where they are in this journey, but it was a really exciting journey and I think this is definitely the way forward. I would rather have fewer really well-qualified professionals using their judgement than large numbers of staff. You really do need professionals to exercise that judgement.

Q501 Elizabeth Truss: I just want to move to the delivery of Probation Services. I would like to understand how you measure success of your organisation and what impact the new working arrangements have had on reoffending rates.

Sonia Crozier: How we measure success is in a state of change at the moment as a result of new outcome measures being developed, but the current situation is that we have headlined a reducing reoffending
measure known as NI 18, and then we have a series of proxy measures that sit underneath that. How many orders or licences are successfully completed is a really important measure, because we know there is a relationship between an offender’s compliance with their sentence and that indicating that they are changing through that compliance. We also have other proxy measures around some of the schemes that we run, so, for example, our PPO scheme measures reduced reoffending over a two-year period. We have measures about how many offenders we get into employment or stable accommodation. You have your headline measures and then your proxy measures sitting underneath that.

Q502 Sir Alan Beith: Do you actually use those? It is an interesting point, because it was raised by someone in a session yesterday. Do you actually use accommodation and employment as a proxy measure for reoffending?

Sonia Crozier: Absolutely, yes. Those are important measures to show whether we are doing what we are paid to do, which is rehabilitation and protecting the public. In terms of how the new freedoms are impacting upon that landscape of outcome measures, the Professional Judgment Project only commenced last May, so I think it may be too early to come up with some very hard indicators, but we have seen some increase in offenders’ compliance with their orders and licences above the national average, but I would put a note of caution around that. These are still very early days in terms of the full impact of professional judgement.

Q503 Elizabeth Truss: Can I ask what reoffence rates are and have been historically?

Sonia Crozier: The national indicator set at the moment—I can give you the statistical figure. It is what they would call “statistically neutral” at the moment in terms of there neither being a positive impact or negative impact on reduced reoffending, but I have to say that measure, as I think you’ve heard from previous people who have given evidence, is under review. The methodology has been criticised. The measures that I look at, which I think are more interesting, are the reduced reoffending measures particularly around our PPO schemes. I think they are more robust. I think they are more easily understood, and they do clearly show that we have an impact in reducing crime with those offenders who commit the most crime in our local communities, because that’s the important thing about PPOs.

Q504 Elizabeth Truss: Would you be able to give me the figures both for the reoffence rate and for the prolific offenders as well?

Sonia Crozier: For the PPOs? Yes, I can do that.

Q505 Elizabeth Truss: The overall reoffence rate would also be interesting, even if it is flawed.

Sonia Crozier: Right. For the prolific and priority offenders, for the cohort in 2009/2010—because remember it is a two-year follow-up—would you like just Brighton and Hove?

Elizabeth Truss: Yes.

Sonia Crozier: Would you like the whole Trust? Brighton and Hove: in that cohort, we targeted 86 offenders for the PPO scheme. They had been responsible, in the year before they came into the PPO scheme, for 322 crimes locally. After a year of being on the PPO scheme, they had committed 169 crimes collectively, which demonstrated a 48% reduction in the amount of crimes they had committed. I can give you the same detail for the whole Trust, but does that give you sufficient—

Q506 Elizabeth Truss: How would that compare to the previous probation success rates? If you look at reoffence rates, it is not the case that everybody will reoffend, so what I am looking for is a comparison with the past, so how that has changed with the PPO scheme. What I would like to know is the headline rate of reoffending for all perpetrators, just to understand what the baseline is.

Sonia Crozier: Okay. The 322 was the baseline for that particular group, which dropped then to 169 in actual terms. In respect of NI 18, the national indicator—sorry, I have to look in my file.

Q507 Sir Alan Beith: If you subsequently discover that they would be more helpful to what you are saying, please pass them on to us.

Sonia Crozier: Yes. I can give you the NI 18 data, if that would be more helpful to submit that.

John Steele: If I can just comment on that, the PPO scheme is a small cohort that can be tracked, so we know very accurately what their performance was before they went on to the PPO scheme and we know what there is afterwards. They are a small cohort. An awful lot of the problems about measuring reoffending lie in actually knowing whether you are measuring the right things and the right people. With the cohort, you know what you are doing with a relatively small cohort, and you follow them through, so we know those figures are right. They are a lot more robust than the majority of reoffending statistics. But it works because it is a small cohort.

Sonia Crozier: In fact, the IOM schemes that have now been introduced have been developed on the success of the PPO scheme, so we have developed the criteria of the people that we bring into the IOM schemes but continue to use the same methodology to actually say, “Well, have we made a difference in terms of the amount of crime that these individuals commit?”

Q508 Elizabeth Truss: Thank you for that. I want to ask about your relationships with other partners. I am interested in prisons, first of all. Do you think there is more opportunity for collaboration with prisons to reduce that reoffending?

Sonia Crozier: The introduction of Integrated Offender Management and the greater freedoms we have now to make decisions ourselves about how we deploy resources have in fact built and developed the relationships with prisons. A very good example locally with HMP Lewes is that we are now targeting offenders sentenced to Lewes who are sentenced to less than 12 months, and as we know, they have one of the highest rates of reoffending post-release. With
the governor at HMP Lewes we have agreed a scheme of work whereby we interview those prisoners when they come into Lewes. They are supported while they are in prison in terms of signing up to voluntary contact with us on release, and for this year, I have also used part of my budget to fund two prison officers from HMP Lewes, whose job it is to engage with those prisoners when they come in on reception, and then to literally follow them through the gate on the day of release and to work with them as part of the Integrated Offender Management teams back in the locality. We know from other parts of the country that the direct involvement of the Prison Service in this form of management has had some very good results, so yes, the freedoms are there, and I have a very good relationship with our local prison.

**Q509 Elizabeth Truss:** In some of our other inquiries we’ve heard about the different cultures in the Probation Service and the Prison Service. Do you think there is more that prisons could be doing in this local area to help rehabilitate offenders? You talked about walking out of the gate, but from what you are saying, it doesn’t sound like there is a lot of integrated activity within the prison. Could we do more to merge the cultures of the Probation Service and the Prison Service so that the entire focus is on an integrated package to reduce reoffending?

**Sonia Crozier:** All I can say is that I have an exceptional relationship with the governors who run our local jails, so with HMP Lewes, HMP Highdown and the women’s prison in Bronzefield, and it’s through those relationships that we have agreed schemes of work and collaboration to support the process of rehabilitation. Another really good example—Leighe, I don’t know if you want to come in here to talk about the Preventing Offender Accommodation Loss project, which is a collaborative project between HMP Lewes and Brighton and Hove Council and us.

**Leighe Rogers:** Yes. I agree with Sonia here. We have an excellent relationship with our local prison, just to start. We have keys to go in and interview people on landings and in cells if we need to. We have a relationship where there are children and families going into Lewes Prison, where our staff and social services staff get involved with those parents and children. Those are good examples, but in terms of Integrated Offender Management, they also have a shadow or a matching IOM team in Lewes Prison, and that team includes, as you would expect, drug and alcohol workers, but also people coming from Brighton in terms of the Benefits Agency, and, as Sonia has just described, POAL, POAL, as we’ve said, is a partnership between the housing here in Brighton and East Sussex, ourselves, and the prison. The Health Service is also involved in that, as you may hear later from our colleagues in health, who also recognise the link to accommodation with people with drug and alcohol problems. What we all do is work together to ensure that tenancies, where possible, can be sustained, or if they need to be closed down then they need to be closed down. We have rent deposit monies there to get people into accommodation when they come out, and this is all very firmly supported by the governor of that prison. Looking slightly further afield, we also have a very good relationship with our women’s prison, which is Bronzefield Prison. Obviously it’s some distance from here, on the other side of the M25, and the governor of that prison comes down and sits on our reoffending board down here and also on our Inspire women’s project in Brighton. Yes, it is a journey we are all on in terms of seeing where that goes and how we can all make things better, but we are definitely on that journey and absolutely understand what we are all here to do in terms of reoffending.

**Q510 Elizabeth Truss:** Do you think it would be better if we moved to more of a system of place-based budgets, so you have more single-point accountability? What I am hearing about is a lot of different organisations, and sometimes it can be—although partnership can help—not necessarily the most efficient way of working and it can mean that you have different objectives from different organisations. What is your view of place-based budgeting and how that could help make offender management even more seamless?

**John Steele:** I think place-based budgets might have a role to play, and I think we have been involved—Sonia may have more on that—in Sussex’s experiment on that. I think we could get too tied up with trying to get process. I think what actually matters is that the people locally who have the funds and are accountable for deliveries get together and decide how to spend that money. Personally, I think the process by which you do it is less important. I think it is working very well in Brighton. Maybe there are things we could change, and maybe we will move to pooled budgets. Maybe we will decide them ourselves, but I think it’s much better to devolve locally to meet local needs than to have a one-size-fits-all approach.

**Sonia Crozier:** We have, in fact, through the Sussex Criminal Justice Board commissioned a one-year piece of research to understand our cost collectively around Integrated Offender Management, so all the services that are engaged in delivering services within the IOM framework will be assessed in terms of the cost of that and the outcome, and I think that will really inform us in terms of whether we are collectively spending our money in the best way and what is having the greatest impact in terms of the connectivity between the agencies working together.

**Q511 Elizabeth Truss:** May I ask one final question, which is about the provider/commissioner split? Is there an issue, when the Probation Trust is commissioning services and also providing services, that there is a conflict of interest there, and that essentially one will not necessarily want to appoint other people if that means a reduction of work for the Probation Trust itself?

**John Steele:** I don’t think there is a conflict of interest. Potentially, there is, but I don’t think there is in practice. We are commissioners and providers. We provide a service to NOMS against a contract and we commission service from others. We co-commission; we work across. It’s a complex environment. There is
one example where, in Surrey, we deliver the drug rehabilitation requirement on a contract from the DAAT, whereas, in the Sussex side, that is contracted out; it’s not part of our work. If we were to compete for that work in Surrey again, we wouldn’t take part in that commissioning. We would be competing to be a provider. We won’t sit both sides of the table at any one stage, and in relation as we move forward to the—It might help if I say that as a board we have agreed what we believe to be the core business, which is the assessment, the administration of the sentence, and delivering the interventions to high-risk offenders, but the rest of the services that we do to lower-risk offenders we have said is not our core business, and we will continue to look ourselves and with partners at better ways of delivering those services, so we may well go out of and commission some of the services that we currently provide ourselves, but we won’t sit on both sides of the fence. We will ensure that.

Q512 Jeremy Corbyn: Thank you for helping us with our inquiry. My questions concern Payment by Results and localism. My first point is: what is the quantum of money on which you determine which services to commission to reduce reoffending by existing offenders in the community, and have you encountered any difficulties in collecting evidence on the effectiveness of these complex partnerships and arrangements?

Sonia Crozier: I think the short answer to that is “yes”. It is a very complex picture in respect to when you bring the agencies together and who is having the most impact in terms of reducing reoffending. As I said earlier, one of the pieces of work that I’ve commissioned with the Sussex Criminal Justice Board is to better understand how all the different agencies together have an impact on reducing reoffending. The research, as I say, that we have commissioned will start to help us to unpick that, and when that information becomes available, I will certainly want to engage with NOMS about the kind of learning we have gained from that, because I think we are all on a journey around Payment by Results. Certainly, if you interview the key policy leads from NOMS, this is fairly groundbreaking stuff, so I think it is up to the Trust with their partner agencies, really, to take the initiative and to understand how we can build a Payment by Results framework to fulfill that Government agenda.

Q513 Jeremy Corbyn: Really for both yourself and the local authority, how do you measure the costs of reoffending in terms of your staff costs, local authority staff costs, possible social services, education and so on, and also the general effect on policing costs and the cost to the community as a whole? It is quite a complex area.

Sonia Crozier: It is very complex, and it’s for that reason that I, with the Sussex Criminal Justice Board, have commissioned a one-year piece of research from Sheffield Hallam University to create a costing framework around our local delivery models, because one doesn’t currently exist. There have been some place-based pilots around the country. We weren’t part of that, so we’ve taken the initiative. I’ve taken the initiative, with my senior colleagues, to understand that costing and what we’re actually achieving.

Q514 Jeremy Corbyn: When do you expect the report from Sheffield Hallam to be ready?

Sonia Crozier: It’s going to be published in January 2012.

Q515 Jeremy Corbyn: Could I ask the local authority what their views on this are?

Linda Beanlands: Sonia mentioned that we are on a journey with this, and clearly we are. Part of that journey is that we have carried out three intelligent commissioning pilots in the city, which are particularly relevant to Integrated Offender Management. One of those was on domestic violence, one on the harm that comes from alcohol misuse, and one on drug-related deaths. It’s a process that is very akin to establishing place-based budgets. Within that process, we made the first attempt for the first time to assess the cost impact of each of those activities or crime types. For domestic violence, for example, we estimate that the cost of domestic violence in this city was £132 million. It was incredibly difficult to estimate, but it was done as robustly as we could. We used something called a negative costing tool and another cost/benefit model, models that—

Q516 Jeremy Corbyn: Could you give us a general idea how you arrived at that figure?

Linda Beanlands: Forgive me, I can’t quite remember the breakdowns of the exact figures, but it was estimating the cost, for example, to probation services, to police, to the NHS, to children and family services, to adult social care, and also we added in a quality of life factor or indicator, and we do have individual costs for each of those components. That was on the basis of us estimating that something in the region of 25,000 women were estimated to potentially experience domestic violence in the city in any one year. They are estimates, but at this point where we are doing the business of working out how to apply those costing mechanisms, which is obviously a very important task, those are the estimates that we came up with. That was just a stage in a process, but a very important stage, because what it means is that we can then get around the table and talk about it: “If that is how much that is costing us, for example, what do we think about the potential for reinvesting so that we are actually preventing?” It makes the case very strongly, obviously, for being able to invest in early intervention and prevention services. That sort of modelling exercise and practicing doing that sort of exercise across the partnership as a whole is hugely important to moving to doing that sort of thing for Integrated Offender Management.

Q517 Jeremy Corbyn: What are the outcomes that you think would be appropriate for probation services to be paid by? Which outcomes would you measure before paying them?

Sonia Crozier: Obviously to reduce reoffending. The issue with a payment system around reduced reoffending is that you often need a time lag of up to two or three years to be able to say robustly that the
reduced reoffending was a direct consequence of this level of intervention, which could pose difficulties in terms of cash flows if you have to have that level of time lag around any Payment by Results system. While reduced reoffending, absolutely, I think sitting below that are your proxy measures, which could also feed into Payment by Results and wouldn’t require that length of time—so measures around compliance. When an order is imposed, do we ensure that it is rigorously enforced and the individual completes it? And to measure that against, potentially, a baseline, so are some probation trusts more successful, for example, in getting their offenders to comply with their sentences and receive the interventions that that sentence offers?

Standing aside from that, I think there were some other measures that I mentioned earlier around employment and accommodation. This does then start to pose an interesting question about who is actually responsible or accountable, because I think we have to accept that with some of the measures that I’ve mentioned, there has to be joint accountability because the Probation Service doesn’t do it all on its own. Accommodation would be a very obvious one. I don’t own houses and I’m not an accommodation provider, so if a Payment by Results system is introduced then the Probation Service, in a sense, would become part of a collective that either benefits or is punished if they don’t achieve those results, and that’s going to be quite an important mindset shift. I don’t know, John, if you want to add anything to that.

**John Steele:** I’d like to add one comment specifically about probation trusts and payment by results. This does then start to pose an interesting question about who is actually responsible or accountable, because I think we have to accept that with some of the measures that I’ve mentioned, there has to be joint accountability because the Probation Service doesn’t do it all on its own. Accommodation would be a very obvious one. I don’t own houses and I’m not an accommodation provider, so if a Payment by Results system is introduced then the Probation Service, in a sense, would become part of a collective that either benefits or is punished if they don’t achieve those results, and that’s going to be quite an important mindset shift. I don’t know, John, if you want to add anything to that.

**Linda Beanlands:** Do forgive me. Can you just define the local incentives scheme? I’m familiar with the LPSA framework where we received the reward for exceeding the targets on the Prolific and Priority Offender Project, but I’m not sure that is what you’re referring to.

**Q519 Jeremy Corbyn:** Local incentive pilots have not received any extra money, have they?

**Linda Beanlands:** No.

**Q520 Jeremy Corbyn:** Is this a problem?

**Linda Beanlands:** No.

**Q521 Jeremy Corbyn:** Do you think they should?

**Linda Beanlands:** Do forgive me; I’m struggling to answer the question because I’m not sure what the definition of the local incentives scheme is.

**Leighe Rogers:** I don’t think it is about more money, I think, is the first thing to say, because we all know the money isn’t there, so what we’re looking to do is build structures that are sustainable, that everybody takes responsibility for in terms of their different agency coming in, which is why I go back to the fact that everybody being responsible for reducing reoffending really helps us. Because other agencies have that as an outcome, for us that is a way into services. If they didn’t have it as an outcome, it would be much harder to persuade a commissioner from health or accommodation services to actually invest in offenders. They’re not always top of the tree in terms of people’s priorities. If we talk about what Linda was talking about in terms of domestic abuse, the view is that perhaps the victim, quite rightly, needs all that support and attention, but the perpetrator is a little bit further away than that.

If you’re asking us if we need more money, if that would help, it can help us in a seed way to start and grow things. That definitely can help. We’ve just been selected Sussex-wide as one of the pathfinders for the post-Bradley developments in terms of mental health and how we progress that in partnership with the police and health and others. That money coming in will help us, but we’re putting together a model that will be sustainable, that all those partners sign up to contribute to and is effective and efficient and delivers what we want it to deliver, so we’re not actually looking, other than as seed money, for pots of money to be sent towards any of us, because we recognise it’s not always the answer. In fact, it’s very rarely the answer. What is much more important is how people work together so that they understand what the outcomes are, whether they involve the end user, whether they inform the community and whether we are really working in a very effective and joined-up way. Going back to the earlier point about partnerships, I think the strength of partnership is the expertise and the knowledge that is brought from those different sectors, and I think that is the strength when it works to achieve those real outcomes. I actually think it is stronger, in a sense, than one agency out there trying to do it alone and perhaps getting lost in the local picture.
Q522 Jeremy Corbyn: Do you feel you get enough support or co-operation from, for example, local housing authorities and organisations like that? Obviously there is an impact on the likelihood of reoffending in that sort of area.

Leighe Rogers: The strength of probation, I would say, is that we are the voice of the offender and that we can go in—this is my job. I go in and talk to heads of supporting people, adult social care, about offenders and housing. You can have those conversations. We are having them as we speak in Brighton, and you’ve heard that with them we have the POAL project. We have temporary accommodation in Brighton’s city centre for people coming out of prison. We have accommodation for more serious offenders to move into. I suppose what I’m describing is that yes, it can work. In East Sussex, we’re about to co-commission with small amounts of money—not huge amounts of money—services for high-risk offenders and more troublesome offenders, if you like, who would not be dealt with by way of floating support or housing support. We both have small amounts of money. We’ve done our surveys and we can’t wait to see how this develops, not just necessarily by buying property and putting people in it with a 24-hour cover. That is not always the best way of doing things. I suppose what I am saying to you is that the conversations are going on. We’re looking to do things in different ways by involving service users and other partners and trying to achieve the ends we need in quite different ways. My experience—and I think my fellow directors would say it—is very positive in terms of other agencies, both voluntary and public sector, in being engaged in that task, and I do think, centrally, it has helped us that Government departments are doing that as well. The Government department initiatives in doing that have been really helpful.

Q523 Ben Gummer: Just to flesh out the answer a little in how it relates to PbR, one of the things that are troubling us on this Committee is the relationship between PbR when you have many PbR contracts going on at the same time. For an offender, there might be a lot of money being spent on PbR contracts. There may well be in the future mental health PbR contracts attached to them, certainly a welfare to work contract. Who gains at the end of this? Who makes the profit or sustains the loss, and do you think it is possible for a probation trust to bring these contracts together so you have an holistic approach to an offender?

Sonia Crozier: I agree we would be locally in a very good position to take that role on, partly because obviously we supervise the offender from end to end in terms of the different types of sentences and orders. Absolutely, we would be very key to that. I think your concern is right in terms of who should benefit, because, as I mentioned earlier, if you had a PbR scheme that focused on accommodation, for example, or getting someone into employment, there are probably going to be a range of different agencies that would have contributed to that, so the way that I would see PbR developing is to probably have a coalition of providers who would all benefit because of the complexity of the problems you’re trying to solve rather than, say, a single agency. If you reflect back on the way that the PPO schemes were introduced under the local area agreements, they were very much modelled on that kind of approach. You had the different agencies coming together, and if we were able to demonstrate reduced reoffending around PPOs, there was, at that time, a reward scheme, and everyone benefited from the reward that was gained.

Q524 Ben Gummer: Leading on from that, this is being introduced at a time of considerable savings in public expenditure. Can we deal with that first of all? There are well-publicised concerns about probation trusts and about their capacity to deal with an increase in non-custodial sentences, let alone their current workload, while budgets are being trimmed. Could you comment on that specifically?

Sonia Crozier: In terms of our workload and capacity?

Ben Gummer: Yes.

Sonia Crozier: We have been very successful actually locally in reducing our workload. Last year, we reduced the occurrence of community orders imposed by our local courts by 8%, and we continue to bear down on demand, in an appropriate way though, because the approach that we’ve taken with our local sentencers is to say to them that there may be occasions where other disposals are more appropriate for the lower-end offender than a community order. For example, we’ve introduced two senior adult attendance centres into Surrey and Sussex to scoop up those younger adult offenders where a brief intervention may be more appropriate. We’ve also been encouraging our staff to think more creatively about the use of curfews as a disposal that the magistrates again may want to impose for that lower-end group, so we’re not just sitting here as a victim of demand. We’re being very active in terms of thinking about how we can work with our magistrates to manage that at a time of shrinking resource, which has then enabled us, with the precious resources we have, to target those in the upper-end offender population to get the best outcomes.

Q525 Ben Gummer: Do you feel that the cuts are impacting upon private, not-for-profit and voluntary organisations? I suppose this is a question also for local authorities. Or have you been able to sustain those partnerships and relationships while managing demand as you’ve just been describing?

Sonia Crozier: We have seen a decrease in the funding that we have received from other agencies, but as I say, because of our own internal demand management programme, that hasn’t at this stage had a dramatic impact on the services that we are providing, but perhaps I might, as you suggest, hand this over to Linda.

Linda Beanlands: I think the important issue here is that a true test of the partnership is at times when savings or cuts have to be made, and I think what we have seen in recent months when the local authority and all its partners have had to sustain cuts is a real commitment to taking on each others’ issues, to taking on shared priorities. In fact, if we just look at the
John Steele: I’m sorry if I wasn’t clear. It goes back many years. Could you flesh that out a bit? We didn’t quite get the interesting allusion earlier to the fact that you would perhaps rather have fewer well-qualified professionals than many. Could you flesh that out a bit? We didn’t quite pick up what you were trying to say.

John Steele: I’m sorry if I wasn’t clear. It goes back to this question of cuts. I think it’s important to realise that the Probation Service was told, I think, in 2008 that it faced a series of years of cuts, and when we had to apply for our application to show how we would deal with significantly reduced budgets, and it’s fair to say that this year, 201–12’s budget for Surrey and Sussex is about the same as the worst-case scenario we were planning for. We had three years to do that planning, so in that time we have had a strategy for ensuring, as Sonia says, that resource follows risk, so we invest in the high-risk offenders and we disinvest in the lower-risk offenders.

We have also increased in that time the number of probation officers and reduced the number of probation service officers, because what we are saying to ourselves is that if we want to concentrate on the higher risk, we need the fully professional probation officers. These things all link together with things like caseloads. Again, caseloads are an emotive issue. I know others have mentioned caseloads to you in their evidence. I think caseloads are a bit higher than we would like them to be, but at the same time, with the Professional Judgement Project and the new standards, what we are saying is that professional probation officers, using their discretion, using their resource of themselves and their fellow resources, to make the most impact, is the sort of service that I think we will deliver well. That is what I meant about having fewer, if necessary, highly qualified people, because it is the highly qualified people that we need in order to deal with the higher-risk. We also need these sorts of people to have the discussions with the local authorities and the other partners, because they are professionals too. It is a joint meeting of professionals. Does that help?

Q527 Ben Gummer: Very much so. Thank you very much. Finally, you in your trust have similar characteristics to my own in Suffolk and Norfolk. We have a large rural population with some significant urban centres. Could you please describe to the Committee how you manage those contrasting populations, and also, within the context of the cuts, how you deal with specific issues around minority groups and the impact of savings on that?

John Steele: Can I ask Sonia to answer that first? That last bit isn’t an operational issue.

Sonia Crozier: In terms of how we manage the metropolitan and the rural, I think again this is where your partnerships come in, because in your rural areas where you have your community safety partnerships, you’ll be looking to those partners to see how they can work together to meet that need, in contrast to the kind of negotiations that Leighe will be having in a metropolitan area like Brighton and Hove. Remember, other services in rural areas have also had to adapt, so you share that learning about how, for example, people can be given access into services where they may have difficulty in travelling, or how you perhaps share your buildings in more rural areas so that you’re not requiring people to travel long distances into the towns. It’s about using that local knowledge and information through the CSP framework.

In terms of the requirements and diverse needs of the population, that’s where our regular reviews of our caseloads and the indicators about how many women we have to put in our community safety partnership pooled budget, which is how we have to find a cut in the overall services that we have to make in order to show how we would deal with significantly reduced budgets, and it’s fair to say that this year, 201–12’s budget for Surrey and Sussex is about the same as the worst-case scenario we were planning for. We had three years to do that planning, so in that time we have had a strategy for ensuring, as Sonia says, that resource follows risk, so we invest in the high-risk offenders and we disinvest in the lower-risk offenders.

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Q528 Chris Evans: In our evidence sessions, there seems to be a real problem with public trust in information services. What has your probation trust done to improve public confidence, and can you give us some specific examples of what has worked and also what has not worked, in your view?
**Sonia Crozier:** One of the key initiatives for building public knowledge and confidence in what we do is that we have for some time now been delivering the Local Crime and Community Safety Scheme, which is known as LCCS—

**Sir Alan Beith:** And then you have problems with the acronyms as well.

**Sonia Crozier:** Yes. Even I forget them sometimes. The LCCS, put very simply, is a Ministry of Justice scheme whereby there is a training package that probation officers and magistrates are given access to. Magistrates and probation officers then go out to community groups and together they deliver this programme to educate people about sentencing and what sentencing actually means. We know from our experience of delivering this for some time in West Sussex that it’s been really well received, so that with the agreement of Her Majesty’s Courts Service locally, we’re now extending it across the Trust. What works is that kind of reaching out and giving people direct access to us.

In terms of what doesn’t work, I’m not sure. I think what doesn’t work is simply being passive about the whole process. I think it is a case of saying, “Well, actually, you have to get out there and engage with your communities and your public”. I do think, with the introduction of the community safety partnerships now, there may be more of an opportunity to do that, because talking about probation on its own often doesn’t make sense when you disconnect it from the other partnerships that we work with. So I think that engagement strategies with our local CSPs will be a very positive platform going forward.

**Leigha Rogers:** And we’ve done that in Brighton. If you’d have come probably about 12 months ago, we had a big billboard campaign going on that showed just how many people in the city were involved in community safety in a very real way for residents here to see, and obviously that involved probation. Leigha may want to say a bit more about that.

**Linda Beanlands:** I do think this is one of those areas where there is a shared responsibility, and it is the job of the community safety partnership to profile and to take out the work of all its partners right into the community, and we have many ways in which the local authority is well placed to do that. For example, we have a network of about 40 local action teams that represent all the neighbourhoods in the city. They are led by community members, and we make sure in solving particular community safety or crime problems, that we bring in our partners and that those community members are able to work with us in terms of developing solutions, and that the role of individual partners, whether it is the police, probation or the Courts Service, is clearly articulated and understood. Obviously we are moving to things like community resolution. Restorative justice is part of that, also. We can talk about that more, if you would like to.

**Q529 Chris Evans:** Perhaps I am being a bit naive here, but what actually do you do to reach out to the community? How would you engage a community? How does that process begin, if you see what I mean? Obviously you speak to the community, but how do you start the process? I think you’re allowed collaborate.

**Sonia Crozier:** One of the methods that is very well established is the delivery of community payback, unpaid work, in the sense that my staff who currently work around that sentence of the court have very good community networks in terms of getting local groups to nominate work, and we do now have to keep a record of how many projects our local communities have said, “We’d like you to clean that park up” or “We’d like those alleyways cleared”. That is a very obvious way in which we connect with the community, and as I say, there are some very well-worn routes by which we do that. That is not to say we couldn’t get better in terms of publicising that, but a really nice example here locally is that every year in the summer, we are responsible for painting all the railings along the seafront, so you have the gangs of offenders out there with their orange bibs on doing that work, and it is very public, and people come up and they know they’re doing, and that is great.

**Q530 Chris Evans:** That leads us on to the breach. What is the breach in the community orders that occur? The Government has been hugely critical of the breach in our community orders. Is that a specific problem in Sussex?

**Sonia Crozier:** We have a target for the successful completion of orders and licences, which is 75%, and we have consistently achieved our target over many years. You might then come back at me and say, “25% don’t complete”. That, for me, is the challenge going forward. It is about pushing that boundary. The highest at the moment in the country, the best-performing probation trust, I think, is sitting at 80% in terms of compliance with orders and licences, which again means 20% don’t complete as they should.

**Q531 Chris Evans:** That is a concern, 25%. You have a target of only 75%. That is very concerning. What do you think the reasons are for the breach? Is it, as we have heard in the past, sentencers put in community orders too high and too hard to the point that you have offenders saying, “I’m not bothered. It’s too hard; I can’t complete it”? Is there any evidence you can give of that, or examples?

**Sonia Crozier:** I think it is a combination of things. At the heart of all of this, the reason that people are offenders is because they don’t follow rules and they don’t always comply, so there’s that challenge of working with this really difficult group. Let’s not forget that by the time they’ve got to the Probation Service, they have often been failures in every other Government organisation. They have failed at school; they haven’t engaged in health; whatever. Let’s not ever forget the difficulties of the group that we are working with. That being said, the reason for that 25% could in part be due to the effectiveness of sentence targeting, so there is always a very important job for a probation trust to work with their sentencers so that the magistrates or judges at the point of sentence are putting the right person into the right set of interventions.
The other rationale for why people perhaps have failed in that group comes back in part to some of the nationally imposed targets, so when probation trusts and the Prison Service were being shoe-horned into delivering X of Y, then your attention is achieving Y rather than perhaps “Is that the best programme or provision for that individual?” So that may well have contributed to the 25%. Actually, the freedoms that we have now been given in allowing us to have more say in terms of the interventions, I would hope, over time will also improve that compliance rate. Again, also thinking about the Professional Judgement Project, in the past we were very tied in to this very rule-based approach: “This offender has to be seen: ABC”. Now we can say, “Actually, what is the best bit in terms of the supervision?” The Professional Judgement Project and the freedoms of new national standards have also given us an operating model in which to perhaps incentivise offenders more. We could say to people, “If you do this, if you really show me proper change, I can reduce some of the contact that sits around you or some of the prohibitions”, so that is important as well in terms of strengthening that carrot and stick.

Q532 Chris Evans: My sister works in Probation Services. She says that really the problem comes down to what I think you’re touching on: the lack of a personalised service. Two weeks ago I was talking to someone who was a methadone dispenser, and his observation was that drug and alcohol addicts went around and around the criminal justice system, and they would go in to him for detox and then they would disappear, and he wouldn’t see them again until they came back into the criminal justice system. Do you think that there is not enough recognition within the criminal justice system that many of these offenders are living very chaotic lives and that they do not have any fixed point in their life, and that is why there seems to be a lot of breach and a lot of reoffending?

Sonia Crozier: I think the very rigid and rule-based approach to some degree did create the environment you have described. That is not to say there were not probation officers who despite that rigidity were operating to a very high degree of professionalism and giving it everything they could, but I do think there is now, as you say, the opportunity to have a more personalised and more intelligent decision-making process about what is going to best fit that offender. Actually, one of the findings from the project that we have been running is that probation officers will say, through the surveys that we have been running in Surrey and Sussex, they feel that they are more in control and that they are now doing the job they feel they came in to do; not just inputting data into computers but actually spending that face-to-face time with offenders, which is what we are here to do. I think we do also recognise that business about chaos around offenders, and one of the big initiatives we are certainly driving forward is to increase the number of volunteers and peer mentors that work with our offender population, because a probation officer cannot be and should not be with someone every day of the week unless it is in very exceptional circumstances. It is about getting the community to take more responsibility for these individuals who live in their midst, and bringing in more volunteers is a very useful way of doing that. We have a project locally that we run with the Prince’s Trust where we have current offenders acting as peer mentors to offenders on supervision, and that has gone down exceptionally well in terms of providing that additional level of support and, as I say, involving people in the community in the process of rehabilitation.

Sir Alan Beith: Thank you. We are going to need to move on. Can I thank the witnesses very much indeed for the very great help they have given us this morning and invite the other team of witnesses to come and join us?

Examination of Witnesses


Q533 Chairman: I welcome Chief Superintendent Bartlett, Divisional Commander of Brighton and Hove Division; Miss Dando, who is the Director of Brighton Women’s Centre; Mr Mahoney, who is the Substance Misuse Commissioner for the Hastings and Rother Primary Care Trust; and Claire Brown, who is a Magistrate and indeed, Chair of the Sussex Central Bench. We are very grateful to you. We are going to have to move a little bit more briskly because our witnesses had so much to tell us; we’re going over rather the same ground, which I hope to hear from your perspective. Please resume your seat.

Q534 Jeremy Corbyn: What do you regard as the probation service’s greatest strengths and what do you see as its big shortcomings? Anybody?
for men that’s been going on for a number of years now, leading right up to Integrated Offender Management and some of the work we’re doing around coordinating our services, collocating our services with probation around the multiagency public protection arrangements.

Q535 Jeremy Corbyn: On an entirely practical level, if you, as a police service, arrest somebody for an offence and you presumably fairly quickly discover they are on probation for something else, how quickly do you and can you involve the probation service, or do you just proceed with arrest, charge, prosecution in the normal way?

Graham Bartlett: We have four officers in three and a half posts working within the probation service on the Integrated Offender Management project and they have full access to all of our systems within the probation office, so we have that direct and systemised link in there. So we can either do it directly with the probation officers ourselves, or more often, we will do it through our own embedded officers.

Q536 Jeremy Corbyn: And do you, or any of you really, what do you feel about the understanding of what an offender management programme means, because it’s a word that is very quickly bandied around and I suspect different agencies have their own interpretation of what it means? How do you see it— any of you or all of you?

Graham Bartlett: I’m happy to give my interpretation. I don’t think we’re in a position where we do it through our own embedded officers.

Claire Brown: I think as far as the courts are concerned that our main link is with probation and the probation to be able to see some of these options that are available to the courts. So, I would say, is the way that we link up in knowing what is out there to hopefully address some of the problems of the people we see in court.

Jason Mahoney: For substance misusers in East Sussex where I’m a commissioner. I’d say the clearest links are through Integrated Offender Management arrangements, so we have very close working between the substance misuse services and the probation offices there, which enables offenders who are misusing substances, who will benefit from treatment to get access to that treatment very quickly and people who stop and go out of treatment and go back into offending, are able to be brought back into the Integrated Offender Management arrangements and then back into treatment or into contact with the police quicker than they would otherwise have done. They are also linked out of prison as well, very effectively with the Integrated Offender Management particularly for substance misusers who tend to get short sentences and wouldn’t necessarily get a statutory provision and then Integrated Offender Managements are brought into the arrangements and they get that kind of level of supervision. So they get picked up and brought back to treatment quite quickly.

Q537 Jeremy Corbyn: Lastly from me, do you think that the existing systems of risk management are sufficiently robust or do they need to be strengthened in some way? I would be interested, for example, if on the bench you feel they work effectively and do you feel the need sometimes to give advice on this, or do you just take it from the probation service and then make your judgements on that basis?

Claire Brown: Initially, having looked at—we do it based on a report from probation and that report is following the bench giving their views of what they think will be the right options for the person that we are dealing with based on the background of the individual and also the offence that’s been committed. We then rely on probation to feed back a report to us, but it is still the bench’s final say as to what they are going to give as a sentence and we, through the Probation Liaison Committee, have these very good links with the probation service and, as I say, have regular meetings with them. They come to bench-wide meetings, so it’s not just a small committee, but also when we have those opportunities, they often bring along some of the other agencies or partners to be able to explain in further depth what some of these options will be because as new ones get introduced, rightly we need to have a bit more information to know what it is we are sentencing that person to do.

Q538 Jeremy Corbyn: Any other views on this question?

Lisa Dando: Other views on risk management specifically? Again from a women-specific point of view, I think that risk management does need to
taken very seriously and I think, as another panel member has already said, accord is really important—that those pre-sentence reports do involve consultation with a specialist worker so that risk can be addressed and particularly for women who have experienced domestic violence that that is considered in terms of sentencing and the type of provision that is put into place for that woman. Sometimes I think that with high risk offenders, it can be quite difficult if they are given a referral to a particular project for a community order; the risk can be great. There needs to be, I think, an opportunity for professionals to discuss how that risk is going to be shared and who takes ultimate responsibility for it. Again, I think that’s something that probation does do very well. We feel quite strongly that they hold the risk of offenders and if there is an issue, we can liaise with them very easily to ensure that the right sort of framework is put around that offender. They have very good links with safeguarding panels and boards; we benefit from that. Sometimes I think there’s an interesting development, going back to what was being said earlier on about the journey, in terms of the culture between the public sector and the criminal justice system, there is a different culture around issues but on safeguarding, thresholds can be quite different around that and I think some of the challenges, but also some of the benefits of working in partnership, is that there’s that shared expertise, that shared knowledge that there needs to be an acknowledgement that these cultures do exist and we have some way to go to ensure that pathway through that is quite smooth.

**Graham Bartlett:** I’d agree with Lisa about the culture. I think we have a fantastic opportunity with the police and reoffending board and we have a truly multiagency governance body around Integrated Offender Management and other areas and I think we are now moving into a time where we can afford to trust each other more in terms of information sharing and in terms of commissioning. We have a hugely vibrant community voluntary sector in Brighton and Hove with a wealth of experience around delivering services to some quite vulnerable and challenging people and we need to capitalise on that and in terms of working together, what underpins that is information sharing and I think we need to explore as far as we can go in terms of providing the right information at the right time to the right people.

The second point also is having a common language. You know, what do we mean by risk? Are we all talking about the same thing when we’re saying a particular individual or a particular group are high risk, because practice has shown, certainly in my experience, that’s not always the case and we’re talking different languages.

**Q539 Elizabeth Truss:** Thank you. I am interested in understanding the impacts this partnership working is having on the ground. So amongst the pool of offenders and potential offenders, do you notice a change in the way that they view what they have done, the probation service? Is there a change in outcome in terms of reoffending rates as far as you can see?

**Graham Bartlett:** We have some real benefits in Brighton and Hove because most of the agencies work in coterminous ways, so it’s really useful to be able to build up those relationships and certainly in relation to the prolific and priority offender offending rates that other people spoke about earlier on, the 48% reduction in offending is the highest in the trust area and I think that’s testament to the way in which the partnership on the ground works. We’ve had police officers working within probation for at least six years to my knowledge on the PPO scheme, so a real joined up approach in terms of intervening and supervising within the higher risk offenders. We’ve run an operation around the drugs market in Brighton and Hove, which we do with the voluntary sector, with the council and with probation that’s had a huge impact on the drugs market in terms of getting people off drugs and into treatment and also dealing with the offenders. I put that as a real driver towards why Brighton and Hove doesn’t have a violent drugs culture. I think the partnership within Brighton and Hove has generated such a reputation within the higher-offending drug-addicted people who either live or visit here, that drugs markets have never been able to really cast their roots down. We have a high drugs death rate; we don’t have a drugs culture—sadly, a gang culture around drugs. We don’t have a violent drugs market down here and I think that’s because we have this twin track strategy that gives the drug-addicted criminals the opportunity to go into bespoke treatment places, so getting them off drugs and into a life drug-free. At the same time, we run a rolling programme of targeting drug dealers, so we don’t allow the drugs market to settle. Our drugs death problem is recognised across the city and indeed nationally and it’s one of our intelligent commissioning pilots looking at how we can reduce the drugs deaths in Brighton and Hove. In terms of the drugs market in a city like Brighton and Hove, we’ve managed to prevent the roots being laid down.

**Q541 Elizabeth Truss:** Can I ask about the reaction of offenders to the way that things are being done now and how the attitude of offenders or potential reoffenders has changed? I am also interested to hear about women offenders in particular. You mentioned...
in your answer about how they have different characteristics or are best dealt with in different ways; I would just like to understand a bit more about how that is and also how women offenders have reacted to the new partnership working style.

Graham Bartlett: Certainly. The offenders that we deal with have a generally good compliance rate; 96% of our prolific and priority offenders who are deemed to have a need are in treatment and are engaging with treatment, so I think that’s a very good indication that there is a driver there. We heard about a 75% completion rate on orders and I think that’s another story, but because of the dedicated officers and staff from probation and other agencies that we have working, there’s a relationship that’s built up between them and the offenders and it’s by no way a cosy relationship. One could argue it’s almost a carrot and stick relationship—there is an opportunity for people to comply, there’s an opportunity for people to seek the interventions that they need to move them off a criminal lifestyle, but the consequences of not having that are that the police often have powers. Now, with an Integrated Offender Management, these are non-statutory powers. So I think it’s important that we do know anecdotally from talking to the women offenders, I think we can acknowledge that there is a driver there. We heard about a 75% recall or order breach, but if the people are aware that the police know who they are and know what their drivers are to commit crime, then it gives them the knowledge that we’re in a position to do something about it should they not be willing to engage with other agencies. The preferred option is to win over their willingness and we have a tremendous success around that, but some people just don’t take the message and need to be dealt with in more conventional ways.

Lisa Dando: In terms of the specific needs of women offenders, I think we can acknowledge that traditionally there are seven pathways of offending and with women, as a result of the Corston Recommendations, that was expanded to nine pathways to include domestic violence, sexual violence and also sex work and to take into account the impact on intergenerational crime, which I think is something that we take very seriously. There’s a reason why specific types of support need to be put in place for women because of the exploitation from women committing crime and how that then translates across their families. So although the Inspire Project locally has only been operational for a year and we haven’t come up with any sort of statistics or figures around a reduction in reoffending, we’re working very closely with our probation colleagues to identify that and put appropriate monitoring and evidence-based frameworks in place to gather that information. What we do know anecdotally from talking to the women that come to the project is that they don’t reoffend as a result of the support that they get. They feel that with the intensive casework support where assessments are made right at the initial point of contact, and a support plan is worked up at that moment and then reviewed periodically, their needs are attended to in terms of their priority and how important it is to address the initial needs such as accommodation and finance problems and then going on to the more long-term underlying needs around mental health and, in a lot of cases, domestic violence and substance misuse. So by putting that intensive support in place and really building a trusting relationship between the worker and the woman offender, she then goes on to feel that she is supported, she can address the reasons for why she’s been led to that place of offending, so there’s a different approach being taken locally and nationally as a result of the Corston Recommendations, which seems to be working very well. Some of the national projects have had evaluations done and their success rate of reducing reoffending has been stated.

Q542 Elizabeth Truss: I can understand the logic behind this intensive focus on what works, but does that impact on justice being seen to be done, so things that might work may not, in the eyes of the victim or the wider community, necessarily be the right approach? Do you think there is a conflict?

Claire Brown: Sorry; do you mean with the sentences that are given out?

Q543 Elizabeth Truss: Efficacious versus those that the public would want to see.

Claire Brown: I think the main result, particularly from the drug perspective, is that we have a designated court that deals with the drug rehabilitation side and we review these people each month and I think there are some very good messages that go out from that. Again, how much that’s publicised depends on the focus of the court but our attitude is very much that when they come back on a monthly basis, there is a thorough challenge of the report that’s before us to see how the person is doing and also just looking into, I suppose, projecting if they’re likely to be coming back through the system again. Predominantly the problems are lack of accommodation; when they get themselves clear, where do they go to then stay away from the people that will influence them to go back into it?

Q544 Chairman: Is there public awareness that this is going on and, therefore, a degree of approval of the way that the courts are handling it because of that awareness?

Claire Brown: I think it’s becoming more known that the court is following up where there are the drug problems. As you say, how much Joe Public will know about the interventions of the courts post-sentence, that will be something very much to promote because it is a monthly review where the people have to come back and explain themselves. It is getting it out to the wider audience.

Jason Mahoney: I imagine what people would like to see is fewer offences and certainly in terms of the partnership working between treatment services and the provision of drug treatment providers, that partnership means we can really shape services around what people’s needs are, so there are issues about housing, there are issues about employment beyond the psychological or treatment interventions that people might need to manage their drug misuse problems. One of the things Mr Evans mentioned earlier on was the expense of seeing people coming back through the system and certainly I think, I’ve been involved in this, I’ve worked for many years...
now, there are many people that do come round the system, but increasingly fewer. The police are seeing increasingly fewer people staying in treatment, going to prison, coming back out into the community. We are seeing a large increase of people for whom treatment is working, who are leaving treatments in a planned way, having resolved their housing and employment issues and having received the kind of support they need. That partnership between probation and other providers is absolutely critical to making that happen and to help shape the services in the way that is appropriate and help to bring people into treatment as soon as possible in their own drug-using career, if you like.

Q545 Ben Gummer: Can I return to Payments by Results, please? Can I ask, first of all, Miss Brown, about sentencing? I think it’s often where to look is really your first part of the commissioning journey and I wonder, if we have managed to get to a stage where Payment by Results is fully integrated into rehabilitation, if you can see what role magistrates might play in that first commissioning instance in deciding what kind of punishment, what kind of rehabilitation will be meted out to offenders.

Claire Brown: I think the main role for us is looking into the—the person comes before us. They either admit or are found guilty of the offence, which is the one that we are looking at. We then, if it is a community penalty, decide what we think is the right direction that we want probation to look at. It doesn’t totally eliminate. It might eliminate that we don’t think custody is the right option and that it is a community base, but then we are interested in what probation have to say to us but I think one of the factors that we need to keep in mind is how long we’re anticipating the sentence needs to be to be realistic for the different aspects, the different activities that we’re going to impose because there is no point in trying to achieve something if the timescale isn’t right. So I think from that, it’s very important that we take into account the recommendations of probation so long as it’s targeting the aspects that we feel the person needs to be addressing.

Q546 Ben Gummer: Is it not a common problem for probation officers that introducing a pre-sentence report quickly and with little knowledge of an offender, and a first offence especially, then after six months, they realise there is a whole host of other problems that are influencing their offending behaviour? In a good PbR contract, they will be able to adapt what they do to be able to make sure that they achieve the outcome that is required, and that might be different from the sentence that was passed on the back of a pre-sentence report. I wonder whether that means that magistrates are being left with far more open sentencing, and far more discretion is given to providers. There might be a tension, therefore, between public protection, or at least the public expectations of public protection, and the outcomes after the end of the sentence.

Claire Brown: If it is a fairly minor offence and the person does not have a lot of previous, then it’s quite likely that we have a fast-track report, which could be oral, and, as you say, it is a quick turnaround; otherwise if we’re asking for a pre-sentence report, there is a timescale that allows those interviews to take place and for probation to assess which are the best options to take. So I feel that, at the moment, those are the right ways of doing it because the other thing that the magistrates don’t necessarily know is all the options that are available and we’re seeking guidance from people with that knowledge to give us a guide as to which direction we should be aiming the sentence.

Q547 Ben Gummer: Thank you very much. May I put the question that was put earlier to the previous panel about integration of Payment by Results? For instance, this money, you may well be overseeing in one guise or another of Payment by Results along with healthcare, drug rehabilitation, and possibly mental health. I would ask, Miss Dando, whether your organisation might be involved in a similar model all of which would come out of the same pot, or maybe different pots. How do you see that relationship progressing and is it one that you’re looking forward to or slightly sceptical of?

Jason Mahoney: I’m not sure that I’m looking forward to it. There are, I think, six pilots nationally; Payment by Results, Drug Recovery pilots and it’ll be interesting to see how those work out and what ways people find of resolving those kinds of challenges and concerns. When I think about it, it’s very clear that it’s going to be very difficult to ascribe improvements in a person’s social environment, housing, employment; all of which will impact upon their recovery and to disaggregate those and apportion particular improvements to one organisation or another and we’re often talking about organisations that are working very clearly in partnership. I don’t have a clear idea in my mind how that will work. I think very clearly we can talk about Payment by Results or we can talk about an area, which improves a person’s outcomes by having organisations that work jointly together, but I don’t think it’s possible to separate them all out in the way that it’s being talked about.

Lisa Dando: Yes, I understand that the women’s community projects nationally have called for an opportunity to run a pilot as part of the Green Paper’s discussion around Payment by Results. I think it would be quite an interesting pilot to analyse. I think a lot of the anxieties have already come out this morning about what that might look like. I think there will be a diverse understanding of what results mean in terms of different providers and what outcomes we want for offenders in terms of reducing reoffending, but in relation to women, it’s about ensuring that their needs are being attended to and that offending is being reduced by leaving the way clear that you’re supporting a woman back into rehabilitation into her community. I think those decisions around what we mean by results are going to be quite a challenge. Also there’s something about how does the Payment by Results work in terms of who receives that payment? If we’re being asked to work in a way that is clearly much more successful in terms of rehabilitating...
offenders, which is about working in a partnership way with our colleagues in the police service and probation and the council, at what stage, which intervention is being paid for? Is there going to be a shared payment across the partnership or is there something very specific about the type of intervention that is then paid as a result of working and what does that result mean? So I think, as people have been saying, it’s quite a complicated process and one that is at the very beginning stages.

Q548 Ben Gummer: May I ask one final question of Chief Superintendent Bartlett about results? We heard some interesting evidence yesterday from Martin Narey, who is the former Director General of NOMS, who said more or less that recidivism and reoffending rates, as currently mentioned, were pretty meaningless, and using a collection of proxies to explain whether someone has been reformed or rehabilitated was far more suitable. How do you feel in terms of public confidence? What is the best way of explaining to the public that someone’s reoffending or offending behaviour has come to an end and they are changed?

Graham Bartlett: I think there are risks in wedding oneself to the reoffending rate because there’s a very simple way of manipulating that and that’s just not arresting a person and not bringing them before the court, which is not something that we want to do for people that are offending. I share the other comments about there often being a basket of indicators that will help determine whether or not a person’s life has changed around, based around the seven pathways. For me, the most prominent ones would be around dealing with their substance misuse issues, being in stable employment, stable housing; those sorts of things coupled with any known offending that we, as a police service, are required to be picking up. I think it’s very difficult to use one particular measure and say that’s a success because I think that there are a range of complexities that mean that one or other of those measures can be skewed in different ways. I think it’s a very complex area and I think we need to be careful not to simplify it by saying, “Well, actually, if we sort this bit out, then that’s then on a crime-free life.” I think we need to take a better look across all of the seven pathways plus the two that Lisa’s talked about in how they are doing in relation to those. Now, that might not be easy to measure but it doesn’t mean that we shouldn’t do the work because that will give us the whole picture rather than just picking off something that’s convenient to measure at that particular time.

Q549 Chris Evans: I want to focus on the capacity issue. We heard earlier about living in the context of CPSs. How could the partnership approaches, particularly in terms of offences—I am thinking now of women, I am thinking of young adults—can be improved in the current climate? Or can they be improved in the current climate, I should say?

Lisa Dando: I think again, as we’ve already heard this morning, the partnership working has been embedded very well locally and there is an acknowledgement of the wealth of skills and experience of different providers in the city and I think a lot of work is done to ensure that people take responsibility for a particular piece of work that they deliver on. So, going back to what we were hearing earlier on about sentencing, Inspire is given responsibility for an order and is accountable for that offender during the period of time she’s with the project and the delivery of that order. When you’re given that amount of freedom and that amount of responsibility and you’re accountable, it reduces the issues around duplication and repetition of work, which I think can often be the case, particularly in a culture where we see a lot of silo mentality, of things being commissioned very separately. I think part of what’s happening locally, and has been for a while, especially more recently with the development of intelligent commissioning, is that bodies, agencies are being brought together, and especially under IOM, to look at how that shared delivery and shared responsibility will work. It is, as we’ve heard again, a journey, but I think it’s something that has been working very well locally for a while. I think if we can really get joint commissioning, intelligent commissioning, embedded in, for example, in terms of women, we’re looking at the issues around domestic violence, mental health, issues with caring for their families. The women that we’re working with have multiple complex needs. The ways in which we work with them have to be dealt with in a very holistic, integrated way and that means we work in partnership with other agencies. We have to work in partnership with housing services, with mental health providers and substance misuse providers. It’s something that is integral to the way in which we need to be addressing these issues that are leading to people’s offending.

Jason Mahoney: I think when partnerships are working really well, it’s often about going further, doing more for less and about getting more out of working jointly than any individual organisation could by themselves. So things that really support strong partnership, having a real understanding of what you’re striving towards achieving together and working jointly around that with a common aim, with a common purpose. So I would say that in the context of CPSs, that’s an environment in which partnerships would expect to flourish rather than having adverse impact. I think one of the things that we have locally is very strong partnerships that then help to kind of protect and work towards achieving shared aims, shared outcomes—as long as people remain focused on what they can do jointly together and that seems to work well.

Claire Brown: I think the only thing I would add to that is that the courts and magistrates need to be robust that when any of these sentences are imposed and not completed and breached and brought back to court, we need to listen very carefully to the reasons why that has happened and decide, with some of the information that we’re given at that time, whether the services, probation who are particularly in front of us giving us the report are saying that it is still something that is worth pursuing or whether we need to rethink about the sentence, which almost comes back to what we were saying earlier, that we still have the right to revisit it at some point if it hasn’t worked.
Q550 Chris Evans: What I’m interested in with the Government’s desire to move away from short sentences is do you think locally the partnerships have the capacity to deal with the increased numbers of people they will have to deal with when short sentences enter into the equation?

Graham Bartlett: I think we have to have the capacity to do it because short sentences that don’t work just increase the burden, so with the efficiencies that we’re now having to make, we have to find a partnership way to break this cycle of offending. I was saying to some people the other day that I now hear about the children of the people that I used to deal with when I first started policing in the city 22 years ago, and that’s disappointing because it means something isn’t working there. We need to find a completely different approach and I think through intelligent commissioning and through giving the third sector the opportunity and the space to be able to work with offenders, sometimes under the umbrella of a court order, sometimes not, is our hope really of breaking the cycle because if we’re not able to break that cycle, then the demand on the public sector and the communities will continue but the capacity to meet that demand will diminish.

Q551 Chris Evans: I was a bit concerned when you said “we have to have the capacity”. The question is do you have the capacity, and if you don’t, is there a way of driving up that capacity?

Graham Bartlett: Sorry; maybe what I said was a bit ambiguous. We do have the capacity. We have found the capacity to be able to deliver in a partnership way. I spoke earlier about having the officers embedded within probation. Previously they were funded externally; we have them. We relooked at my budget and my resourcing to say, “Actually, I believe this works so I’m going to dedicate this particular resource to do that.” That’s against the backdrop of losing some police officers and police staff during the year but the freedoms and flexibilities that we have enable us to find the capacity to deliver what works and to deliver it in a different way. So when I said that we have to have the capacity, it wasn’t a negative comment; it was if ever now, then this is the time to find that capacity.

Q552 Chris Evans: Because time is short, I will finish with one last question. Are there any examples you can give me where you have stopped using voluntary organisations because of the present financial climate during the last year?

Graham Bartlett: I can’t think of any off the top of my head. Certainly the work that we do with the Inspire Project is absolutely critical around giving women offenders a better chance to break that cycle. The work we do with crime reduction initiatives who provide our drug treatment services is absolutely critical in this reduction of drug related crime and certainly with the intelligent commissioning pilots, there’s scope for more commissioning within the third sector and I look forward to that, but I can’t think of anywhere we’ve decommissioned on the basis of finances.

Q553 Chairman: Is there anybody else?

Claire Brown: I suppose I could just be a bit tongue in cheek and say, as magistrates are volunteers, is that our numbers are being reduced because of courts changing and, therefore, one aspect is making sure that we all do stay aware of all the facilities that are available to us so as we don’t lose the opportunities of making sure that we’re using the right options when we’re trying to sentence people.

Q554 Chairman: Just one final point which is that this area was one in which there was a pilot mental health scheme. Just briefly, can you tell us anything about your experience of that?

Claire Brown: Certainly the bench was involved with the pilot scheme to begin with and very much involved right from the beginning, which was very useful, and one of our members was part of that group that were overseeing it and I would say that the impression from the bench is that it has been very positive. It means that we have a CPN in court who is able to see people before they come into court, assess whether there are problems or not, which certainly has saved a lot of time because if someone or if the impression is that somebody might have problems—this is where we were talking about spending time, getting reports filled in, which might come back saying, “There isn’t an issue.” By having that CPN in the court, which we do at Brighton, it certainly means that we can get on dealing with the person much more quickly and that the relationship there is fantastic. So we fully support it.

Jason Mahoney: If I may add, the pilot was very positively evaluated and as Leighe Rogers mentioned earlier on, we’re going to roll that out across the whole of Sussex now. To those that need it, we’re really looking forward to having that service available to the courts in East Sussex to successfully direct people into mental health services at an earlier stage and to signpost people who are still to be dealt with by the courts and signpost them to mental health services in order to bring about their sentencing. It just means we can get people to the right place with the right kind of support much earlier because we’re absolutely chokka block full of people with mental health problems and this is an intervention that helps to assist those people to be treated in the right way.

Q555 Chairman: So having been piloted, it is now being embedded in the system?

Jason Mahoney: It is being rolled out across East Sussex.

Chairman: Excellent. Thank you very much to all our witnesses and I just reiterate again our thanks to Brighton for letting us use their wonderful Council Chambers today. It is very much appreciated. Thank you very much indeed.
Tuesday 7 June 2011

Members present:
Sir Alan Beith (Chair)
Mr Robert Buckland
Jeremy Corbyn
Christopher Evans
Mrs Helen Grant
Ben Gummer
Mr Elfyn Llwyd
Elizabeth Truss
Karl Turner

Examination of Witnesses


Chair: Mr Thornhill, Chairman of the Magistrates’ Association, welcome back. We are very glad to see you again.

John Thornhill: Good morning, everybody.

Chair: Councillor Khan from the Local Government Association, we are equally glad to have your help this morning. The perspectives of the bench and of local government are very important to the work we are doing on the Probation Service and so we look forward to any guidance that you can give us. I am going to ask Karl Turner to begin.

Q556 Karl Turner: Thank you very much indeed, gentlemen. Very generally then, I wonder whether the Probation Service has changed over the last five or 10 years. It was initially established to provide a service to the magistrates’ court. Has that changed in any way?

John Thornhill: In terms of whether those services have changed, the changes are that there have been developments and improvements in those services. You refer in the document here to a reduction in custodial sentences over a particular period of time. I think that is partly due to the fact that a wider range of services have been provided for magistrates to impose community orders with attendant programmes. Also, the quality of reports and assistance that is now given in the courts has significantly developed over the years and it is now possible if we are lucky enough to have a probation officer in court—we are in Liverpool—to engage in a dialogue and debate with the probation officer, the defendant and defendant’s representative about what might be appropriate penalties, punishments or disposals that could be used in the courts. So, yes, we believe that the Probation Service has considerably improved in the last 10 years. It has changed its focus. It was social services at one time. It is no longer that. It is a deliverer of services 420,000 people. After the changes had been implemented, what was very important was that the probation workers at the coal face and the managers were given the freedom and flexibilities to adapt to local circumstances. What we welcomed was the ability to form positive working relationships at a local level to try and tackle local issues and concentrate on how the partnerships and the relationships between different partners can be enhanced by more freedom at the district level as opposed to the larger county level. That was welcomed through the changes. But they did bring a period of instability. Colleagues who were on my council were also front-line workers in the Probation Service and they felt that the instability and changes were not always adding value to the front line.

Q558 Karl Turner: Thank you very much indeed. NOMS have produced some recent guidance on timings for fast delivery reports. What do you have to say about that situation, if anything?

Mehboob Khan: The targets that they have issued recently are welcome, provided we have the capacity locally to respond to them. Local authorities and the police are significant partners in the local criminal justice system and our approach has always been to try and tackle problems upstream in order to prevent expensive interventions later on. But we are struggling with reductions in budget. For example, the budget for the community safety partnership has been reduced by 60%, which does make it difficult to try and meet stretching targets. However, in general, we do welcome elements within the Green Paper around outcome-based commissioning, payment by results and pooling of budgets. So there is light at the end of the tunnel.

Q559 Karl Turner: Sir Alan will want the Committee to go into some of the areas you speak about anyway, but is capacity an issue? Do you think capacity is going to be a major issue?

Mehboob Khan: Absolutely. It is a line that the Local Government Group has taken in all these types of settings in that cuts in budgets to the police and local government will impact on our ability to work with other partners. There is always a danger that organisations then retreat back into their silos, and there is always a danger that some of the additional work that is done outside of non-statutory work is the
first to be lost. I have a few examples of that, if I can talk about those later on.

Q560 Chair: Do you want to tell us what you have in mind?

Mehboob Khan: Yes, I will do that very quickly now. As you know, the Probation Service works with those offenders who are statutory offenders who have served more than a 12 months’ sentence. At Kirklees, we have invested over £100,000 each year for the last three years to work with those who have had much shorter sentences in order to prevent them from becoming statutory offenders and also they are still prolific offenders, but yet they are probably given six or eight-week sentences by the courts or other forms of community sentences. By working with that group and using our own resources, we have been commissioning the Kirklees division of West Yorkshire Probation Service to help reduce reoffending. That is work that we have had to do because we felt it would make an impact. Prior to the budget cuts we were able to do this kind of discretionary work and now we really have to focus on our mainstream responsibilities, our statutory budgets, which are still growing massively, with increases, say, in adult social care or looked-after children. These types of work are areas that are under pressure. As for this year so far, almost eight weeks into the new financial year, we have not been able to give West Yorkshire Probation any assurances of that £100,000 in this financial year yet.

Q561 Chair: But, before the budget cuts, there was considerable variation in the extent to which local authorities did the kind of work you have just described in Kirklees and in the extent to which they worked with community safety partnerships, for example. So it was not all about money, was it? Part of it was taking initiatives.

Mehboob Khan: It is about good working and effective relationships at a local level and identifying where we want to invest within the system, particularly upstream on early interventions which reduce the cost later on. But, when money is tight, then those sorts of areas are affected. The other part which is affected by cuts in local government budgets generally is the responsiveness we can make to those who are in the system who need help with housing or benefits, education, employment and training, because it is a holistic approach towards that. Many local authorities are having to make significant reductions in those areas where we work with vulnerable people, and those are going to impact. We are seeing that impact upon the voluntary sector as well and we are commissioning less from the voluntary sector now, which reduces the capacity of the voluntary sector. Often, single organisations provide a range of services to vulnerable people and some of them are those within the criminal justice system.

Q562 Chair: But I still pose the question: why was it so variable when money was not so tight?

Mehboob Khan: It was down to local, strong, effective partnerships. I can talk about our own example. On our community safety partnership, the local manager for the Probation Service had been a permanent member of the partnership many years before it became a statutory responsibility. We were able in those meetings to take a more holistic and longer-term approach towards reducing reoffending. That helped to define new programmes which impacted upon offending and crime levels in an area. I think it does mean that, no matter how much centrally or locally there is prescription or statutory arrangements, if there is a willingness to co-operate and make things work, then the statutory framework helps make that happen. But, in the absence of a statutory framework, local partnerships can innovate and are able to look at fantastic ways of supporting those vulnerable people in the community.

Q563 Chair: When viewed from the magistrates’ side, what difference does it make to you as magistrates to have effective liaison with the Probation Service and to know that there is effective liaison between them and the local authority?

John Thornhill: It is a matter of building confidence in the sentences they are imposing, that they will be delivered effectively and in a challenging way, where appropriate. It is also about working together so that we have a mutual understanding in respect of the issues of probation in delivering sentences and the issues that we face in sentencing. It is very clear that we have the responsibility to sentence. Probation has the responsibility to deliver that sentence. But it is very important that we both know what works. Feedback from probation about the sentence that we are imposing and the effectiveness of them is vital and is very important in ensuring that, as we progress and develop, we are imposing sentences which meet the needs of the community, but also, where appropriate, punish the offender, support victims, but also support the offender to reduce reoffending. My colleague referred to programmes at an early stage. One of the things that we would like to see more of is early intervention. With a first or second time shoplifter, we end up at the moment just fining them, but we know that the real issue is, what are the underlying causes of the offending behaviour? That is something, I believe, we must tackle on every occasion. If there were available programmes, maybe the third sector and the private sectors you referred to, where we could say, “You will get a conditional discharge”—that will need a change in the law because we cannot do that at the moment, but it is certainly worth thinking about—“on the condition that you attend this early intervention programme with a local third party or voluntary group”. I think magistrates would be attracted by that. One of the things that we want to do is to reduce the reoffending at an early stage before the offenders get into that cycle of reoffending. We are focusing at the moment on those who are on their second, third, fourth, fifth, sixth, seventh or 42nd offence, as an offender was who was in front of me quite recently. We need to tackle these things earlier. We need to provide the services that are there, be it, as I said, through a local authority or the third sector, and what is important is that we have a consistency of delivery right across the country.
We talked about fast delivery reports. We welcome that. In my court, where we have probation in attendance, I can get a fast delivery report in one or two hours and deal with the offender. That is in the best interests of justice. But what about the court where the Probation Service is 30 or 40 miles away? What we need to do is look at how we can use the Probation Service effectively to get a fast delivery report, even if it means using modern technology via video links, so that the court can sentence expeditiously and in a proportionate way.

It is looking at those underlying causes of offending behaviour and how we tackle those, and what the support services are for the offender to manage those issues. That was the whole raison d’être of the North Liverpool Community Justice Centre. Would that we could have that in every court, but if we mention that everybody’s eyes go up in horror. But the principles enshrined in the North Liverpool Community Justice Centre are principles that we need to be trying to deliver right across the justice system. Magistrates will work and support that. We have seen that, as I said. In the last five to 10 years we have seen the development of more and more of these local programmes, more and more of the engagement, and more and more of the community partnerships to deliver effective programmes.

Chair: The Committee in its previous existence visited the North Liverpool Community Justice Centre and I think formed exactly the impression you have. This is the ideal and this is the basis on which you should try to operate even though you cannot provide the full quality that that does.

Q564 Elizabeth Truss: I completely agree with what you said about early intervention. I think that is very important. You have talked a lot about working together locally and how the various services interact. How do you think the national structure could be reformed to make that local working better? Would it be place-based budgets? Would it be an integrated service, Mr Thornhill?

John Thornhill: I think we have to look at an integrated service. We have to be very careful that we do not end up with postcode sentencing and postcode delivery. We have to consider whether we could have a single integrated service, then you can achieve continuity of delivery right across the whole spectrum of disposals. However, that depends on ensuring that there is a fair and just balance of funding, again, right across, and identifying where the funding is most necessary.

Q565 Elizabeth Truss: Can I ask specifically what you think about the different cultures in the Prison Service and the Probation Service, because, if you look at other countries, quite often they have a single correctional service which will administer prisons and probation? It strikes me in Britain that we have NOMS, which theoretically integrates them, but then we have two separate services. Isn’t that quite costly and defeats the object of having the integration?

John Thornhill: It can be costly—I can appreciate that—because you are running two services. If you have a single integrated service, then you can achieve continuity of delivery right across the whole spectrum of disposals. However, that depends on ensuring that there is a fair and just balance of funding, again, right across, and identifying where the funding is most necessary.

Q566 Elizabeth Truss: Maybe I can put this question to Councillor Khan. Shouldn’t the funding and the provision be led by the sentencing rather than the sentencing being led by the funding and provision? Isn’t part of the problem that sentences are being adjusted to fit the capacity rather than the other way round, saying, “What is the optimum sentence for this person who has been convicted?”

Mehboob Khan: I absolutely agree. The desirable sentence is the sentence, and that is where the public need confidence that the judicial system is administering the correct sentence. Then it is up to probation, local authorities and others to work in partnership. Can I answer partly your first question as well because it is not just an issue around financial capacity? In my area we are very lucky, or in other large metropolitan areas we are very fortunate, that the local probation service is coterminous with a large county—Greater Manchester, West Yorkshire and Lancashire. Below that, for example, at West Yorkshire, their local units are coterminous with the local authorities of Kirklees, Bradford, Leeds, Calderdale and Wakefield. It means that from an urban area where it is easy to make people work together or to get people to work in partnership. But when it is a rural area such as Devon and Cornwall, or the breadth of Lincolnshire or the north-east or the north-west, or Wales—I have not forgotten Wales—it is more difficult to ensure that there is integration. I think you have to work very hard to do that. We need to look for national frameworks through which we can operate. We have welcomed the recent shift in NOMS in terms of probation delivery from, if you like, what was a “tick-box” approach more to an assessment of quality outcomes. It was all very well to say an offender had turned up 30 times, but how effective was that programme? How effective was the programme for the offender if they had not engaged? Built into any of this, we need to have that quality assurance that the programmes are being effective. Now, whether that is delivered through place-based funding or through a national strategy or integrated funding, for the sentencer it doesn’t matter in one sense, but it will do for the local deliverers, we appreciate.

Q567 Elizabeth Truss: I notice, though, you did not mention prisons in that list.

Mehboob Khan: That is right.
Q568 Elizabeth Truss: Is there a particular issue with the way that the Prison Service interacts with these other public services to provide a full holistic solution?

Mehboob Khan: There are two key things. It is a good question. It is not something I have thought about in any depth. One is that prisons are not coterminous. They are all over the place. Wherever someone is sentenced they will go to serve their prison. Residents in my borough may well be serving their sentence 70 or 80 miles away. But, as the leader of the Council, I have a responsibility for their well-being. It is very difficult to deliver on that responsibility when they may be serving the sentence significantly away from my area. The second one is that local authorities have traditionally not got involved in that part of the criminal justice system. We have used our links through probation as a way to work through that.

The other point I wanted to make is about the relationships. I chair the Kirklees Partnership Executive. Probation across West Yorkshire only has a budget of £40 million compared to the rest of us, which runs into billions. If you give a place to the local health authority or the voluntary sector and others to understand the role of probation, you would have someone there who has the equal status as the leader of the Council, the chief executive of the PCT, playing into those discussions and bringing it from the perspective of those who are in the criminal justice system. That does help others, and it is not just the local authority. It helps the primary care trust, the voluntary sector and others to understand the role of probation. Then they realise it is a really important role. If we don’t get that right, the rest of the system has risks in it of falling down.

Q569 Elizabeth Truss: Can I just put the same question to Mr Thornhill about how integrated the Prison Service is in this process and whether or not you feel the capacity is following the sentencing or is it the other way round?

John Thornhill: The capacity should follow the sentencing. It is an issue that there are not going to be simple answers to going across the country because the nature of offences across the country will vary. We need to look at that and do some research into the nature of the different types of offences and the different types of dispositions that are being used across the country. But it needs to be integrated because, in one sense, it is a continuum, is it not? We are talking about a whole range of possible dispositions to match the various levels of seriousness and so there has to be integration between the two. There has to be a working together. I appreciate the Councillor’s concern that, for instance, some offenders are serving sentences in different prisons in other authorities where you have no control or no management over them. That is an issue. You are paying for it, but you have no control. I think we have to look at these issues to see where the sentence is imposed, if it is appropriate for it to be served in that area and who then takes the responsibility for it. But there has to be an integrated system. The danger is that we have a range of different agencies delivering sentences in different ways. We need to have a consistency so that there is an integration right across because it is about that continuum of seriousness.

Q570 Chair: If you pass a custodial sentence, you know somebody will take that person away and put them into custody. If you pass some other sort of sentence, presumably you first have to ask some questions about whether it is available, don’t you?

John Thornhill: If we are looking to impose a community penalty, of course, we would always seek a pre-sentence report, be it a fast delivery report on the day or a standard delivery report, where the bench would discuss with the Probation Service, if they are in court—which is another problem of course—what might be appropriate sentences given the seriousness of the offence, the circumstances of the offender, and there will be considerations for the victim and society. We would not be imposing a community penalty without some contribution from the Probation Service. In seeking a report, we might say that one of the issues that have come out is, for instance, literacy and numeracy. How would the Probation Service in its disposal tackle that particular issue? We may pick up issues about domestic violence or we may find there is an underlying drink problem which did not come out at the first stage.

Q571 Chair: Do you ever get to the point where you would like to say to somebody who is in a position to do something about it that there is more prison resource than this bench requires and not enough literacy and numeracy—

John Thornhill: To be fair, we probably would not have the statistics at our disposal in the courtroom to be able to make those decisions. In one sense, as I said, it is not really our concern. It is the responsibility of those delivering the sentence to ensure that there is proper provision of the sentences that the courts require. That management should be driven by sentencing, not by capacity.

Q572 Mr Llwyd: Can I ask both of you what your overall view is of the concept of payment by results? What do you perceive to be the strengths and the possible limitations of that model when applied to delivery of probation services?

Mehboob Khan: When I was a member of the West Yorkshire Probation Board we received our quarterly and monthly performance management reports, and the statistics were about completions of those offenders who were on particular courses and whether they completed them or not. We were one of the highest performing in the country on completions. I always sit there and scratch my head and say, fair enough, they have completed the course, but so what? Has that reduced reoffending or has it been that we always sit there and scratch our head and say, fair enough, they have completed the course but so what? Has that reduced reoffending or has it been that we are really good at encouraging people to go through this course?

Payment by results is not something new. It has been around for quite a while. I am a non-exec director on our local PCT, so payment by results in the health sector has been there for a number of years. In principle, it is a good system because it is about
rewarding those public service providers who have been able to work with the client group, and the end result in this case is that it is a safer society by having less offending. But there are some concerns that we have about the detail. If I can use an analogy elsewhere, it is easier to explain. Payment by results in trying to get people into work is now the new mantra for the single work-based providers. If I was one of them, I would think, well, I will get £1 thousand for each person we get into work for six months. I am going to work with that client group who I know it is easy to get into work. They may just have become unemployed so they still have a culture of work or they have good qualifications. You can match them against jobs and get them into work. Who is then going to work with the really difficult hard-to-reach prolific reoffenders in the system may get overlooked because providers under financial constraints are going to be looking to see how many people they can work with, that the client group is going to be less likely to reoffend and they will do their own risk management on individual clients and not resources into those. We would like to see that question resolved. One possible solution is that, for those clients who have the highest risk of reoffending, their payment by result tariff is larger than for those who are at a low risk of reoffending. Therefore, within the system, regardless of which client group you are working with, the input you put into that particular client and the output that you receive is commensurate. That kind of system is going to be more difficult and bureaucratic to manage, but I believe in the longer term it will deliver the best results.

**Q573 Mr Llwyd:** This question was put to the Justice Secretary many months ago by a member of this Committee and the notion is that some providers will cherry-pick, which is what you have just described. The answer we had then was that, if they are going to get a contract, they will deal with all of them, good, bad and indifferent, and lump them together, as it were. That is the answer we had then. I don’t know whether you have had any further discussions on the detail of that, but we know that cherry-picking does happen currently. Whatever size of contract is given, if there is the same tariff for all the individuals, I just think if I had this limited resource to work with that client group I am going to try and get the most bang for my buck on that, which is why differential payment tariffs are really important on that. I think the other point on payment by results is who are the providers and commissioners are going to be on that. It is really important that we have strong commissioning arrangements to make sure that those who are involved as providers are properly performance-managed, that they don’t cherry-pick, and that the client group that they are given an opportunity to bid for is a client group that represents a cross-section of those within the criminal justice system. It is going to be equally difficult to try and create a client group for them to work with because people will come in and out of the criminal justice system during the period of the contract. How do you ensure then that, if you are managing four different providers, each one gets a cross-section of clients? The client management end of it is going to have to be pretty bureaucratic to make that work. I am just trying to think of ways in which you have a softer relationship between commissioner and provider, an open and transparent approach towards looking at who is on their books and what interventions they are using, sharing good practice between providers as well, but looking at ways in which the system itself drives providers to work with those people who society fears are at more risk of reoffending.

**Q574 Mr Llwyd:** I know Mrs Grant wants to put a question, but, before she does, Mr Thornhill, what is the view from the magistrates’ perspective on the question?

**John Thornhill:** We would support many of the concerns that the councillor has expressed and we have indeed expressed some of those. We had a meeting early on in, I think, late February with the Ministry of Justice and senior members of the judiciary and ourselves, particularly as most of this will impact on the magistrates’ courts. We raised the concerns there about cherry-picking. We raised the concerns about how far this will be driven by profit rather than by effective delivery of the sentence. We raised the concerns about what would be the consistent approach across the country. For instance, what about the geographical issue? It will be easier to bid for a contract in, say, somewhere like a large conurbation where there may be a wide range of clients to deal with. But in the country areas, again, what would be the difficulties there? How will they deliver across the whole of a large area? We raised many of these concerns and we put a paper to the Ministry of Justice where we expressed the view that there needed to be very clear quality assurance and quality control built into the contracts, with regular appraisals, inspections, and the ability to withdraw from a contract—a whole range of commercial statements that you would have in a contract. There is now a Ministry of Justice judiciary committee or judiciary working party and we have had a first meeting where, again, we explored all these issues. From our perspective, we are saying that we, as sentencers, must have confidence that the sentence will be properly and effectively delivered, and successfully delivered over a period of time. What is the measuring rate? For instance, if it is a more difficult offender, do you measure it in a shorter period or a longer period of time? How can you identify success? Those criteria have to be set out up front as far as we are concerned in any contract that goes out for tender. We have the opportunity to raise all our real concerns about this. As I say, we do not believe it should be driven by profit. We believe it should be driven by the appropriateness and effectiveness of the delivery of the sentence. We have raised those concerns and we have that opportunity through that judiciary committee because it is about confidence. If we see that success is not as successful as we would like it to be, then confidence is going to wane in the
community penalties. We need to look at and take on board many of the recommendations in the recent report of the National Audit Office Social Impact Bond where there were concerns there about paying twice, for instance. Who was the actual contractor who achieved the success? We need to be very clear about the lines there. I think these are things that we need to pick up. We have picked these up and we will certainly feed them into this judiciary committee which is a working party in the Ministry of Justice.

Q575 Ben Gummer: Can I just home in on that point you are making, Mr Thornhill? In the Welfare to Work Payment by Results, we are moving away from a situation where someone turns up at the Jobcentre and is told by someone who has had a three-minute interview with them that they need to go on this course and that course, and as long as they go through those courses that will enable them to collect their benefits when they are long-term unemployed. Rightly, the previous Government and this one have recognised that that is not a suitable way of dealing with people on Welfare to Work. Actually you have to work and understand their case history through a long period. Often it will come after several months that you begin to understand where the problems are in that individual’s situation. But why are the courts not the same? You are talking about sentencing reports made very briefly by someone for you to make a snap commissioning decision, which is effectively what you are doing. Why can we not get to a situation where magistrates protect the public? They say, “This is what we need to do for public protection and for punishment”, but then it is left to the provider to understand and to work with that person about rehabilitation through the course of the contract which is let without the magistrates’ court.

John Thornhill: One of the things that we have seen is successful is judicial continuity in dealing with offenders. If you look at something like the drug courts pilots that took place in Leeds, I cannot remember which court it was in London but there certainly was a court in London, and in other courts around the country, if you look at the development of things like the problem-solving courts, there is judicial continuity there. If we can build that in, and if we can build in what I would call incentivised sentencing, where we say, “You will be on a community order for 12 months, but if there is a degree of compliance that can be automatically reduced or, if there is not compliance, automatically increased”, again within a set of guidelines—we must have those of course—then we believe it is not inappropriate for magistrates to impose the appropriate sentence and a sentence which at the time appears appropriate. Certainly for standard delivery reports, there are usually two to three weeks to produce and prepare these. It may be, of course, that the offender is already known to probation, because very often these are repeat offenders and there will be a history there. One would hope that we are not saying in most cases, “This is the first time we have seen this offender. We have a short period of time to make the report.” There is an opportunity to produce a report which looks at what the underlying causes of the offending behaviour are and puts forward proposals for appropriate programmes that will tackle that. If there is then judicial continuity either by bringing it back to being in court or the magistrates working with probation in a different way than necessarily in the courtroom, then we can adjust and amend the delivery of the sentence and the content of the sentence over a period of time to meet the needs of the offender. No one has mentioned the word, but we know the principles of resistance theory. It is something that we as magistrates have to look at. One of the things we are thinking very often is that we have an offender who commits an offence for which they should be sent to custody but they get a community order, fail to comply and come back to court. What does the court then do? Maybe, instead of just assuming that it is an immediate custodial sentence then, we are looking at a staged process. For instance, over a period of time we work with the offender and support them to rehabilitate themselves, because until they wish to do so, whatever we do in the courts, we are not going to achieve immediate success.

Q576 Ben Gummer: I am aware we are in the anniversary year of the justice of the peace being introduced and we are all great fans of JPs here, but are you really saying that all magistrates are capable of this kind of complexity of continuous commissioning? You are talking about ongoing quality assurance through a period of a probation order. You are talking about very difficult decisions.

John Thornhill: I am certainly not talking about magistrates being involved in commissioning at all.

Ben Gummer: Well, it is that.

John Thornhill: That is for the probation trust. What I am talking about is magistrates being involved in the delivery of the sentence.

Q577 Ben Gummer: But the two are the same. They are, effectively.

John Thornhill: We may be using words in a different way, to be fair, but I am talking about being involved in the delivery of the sentence. If you look at the problem-solving courts, for instance, to give you an example, offenders come back every five or six weeks. In Liverpool recently I was told the story of an offender who said, “I have reduced my cider drinking from three bottles a day to two.” For that offender, that was success. It may not be that it turned them round within that short period of time, but maybe there is a need then to recognise that success and to say to that offender, “Look, we gave you an incentive to change: You have changed. Now it might be appropriate to re-adjust the programme.” That does not necessarily have to take place in a full court scenario. That could be done in a totally different way.

Q578 Mr Llwyd: The probation trust will be the commission, obviously. You would be a consumer in a way, wouldn’t you?

John Thornhill: In one sense, yes, but, because we are judiciary, it is right for us not to be involved in the commissioning process.
Mr Llwyd: Indeed, precisely, yes. Both in terms of the local authorities and also the magistracy, I presume you have had quite a detailed discussion in terms of modelling some of these services or the way you would like to see them coming forward—you have already answered part of this question—and, hopefully, the way in which you see payment by results evolving, in other words with a difficult case, an easier case, how long it should be before payment is made or whatever. You have had a fairly robust input into it, have you?

Mehboob Khan: The Local Government Group has sent a submission in to the Justice Department. At a local level it is part of the day job, and as chair of the Local Government Group’s Safer Communities Board I have had significant thinking through the process with council officers and colleagues at the Local Government Group. I will try and outline where we think some of the dilemmas, issues and questions are. I think the starting-off point is the question raised by Elizabeth Truss earlier on about what we want to see about pooling of resources. We would like to see at a local level significant pooling of the resources with all those involved in providing services to offenders.

Chair: Including prison.

Mehboob Khan: Including prison; absolutely, including prison, because it costs, on average, £54,000 a year to put somebody through prison. That is where money in the system is—in that top end and expensive end of the system—and we want to shift that back down. I would call it going upstream. In my neighbouring council in Bradford, they did some analysis on the types of services provided to those who are leaving prison and they found that, on average, each person receives 10 assessments. That is 10 different agencies carrying out individual assessments on them. Those offenders thought that the assessments were part of their punishment. They didn’t realise that these assessments are there for their benefit. We are carrying out 10 assessments in the worst-case scenario, but five is the average assessment on those.

So you have a group of partners at local level who, individually, can share those assessments and that knowledge about that individual. They can do it once and share that data. If they are required to pool their budgets, they will then be required to commission jointly as well. Hopefully, also, when the payment by results comes through, it is shared between those partners who are pooling the resources at a local level and with the provider as well, because good commissioning is a really strong part of good payment by results and good outcomes on that. If you are not a good commissioner, you are not using the right providers and the client group doesn’t have the correct interventions with them, you are not having the best outcomes.

On payment by results, what is an effective result? In some cases it will be someone never reoffending in their lifetime, whereas in some cases it could be, as my colleague has said, someone reducing their alcohol consumption which reduces their offending down to maybe only once every six months. A differential approach is going to have to be taken with each individual, where, instead of spending loads of public money on separate assessments, if we have a single assessment and really get underneath what the causes are for that individual to commit crime, we are able to tackle those issues for the longer term. The Local Government Group does not normally ask for extra national direction. But in this case what we are asking for is direction upon all partners to come together to jointly commission those services. The Government’s approach in this Green Paper goes in the same direction as the previous Government, and where we see public services generally going down, the reward is by the impact. I have no qualm with private sector organisations making profit from this because profit is a strong incentive and motivator. But we have to make sure that there is quality built into those contracts as well because cherry-picking is the biggest problem that we think will happen. That will make the system fall apart. If local authorities, police or other budgets are stretched, if there is a pooling of budgets and a requirement to pool budgets, we won’t retreat into our silos to do what our statutory work is. We will actually be working together in that kind of partnership because then that becomes part of the day job of making communities safer.

But you will have complexities around the geographical areas in the country. If you take a large county like Kent with unmetropolitan district councils, who is responsible for pooling those budgets? Who is the lead authority? I would say it would be the county council in our area where we are coterminous. For example, Leeds serves 800,000 and Birmingham serves 1 million people. The local authority becomes a lead partner because they have that democratic legitimacy to bring some of the other partners around the table together. Those partners have been used to the leadership by the local authority for a number of years on trying to tackle all sorts of other local problems.

Part of my day job as leader of the Council is also working with our officers and those organisations that have won the contracts for the employment-related work in our patch. My officers and I will be looking at how we make linkages from joint commissioning and pooling interventions to reduce reoffending to how those individuals then go through education, employment and training, working with colleges, universities and others. When things go wrong, the problem comes to our doorstep because it is those individuals in the community who are causing anti-social behaviour, there are drink problems in the town centre or it is having an impact upon other services that we provide. That is why I think it is not for me to say that we, the local authorities, have the solution to everything, but you need one strong accountable body and it is the local authority that currently has that.

Chair: That was a very good statement of case. I think we are going to need to move on, Helen Grant had a quick point.

Mrs Grant: Just a quick one, coming back to cherry-picking. Would a possible solution not be to effectively pay the provider that is left with the most
difficult, challenging group of offenders and enhance them out?

**Mehboob Khan**: Absolutely. Part of commissioning could well be that, for those in the criminal justice system with the various tariffs against them about what sentences they have had, that tariff carries a price value. We commission a range of providers, some who deal with the really difficult high risk prolific offenders and some who deal with those who, hopefully, are going to be in the criminal system for just a small period of time. Therefore, you have the ability to do it with a different set of providers who have a different set of skills. Also, if I may add, I chair the Association of West Yorkshire Authorities. The five of us meet very frequently to look at where we are able to bring together some of our front-line services to try and reduce cost. We know the budget for West Yorkshire Probation, which is one of the largest probation organisations, is just £40 million, and that is not a lot of money when it serves over 3 million people. It makes sense to give us the freedom and flexibility to be able to have four or five providers commissioned through a competitive process. We are not bothered if it is voluntary, public or private sector, as long as they meet the quality threshold and they are competitive, but providing that across West Yorkshire. That would be a significant step in the right direction of trying to build even more efficiencies and value and quality within the system.

**Q582 Mrs Grant**: But the point is that, if we use mechanisms like that, cherry-picking actually may not be such a big problem, because you have both mentioned several times this morning your concern about cherry-picking and how it might skew and distort the ultimate goal.

**Mehboob Khan**: That is right.

**John Thornhill**: Our concern would be to ensure that, if we have different levels of programme to meet the different levels of risk for different types of offenders, those programmes are all available in any court area. We don’t want to be constrained as sentencers because in particular there has been a low number of high risk offenders, in particular, and therefore that programme is not provided. There must be the provision of those programmes right across the board, because otherwise it will undermine the principles of justice.

**Q583 Mrs Grant**: Of course you want providers to be incentivised to deal with all that and solve the problem.

**John Thornhill**: Absolutely, and in one sense, as I said, who provides the service is irrelevant to the court. What is important is that the service and the programme is there; it is available to the sentencers to impose with a community order and that must be consistent across the country; and there is, therefore, also good quality assurance that those sentences will be properly and effectively delivered.

**Karl Turner**: Sir Alan, do you want me to start on the capacity issue?

**Chair**: Yes, on the intensive supervision schemes.

**Q584 Karl Turner**: Could you comment on the efficacy of the Probation Service in managing dangerous offenders?

**Mehboob Khan**: Do you want me to have a try?

**Chair**: Go on; have a try.

**Mehboob Khan**: From my previous experience on the board, the Probation Service have a range of front-line staff trained to different levels and lots of experience. I have every confidence that they are able to deal with offenders or client groups from a different range of risks, and it is about managers and front-line staff being able to understand those risks and the best way of having interventions that work in those. The service is very proud of what they do and they have a very high record of completions in West Yorkshire. They have a very low record of any physical attacks or abuse on staff. It means the relationship between the probation officer and the client is always seen in more of a positive light because they have gone through the prison system and they might have seen the baddies in the prison system, but they are seen as the people who are trying to keep them out of the prison system.

**Q585 Karl Turner**: Mr Thornhill, can existing systems for the risk management of offenders be strengthened in any way?

**John Thornhill**: We need to strengthen some of the systems that are in place at the moment. Again, this is one of the points that came out of the MoJ review into the Peterborough experiment. A concern that sentencers would have is that if we have a single contact in the courtroom—and that is something we would prefer, i.e. the Probation Service as a single point of contact, providing the reports, and taking the delivery of the sentence to whoever the providers are—there is then not a disconnect between the commissioner and the deliverer. There have to be very strong links because, if we have high risk offenders, if we have dangerous offenders, and the courts are imposing a community penalty, then the courts need to be confident that the Probation Service as the point of contact in court has appropriate quality assurances and procedures in place to ensure that the sentence is properly delivered, that there is no risk and there is risk management. That was one of the comments that was in the report on Peterborough.

**Q586 Karl Turner**: In relation to the intensive alternative to custody programmes, is it feasible with the current levels of resourcing for other agencies to continue in providing those alternatives?

**John Thornhill**: That is a very difficult one for me to answer. Simply from the sentencers’ point of view, can we say we want them to continue? We have seen, certainly, in Merseyside—I visited the IAC programme in Manchester and the Together Women’s Project, which is an accredited IAC programme in Bradford—the effectiveness of those programmes in turning the offenders around, but making the offenders think for themselves why they need to turn around, because that is what we have to do. We would like to see those programmes continued. We accept that they were pilots, but we feel that there ought to have been more plans to ensure that if those pilots were successful—which they were and which we knew they
would be, and certainly the halfway report suggested they were going to be successful—we could have a roll-out of those programmes right across the country. We have to look at how we harness the resources. We accept, again, there are limited resources, but we need to look at how we harness those resources in the most productive way. We are dealing there, again, with the repeat offender. We want to show four or five years down the road that we are reducing the number of repeat offenders by taking action at an early stage. We need to look at the balance right across the board so that we deal with the repeat offenders but also deal with the first and second time offender, with early intervention to prevent them becoming the repeat offenders down the road. Balancing that out is a very difficult one.

Q587 Karl Turner: In your experience as a sentence, do you think that IACs are effective? In my experience, for example, representing defendants in the magistrates’ court, very often an intensive alternative to custody is the last thing they want. They prefer, quite frankly, a very short prison sentence.

John Thornhill: Are you referring to the offender here?

Karl Turner: Yes.

John Thornhill: Yes, you are absolutely right. I had an offender in front of me, with 110 offences, and we were looking for something that was not a custodial sentence. He said, “Just send me back because, whatever you do, I’ll not comply.” What we have to remember is that, with those sorts of offenders who have a long lifetime of offending, when they first started on their criminality there weren’t the community penalties. We have to say, okay, here is a group of offenders we have to work really hard with and tackle. We did actually talk with probation and seek an appropriate community penalty. How far the offender complied I have no idea, but we have to accept that there will be some.

Q588 Chair: It is a pity that you didn’t ever know how far—

John Thornhill: I actually asked him, “Why do you want to go back to prison?” You all know the answer.

“I’ve got security there. I’ve got three meals a day. I don’t have to think. I am told when to get up, et cetera. All my problems are looked after.” We have failed that offender, in my view. Society has failed that offender but it has not failed them in recent years. It failed that offender many years ago. We need to be picking up that issue now and saying, “Right, what can we do with Mr Smith of 20 years ago and how can we make sure that he doesn’t get into this cycle of reoffending?” We are not going to be successful with everybody. So it is achieving that right balance right across the board.

Q589 Chris Evans: I see time is running away with us, so I will try and be quite short. I am quite interested in your submission on restorative justice which I was looking at. Mr Thornhill, the Magistrates’ Association said: “We do have concerns in the way that restorative justice is currently administered by the police. We believe that this would be better delivered through the courts and the probation service.” You then go on to say: “Public opinion would also need to be prepared for more restorative justice so there was no backlash from those who would argue that it was ‘too soft’, as some already do in respect of community sentences.”

Chair: I certainly think some investigation discussions took place and we have had further discussions in fact. Two of our Youth Committee have been across to see restorative justice working in Northern Ireland. We have also visited a number of police authorities where restorative justice is taking place. We have discussed and engaged with organisations that are involved in restorative justice, and it is quite interesting to note that some of those see restorative justice in a different light from how the police deliver it. We are, in principle, supportive of the idea of restorative justice because we can see that for certain minor offences it has an important role to play. In Northern Ireland and in some other countries of course, it is part of the sentence of the court, whereas in England and Wales at the moment it is not part of the sentence of the court. So we would like to see some developments there. We would certainly welcome the advent of more opportunities to use restorative justice within the criminal justice system.

Q590 Chris Evans: How do the police deal with restorative justice and why do you particularly have concerns? Can you give us some examples of what is concerning you particularly? That is what I want to tease out a little bit.

John Thornhill: It is about the whole issue of who is effectively sentencing, if I can use that phrase in its broadest context, and it is ensuring the separation of powers. We used to talk about out-of-court disposals and in-court disposals, and we are now saying that perhaps we should be talking about non-judicial disposals and judicial disposals. It may be a very fine distinction, but I think it is important to have the judiciary involved in more issues, recognising there is a place for out-of-court disposals and a place for the police to deal with minor matters in the way in which they used to over the years. But we do have concerns that, if we are starting to use more and more out-of-court disposals, for instance, we are widening the criminal net.

In terms of restorative justice, we see the concerns that there may be pressures put on some of the victims or offenders to deal with it expeditiously and quickly without thinking the whole thing through. So, maybe, just that slight break with an involvement of the judiciary might help for that to happen. I am thinking of an example of a young lady in a shop trying on a dress, who gets a telephone call to say her father has
been involved in a serious accident. She runs out of the shop, is picked up and is told, “Take the £60 fixed penalty. Deal with it by restorative justice very quickly. You will not hear any more about it.” But when she comes to apply for a teaching job it comes back. I would suspect, and I am sure the defence advocates in the room would argue, that the fourth limb of the Feely and Ghosh test may not have been made out—permanently intending to deprive. Therefore, if that matter had come to court, it might well have been a not guilty verdict. It is those sorts of issues. The danger is to deal with it quickly. We might deal with it too quickly without picking up some of the broader issues of what justice is being delivered here. But we are not against restorative justice. We would like to see that as part of the sentence within the courts.

Q591 Chris Evans: I have to be very quick because time is running on now and we have to be finished by 11.30 for the next group. If you would just give your overview of restorative justice and how you have arrived at that point, I would be grateful.

Mehboob Khan: We can provide you with some evidence. We can send that on about how this works. But, in essence, to have public confidence, the public have to see that this isn’t paid work being done for free. This is people carrying out services for offences of which they have been found guilty. In areas where we have neighbourhood justice panels local people are involved as part of that so they can see that justice is actually being done. One ask would be for local authorities to have some representation on the local criminal justice board, which would bring a lot of experience and knowledge about how interventions are working currently. We are not members of that board. There were discussions earlier on about how prisons are not part of the system. If local authority officers or elected members representing the community and all the knowledge and experience we have with dealing with offenders were on those boards, then we would have some influence on how appropriate sentences are given.

Chair: Thank you, both of you, for your very different and helpful evidence this morning. We are really very grateful. We have some more witnesses. Thank you.

Examination of Witnesses

Witnesses: Jane Coyle, Director, Blue Bay Support Services, Roger Hill, Director, Community and Partnerships, Sodexo, and Peter Neden, Corporate Development Director, gave evidence.

Q592 Chair: Welcome, Mr Neden, Mr Hill and Ms Coyle. Mr Neden, you are from what I still think of as Group 4 Securicor—G4S, I believe it is now.

Peter Neden: I think that is right, yes.

Q593 Chair: Mr Hill from Sodexo and Ms Coyle from Blue Bay Support Services.

Jane Coyle: That is correct.

Chair: We are very glad to have you with us. I am going to invite Elizabeth Truss to open the questioning.

Q594 Elizabeth Truss: Thank you. I want to start off by talking about the creation of NOMS and the governance arrangements of probation. If you look internationally, there seems to be much more integration of the Prison and Probation Service. Although nominally we have NOMS, underneath that you still have the structures of Prison and Probation. Do you think that adds to cost in the system and also does it make it hard to provide integrated delivery?

Roger Hill: Would you like me to start?

Elizabeth Truss: Yes.

Roger Hill: You will know from my work history that I have gone through every iteration of NOMS. I would say that the current iteration is quite effective in terms of providing governance for the whole system. As I see it, essentially the NOMS agency is a commissioning body that sits above a range of providers. There are 35 probation trusts in there, each of which is an independent provider. There are some private sector prisons, some public sector prisons and other providers providing other services. I think that has the potential to be both cost-effective and effective in terms of improving services.

Q595 Elizabeth Truss: Can I just ask the others specifically on this division between the Probation and Prison Services, and we have heard in previous evidence sessions that there is a different culture within those organisations? We have just heard in fact from the Local Government Association that the way the prisons work is not necessarily integrated with probation at a local level.

Jane Coyle: We are a very niche company. Our experience is going to be limited. However, the experience that we have found is that we don’t feel there is the same sort of will to diversify the market in the Probation Service as there is in the Prison Service. There was a formal tendering-out process, for example, at HMP Birmingham. That doesn’t seem to be happening in the Probation Service. That may hinder things. It is certainly hindering things for a small company who is trying to offer services to prisons or probation services. We have been offering services in the prisons. We have been offering pre-sentence reports; we have been offering SARN reports.

Chair: Would you speak up, please, because the acoustics are not very good in here?

Jane Coyle: I am sorry. Yes, we have been offering all different types of reports to the prisons and probation services. They have been taken up on an ad hoc basis, but when we have tried to offer more formal contracted work to the prisons, they seem to have been quite reluctant to use services other than...
probation trusts. They haven’t wanted, in our experience, to think out of the box and use any other providers. We feel that the probation trusts as providers in the prisons have been effectively protected and that has made it difficult for small businesses.

Q596 Elizabeth Truss: Mr Neden, do you find that to be true and do you think there is a conflict of interest between the provider and commission role that the probation trusts have?

Peter Neden: Perhaps I can answer that question in a slightly different way. The creation of NOMS goes back to 2003 and the idea was to bring the Probation and Prison Services together. Since that time, we have had two separate organisations that have very different structures. The Prison Service is a very centralised structure, whereas probation services are in over 40 different structures. We think inevitably that leads to additional cost and it must be very difficult to manage that as an organisation. In terms of Roger’s observation, I think in the last couple of years we have started to see more coherence, but that has been a very long time coming, in our view. In terms of the conflict of interest, there does need to be greater clarity between the commissioner and the provider, and, at the moment, with probation trusts as commissioners and providers, I do not think we are there yet.

Q597 Elizabeth Truss: Having regard to the way we were talking about it in the previous session with offenders being given sentences, do you think there is a continuum, or should there be a continuum, between various types of sentences: the custodial and non-custodial community sentences? Do you feel that that continuum gets broken by the different cultures?

Peter Neden: I think it can do. I think inevitably it is more difficult.

Q598 Elizabeth Truss: How would you see it working in the best-case scenario? Are there examples that you can point to where the Prison Service has integrated with Probation and works effectively at providing a sort of end-to-end offender management solution?

Roger Hill: I think I agree with the premise you have just put forward and that integration does boil down to how you commission services and not to the organisational state of the different providers. The logic of your question really is that you then commission around either a locality or a group of offenders. My colleagues may correct me, but I am not aware of any particularly strong examples of that. There are some ad hoc examples. For example, the Social Impact Bond at Peterborough Prison is one option, and I am sure we will talk more about that this morning. In my previous role as director of offender management for the south-east, certainly an initiative around integrated offender management, which was the under-12-month prisoner group exclusively, getting the Prison and the Probation Service to work together, was a significant task for me, but I do not think that has been done to scale and I think it is an opportunity missed.

Q599 Elizabeth Truss: You have just talked about UK experiences. Are there any experiences elsewhere of commissioning both prison services and probation services together?

Jane Coyle: I am not aware of any, no.

Peter Neden: Not that we are directly involved in.
dangerous offenders, that would be difficult perhaps to recognise that, particularly with the prolific and more serious offenders. It could be offender management services, although I see there might be a range of providers delivering those Community Payback arrangements and you will have the opportunity as Government to look at the different outcomes achieved by different providers.

Q604 Chris Evans: I want to start with a straightforward question. What does the private sector have to offer that probation trusts currently do not provide?

Peter Neden: Can I make a suggestion that I think it is more the answer Roger has just given? It isn’t the private sector per se that has something to offer. It is that a market that leads to a mixed economy has something to offer and that, over time, having a diversity of providers will lead to innovation that can either be a better service or more efficiency or lower cost or some mix of those things. It is the ongoing effectiveness of the market in competition that drives that. The players that win in that market will just be the players that the commissioners choose. I would hope that the private sector would be successful in a market like that. I am sure the private sector has something to offer. But it is not just about the private sector. I think it is about the market that is established, and that is a longer-term goal.

Q605 Chris Evans: How are you going to establish a market when there is a monopoly in place?

Peter Neden: I think that is the role of the commissioners.

Q606 Chris Evans: How are you going to break up the monopoly of the Probation Service provider at the moment when there is no market there at the moment? You are just creating a false market. Also, based on your point as well, how can you guarantee an efficiency or innovation in providing probation services?

Peter Neden: I think we can influence the creation of markets, but in all Government services it is up to our client to decide they would like to have a mixed economy. Could you just remind me of your second question?

Q607 Chris Evans: What was my second question? I was saying that there is a monopoly there at the moment. How do you envisage that post-monopoly then, basically? How do you envisage the market developing in the delivery of probation services?

Peter Neden: The market would develop by commissioning a range of different services, which could be Community Payback. It could be other interventions such as drug treatment programmes. It could be offender management services, although I recognise that, particularly with the prolific and more dangerous offenders, that would be difficult perhaps for us reputationally and possibly difficult in terms of appropriateness.

Q608 Chris Evans: My major concern about this is that in any market there has to be some level of competition. How are you going to introduce competition between providers if you are just awarding a contract, if you see what I mean? When you are awarding that contract, you are awarding a monopoly to that company for x amount of years. How do you introduce competition into the market?

Jane Coyle: Could I answer that question? We have had direct experience of answering a formal tendering process. This is at the Lancashire Probation Trust. This is an example of a very good working relationship; so it has not all been negative. They put this process out. We completed a tender. We submitted that tender. There were obviously others going for that tender. We were successful and we won that tender. We won it because we have demonstrated that we are good at what we do and we can provide cost-effectiveness. The difficulty is that other trusts are engaging with our services on a very ad hoc basis. That cannot promote any kind of competition when it is on such an ad hoc basis. It has to be a formally set-out tendering process, which Lancashire have done. They have done it. Why can’t other probation trusts do it? There is no formal or consistent process that is going on throughout the service. It seems completely arbitrary.

Q609 Chris Evans: How would you introduce the consistency that you have seen in Lancashire at the moment across the board? How would you suggest that is rolled out by Government then?

Jane Coyle: I am not an expert in deciding how those kinds of things come about.

Q610 Chris Evans: What is the best feature of Lancashire compared to your experiences with other probation trusts?

Jane Coyle: Well, if Lancashire can do it, why can’t another probation trust do it? Why can’t they tender out different processes—different parts of offender management? Ours is pre-sentence report writing skills services. There are many different parts of the offender management model that could be tendered out. We are probation officers. We have the skill to do it, but we can do it cheaper.

Roger Hill: You are describing a commissioning problem. The reason that there isn’t a market and there isn’t active competition is because the commissioners are not putting work to the market. It is providers and, as providers, we can influence that and we do it on a weekly, sometimes daily, basis. We are very keen to compete amongst ourselves and with the public sector. But until the commissioning decision is made, rather like the example I gave of Community Payback—and they are difficult decisions to make; I know they are because I have been on that side of the fence—there is any number of views as to why you shouldn’t do it or, if you have to do it, why you shouldn’t do it now. Those decisions have to be the first ones. Once you start to make them and become more confident, and NOMS becomes more confident as a commissioner,
and I think it will under this new construct, then that market will develop. That is how markets do develop.

Jane Coyle: But this does seem to have been in place for a while, though. That is why we are here now because nothing seems to be done. All the rhetoric is there, but there has been no meaningful action, as far as I can see.

Roger Hill: That may be true and I am probably asserting that it will develop a little more confidently than perhaps I should. I do have some confidence in the new model of NOMS which came into place a few months ago.

Q611 Chair: What do you mean by the “new model”?

Roger Hill: The move away from regions. So the market will develop. That is how markets do develop. And I think it will under this new construct, then that is how markets do develop. That is how markets do develop.

Jane Coyle: And if it works and it develops, then presumably that Community Payback lots is seen to somehow indicate that because they are large they cannot deliver locally. I don’t agree. To create an operational model to ensure delivery, you can very easily build in locality. The councillor who was on your previous panel talked about a wish to join a local criminal justice board. I believe he was from West Yorkshire. That is about localism. How you construct the Community Payback lots to ensure that you get efficiency into the scale of what you are offering doesn’t for a moment mean that you don’t expect us as providers to build in local decision-making into Community Payback as a delivery. I don’t believe those two things are a poor fit with one another. Quite the contrary: I should think they will fit together quite well.

Peter Neden: I think there is some good evidence of that in the electronic monitoring contracts that are effectively let nationally, but there are obligations on the providers to deal locally with police, youth offending teams, criminal justice boards, local magistrates and so on.

Q613 Elizabeth Truss: If it was sliced up in a different way, so it was by a group of offenders or locality, then presumably that Community Payback lot would be put with other services so that it could be done more locally. Because all the things are being sliced up into categories at a national level, to make it efficient you have to do it over a larger area.

Roger Hill: I think it boils down to choices actually. It goes back to how the commissioners decide to construct the market. What they have done so far, you are quite right, is to take a lateral slice through the market and say, “We will put this theme of Community Payback out there and see who can deliver it more effectively and efficiently.” I think the only other way you can do it is to take a locality. So you need to decide what you want to see in that strategy. That is to all of you.

Peter Neden: We have put our arguments reasonably consistently over the previous five years. We see that the private sector has a useful role in the delivery of justice.

Q615 Chris Evans: But have you spoken to the MoJ or NOMS about what you want to see in that strategy? That is to all of you.

Peter Neden: Yes, at many levels, with Ian Poree and Michael Spurr, indeed.

Roger Hill: We have too, and we have also responded to the Green Paper. We would like to see the development of a market in the community. Sodexo employ me to be in a position to respond to that. We would like to see the continuing competition of public sector prisons and we would like to be part of constructing how payment by results, locality-based commissioning, place-based budgets and all of that develops, because we take the view that there isn’t a straightforward simple answer as to how to do that. It requires a lot of thought and a lot of discussion and we would like to be part of it.

Jane Coyle: Ceaselessly. I think I have probably explained that. We have not stopped knocking on doors and writing to people explaining that we can offer a very high quality service a lot cheaper. It is frustrating when those examples are ignored and trusts are continuing to employ employment agencies to do the work that we can do a lot cheaper.

Chris Evans: I noticed that earlier in your response, yes.

Q616 Mr Buckland: We started talking about payment by results. We know in other areas of Government that already exists. For example, payment by results has been used by the Department for Work and Pensions and the Department of Health. What lessons do you think can be learned from the experience with those Departments with regard to delivering payment by results in the context of criminal justice? That is a question to each of you.

Peter Neden: I can speak for the DWP because we are involved in that. I am not so familiar with Health. I think the first thing is that the answer isn’t obvious and immediate. It might be a simple concept, but delivering it in reality is quite complex. The second point I would make is that it is not all or nothing. We
haven’t gone from a world where people are just paid money for trying to do things to a world where we are only going to be paid for outcomes. There is a transition period that allows us as providers to become more confident about the payment-by-results system and to build the evidence base that is in the interests of both our clients and us as providers to be able to make those steps.

The third point I would make is that there are lots of different ways of doing this. When we think about that in relation to criminal justice, softer measures may also be helpful. It could be that completion of programmes is akin to output, even if it is not as good as ultimate reoffending rate. But it may at least be achievable, and we shouldn’t make the ideal the enemy of the good as we walk down this journey in criminal justice. There is a lot that could be done there.

Q617 Mr Buckland: Do you think there need to be more tests than just reducing the rate of reoffending— that there needs to be a more subtle approach?

Peter Neden: I think it might need to be more subtle and more nuanced, particularly as the evidence base just isn’t there at the moment.

Roger Hill: I don’t know a great deal about Health or DWP. I would make two comments. First of all, the extent to which you can use a payment-by-results mechanism to be cash-releasing is more straightforward, I believe, in DWP than it is in criminal justice. For example, if you get somebody into work and they stop claiming benefit, you have instant cash release. If you get somebody on to a sentence in the community who does not use a prison place, that is not instantly cash-releasing. There is that complexity built around the criminal justice side of it.

Jeremy Corbyn: Well, it is cash-releasing actually. It costs less.

Q618 Mrs Grant: Somebody gave evidence earlier saying that, if somebody goes to prison, the average cost is about £55,000 a year. That cost is triggered from the moment they go through those gates.

Roger Hill: That is right.

Q619 Mrs Grant: I don’t see the question—

Roger Hill: There are a lot of fixed costs in having the cell, whether somebody is in it or not. You can’t simply stop funding the cell. That is the point.

Q620 Mrs Grant: But, as soon as they are in and eating food and requiring attention, that £57,000 is clocking up, isn’t it?

Roger Hill: Yes.

Q621 Mrs Grant: So why are you saying there can be no real equation in terms of results?

Roger Hill: I am saying when somebody stops claiming benefit because they have found a job—

Mrs Grant: I have got that bit.

Roger Hill: —there is no other cost attached to that, so that releases the cash. When somebody doesn’t use a prison cell, you still have the fixed costs of the prison cell. You are right: you don’t pay for their food. The variable costs reduce very slightly. But you still pay for the fixed resource, which is the prison.

Q622 Ben Gummer: Until you get enough people to close down the site.

Roger Hill: That is right. The cash-releasing mechanism, whilst ultimately there, is slower and more difficult.

Q623 Mrs Grant: But it can be calculated, obviously, because there is not a human body requiring attention going through the gate, is there? There isn’t, is there?

Roger Hill: The variable cost can be calculated because there isn’t a person in the cell, but the cost of having the prison remains a fixed cost.

Mrs Grant: Of course.

Q624 Chair: Until you get to the point where you have reduced the demand and you don’t need that prison.

Roger Hill: Absolutely, yes. They are simply more difficult steps along the journey. It is the same journey ultimately, but there are some quite significantly more difficult barriers within it. That is my first point. Secondly, you need to be absolutely clear what the result is that you are trying to purchase. The outcome results of somebody in employment and rather less outcome results, I think, in health of whether somebody got better are slightly—well, you need to clarify those. In a payment-by-results mechanism, you have to be clear about what the result is that you are trying to buy. Are you trying to buy the fact that somebody offends less, or are you trying to buy the fact that somebody completed the sentence that the court imposed, for example? They are two issues that you need to differentiate within a PbR model.

Q625 Mr Buckland: Wouldn’t another issue be the cause of the improvement? Sometimes it is difficult to work out precisely why it is that somebody stops reoffending.

Roger Hill: Absolutely, yes. You are stealing my third point.

Mr Buckland: I am sorry. I am speeding things up.

Roger Hill: The cause and effect argument is absolutely enormous, as you say. But in a sense that doesn’t really matter to the purchaser if you are clear about what the result is that you are buying because you transfer the risk at the point that you do that to the provider.

Q626 Mr Buckland: Of course we could argue that it is a bit of a red herring and we don’t need to get so hung up about it.

Roger Hill: Absolutely.

Jane Coyle: We have no real experience of the DWP or Health Service models, but the point that we have to offer is that payment by results can lead to improvements because we are evidence of that. We are effectively paid by results. If we don’t produce pre-sentence reports to the courts that have gone through the quality assurance process, we won’t get paid. Every time the court uses us to produce a pre-sentence report, the probation trust saves itself, to
be precise, £59. That is another way of looking at it, but that is a payment by result. We think that for small businesses payment by results might be quite difficult to manage. I agree with what Roger is saying in that it depends what your outcomes are. Again for small companies, if it was reoffending, it would be very difficult for us to manage.

We have recently created an e-learning programme for male perpetrators of domestic violence. How would we manage that by payment by results? Would it be that in two years’ time, if they reoffended, we would have to give some money back or we would only get a certain percentage of what we were going to get? It would be quite difficult for a small business. It would be easier for a large company to manage payment by results. The other point I would like to make about payment by results is that, maybe, that is something that could be given to the trusts to consider. As an incentive for probation trusts, they could be paid by results.

Q627 Chair: Can I just go back to something you raised earlier in the light of what you have just said? You are a relatively small company.

Jane Coyle: We are, yes.

Q628 Chair: You have had difficulties, which you describe, but they seem to be much more difficulties of lack of interest or response from trusts.

Jane Coyle: Yes.

Q629 Chair: Have you been in situations where the basic structure of a contract which you could fulfil your part of was denied to you just simply because of the way the contract had been set up? It was designed in a way which would not enable a small provider to bid.

Jane Coyle: Yes. It is a very interesting point because it has hindered us. We know where there are good staff. They are employed by probation trusts at the moment. We need proper contracts to give those staff job security. We have found that we have been offered short-term contracts—three-month contracts, for example.

Q630 Chair: Isn’t that just the nature of the business you are in?

Jane Coyle: But this is what we are trying to move away from. We are trying to move to a more formal business so that we can retain and keep the best staff, because that is what it is all about. It is providing quality work. It is almost impossible to work on these very short-term contracts. With Lancashire, we have entered into a call-off contract with them which offers them a very high degree of flexibility. It is really thinking out of the box. They have really gone that extra step. It is essentially a three-year contract that we have with them.

Q631 Chair: The point I was getting at was those circumstances where the minimum size of contract, minimum area covered and things like that would simply preclude you. It was not that the work was difficult for you to provide on what was almost like an agency basis, filling in somebody else’s gaps, but simply you were disqualified from applying because you had to be of a certain size or make a certain bid. You haven’t had that particular experience.

Jane Coyle: We haven’t had that directly with probation trusts. We have had that with the private prisons.

Q632 Mrs Grant: But cash flow is going to be key, isn’t it?

Jane Coyle: Cash flow is going to be an issue for a smaller business, definitely.

Peter Neden: Helen, could I suggest that that is not just related to small businesses? It is an issue for large businesses. But it is not just cash flow. It is also about certainty. In a world where there just isn’t enough evidence, businesses don’t just take wild guesses. They take informed investment decisions. Cash flow is one aspect of that, but certainty is the other.

Q633 Mrs Grant: I see the planning point as well, but sometimes with larger businesses there are other streams of more certain revenue coming in—not all, but certainly in the legal sector, for example, there might be, whereas you have a much smaller firm. You might be more dependent and that could have a very severe effect on whether you can continue to provide that service. I do take on board what you are saying, but that was the particular issue I was concerned about.

Peter Neden: It was certainly a factor in the Work programme, where I think we have around 300 subcontracting providers and many of those would not have been able to contract because of these issues.

Q635 Chair: You have around 300 subcontractors?

Peter Neden: Yes.

Q636 Jeremy Corbyn: I am interested in that last answer, but it doesn’t sound very satisfactory if you are getting a contract with the Probation Service or any other provider of justice and you then subcontract that to 300 other people. It sounds to me like a repeat of the disasters of Railtrack and its 1,000
subcontractors. But my point is that you are in this to make money. How profitable is it for all three of you?

Jane Coyle: I think there is an awful lot of work out there.

Q637 Jeremy Corbyn: No. I said how profitable is it?

Jane Coyle: Do you mean in terms of figures?

Q638 Jeremy Corbyn: For your companies, yes.

Jane Coyle: I would actually find that quite difficult to answer, if I am honest. Is that something I could put in writing to the Committee?

Peter Neden: How profitable is what?

Q639 Jeremy Corbyn: Your contracts with the Probation Service.

Roger Hill: We don’t have any contracts with the Probation Service, so they don’t make any profit.

Q640 Jeremy Corbyn: What about your other contracts within the judicial system?

Roger Hill: We have contracts for prisons which clearly do run with a profit element, but we provide a service for an agreed contracted price and we have won that contract in the market against other providers for that price. Interestingly, we have just made a bid for two prisons and lost them, predominantly on price. That is the nature of the private sector operating in that market. The difference that you have between our companies and the public sector is that you do have a service guaranteed at a price that you have contracted with.

Q641 Chair: What do you tell your shareholders in your annual report about the current and prospective profitability of this area of work as compared to the other areas in which you operate?

Roger Hill: Chair, I am sorry, I cannot answer that question. I don’t know the answer.

Chair: We will have to look at your annual report.

Peter Neden: I am not sure that we do, but our margins are around 7%.

Q642 Jeremy Corbyn: What about your subcontracting arrangements? I am quite surprised by that. Who are these subcontractors?

Peter Neden: For the Work programme we have a whole range of partners that we are working with to accommodate the need to keep the supply chain of a very large number of voluntary and other private sector organisations. That was a requirement of the bid. That is the reason for that. There is a whole range of small charities that help people with particular needs where we think they can do a good job for us.

Q643 Jeremy Corbyn: Isn’t this a management nightmare?

Peter Neden: No. One of the things we bring is the ability to manage that supply chain. We have systems, process and management in place that will do that for us.

Q644 Chair: This is the final point. There are three groups of people I just want to mention whose confidence in the system is rather important. They are sentencers, like the Magistrates’ Association we heard from this morning, the victims and the public in general, all of whom might doubt whether the private sector is going to earn their confidence. To what extent do you think it is possible to write into the contracts engagement with those categories of people? Are they measurable things or do we just rely on the good nature of your organisations or, indeed, the commercial advantage in establishing good relations with those groups of people?

Roger Hill: My organisation is a very values-driven organisation. We opt out of markets where we can’t use our values. In fact we rule ourselves out of more than half the corrections markets across the world because of the death sentence or the fact that staff are required to carry guns. We stand very strongly by our values. It is arguable whether you should have to, but I think you can and it would be a good thing to write into contracts as you describe. It is very interesting that in my last job I was director of offender management for the south-east, which was the point in my career at which I became much more convinced by a market-driven philosophy. I talked a great deal to a great many groups, including a lot of sentencer groups, about what mattered being the provision and not who provided it. I never had anybody disagree with me on that. Whatever you want as a service, you can build in whatever expectations you like into those contracts, and all the organisations that want to bid for it should be able to convince, because there is a proper story to tell, the three groups that you have described.

Peter Neden: Also, you are talking really about governance and, in addition to operating in the legislative framework, each of these contracts operates under a professional framework. So we employ people with professional qualifications. We operate under the client scrutiny of contract governance, which is something that in state monopolies often doesn’t happen actually. But then we also operate under the various inspectorates—the IMBs. So there is quite a lot of governance placed upon us. If we wanted to add another layer to that, I don’t think that would be difficult because that is part of doing business.
accumulated and they were taken on board as serious comments. That is something that is in place. Any organisation working with the Probation Service needs to use the structures that are already in place because obviously that is where the quality of work is. There is a lot of quality of work there. If I may also mention about the sentencers, that is something that is very relevant to us in terms of how we gain their confidence. Again, as someone who has worked in the Probation Service and worked in the courts, the comments of sentencers are crucial. Taking probation officers out of court is potentially problematic and not getting that direct feedback from sentencers, and also I think the pre-sentence report and the OASys assessment is the crucial document to give sentencers the confidence to impose non-custodial sentences. Having a well-argued document in front of them makes them less likely to impose short custodial sentences and go with the non-custodial options. A probation officer in court is going to improve dialogue between the sentencers and the service.

Q646 Chair: Thank you very much indeed. We are very grateful to all three of you. Did you wish to add something?

Roger Hill: I just wanted to add something on the issue of service users. Chair. It is an issue about which I feel very strongly. You probably know that in the Peterborough Social Impact Bond project, the service delivery organisation, which is the St Giles Trust, uses ex-offender mentors to work with those prisoners being released. I have looked at the research and I know the St Giles organisation well, and I think that is a model that has very considerable opportunity for development. I believe, fundamentally, that service users or ex-service users, if we can call them that, should be used in the design of services, just asking people what worked or what would have worked for them in this context. Before I left NOMS, I was a very strong advocate of the view that a service user perspective should be built into the specification for the Community Payback bidding round. I think you are absolutely right. There is considerable scope for a service user and ex-service user involvement in both the process of service design and delivery, and it is a largely unexploited market.

Chair: Thank you very much indeed. As I say, we are very grateful to all three of you.
Witnesses: Professor Ken Pease OBE, Manchester Business School, Professor Hazel Kemshall, De Montfort University, and Professor Carol Hedderman, University of Leicester, gave evidence.

Chair: Good morning, Professor Kemshall, Professor Hedderman and Professor Pease, and welcome. We are grateful to you for coming in and giving us your experience, knowledge and fruits of academic research in the area we are working on, the work of the Probation Service. I will ask Claire Perry to open the questions.

Q647 Claire Perry: It is very nice to talk to some people who perhaps have stepped back a little bit from the hurly-burly and the overloaded case management system. We are very grateful to you for taking the time to come and talk to us. What I would like to know, to start with, is what, in your view, does the research show the Probation Service is doing well and what are the main problems and shortcomings that you see—if we can start at a sort of over-50,000 foot level initially?

Professor Kemshall: Good morning. I have a few bullet points about what I think the research shows probation does well. The first is the community supervision of sex offenders, particularly through specialist teams and units, group programmes for sexual offenders and, to a limited extent, also violent offenders. The evidence also shows that high-risk public protection teams, often comprising both police and probation co-located together, have been beneficial. The multi-agency public protection panels for multi-disciplinary risk assessment and management have also been helpful. When applied consistently, OASys has also proved helpful in identifying risk, particularly risk of reconviction, but more recently the risk of harm. Targeted work on what are called the criminogenic need factors—although I prefer risk factors—based on the effective practice research agenda, has also had a good track record. Do you want me to talk about the limitations?

Claire Perry: Yes, please.

Professor Kemshall: The first one would be lack of consistency across probation trusts. When you look at the performance measures, that would also be borne out, particularly in applying that effective practice agenda. I would also personally say that work, both one to one and in terms of group programmes, with violent offenders has lagged behind work with sexual offenders. That has often been because the policy and media focus has been on sexual offenders, particularly over the last 10 years, rather than necessarily violent offenders.

Claire Perry: Interesting.

Q648 Claire Perry: Thank you. Would you like to comment, Professor Pease?

Professor Pease: Only as a limitation. If one believes the Ministry of Justice statistics, it is the case that the Probation Service disposals do not reduce reconviction rates relative to statistical expectation.

Chair: Could you speak up a little and repeat what you just said because the door was shutting?

Professor Pease: I am sorry. I have one comment because my expertise is more on the statistics of the thing than it is on the day-to-day operation, as Hazel has mentioned. If one believes Ministry of Justice statistics on rates of reconviction, it appears that one can predict probability of reconviction on the day of sentence as well as one can at the end of sentence.

Q649 Claire Perry: Effectively, there is no impact of the probation intervention?

Professor Pease: Taken across the board, that is so, I think.

Q650 Claire Perry: Interesting. Professor Hedderman, do you have something to add?

Professor Hedderman: I would disagree with that in that, in this field, all you can ever do is compare. You are never in the position of saying probation versus nothing. You are always in the field of saying probation versus either a short prison sentence or a fine. The Ministry of Justice have recently published a report which looked at what happens when you put like-for-like cases on a short prison sentence or on probation—allowing for the fact that, usually, you get different people getting different sentences. That seems to show that the impact on reconviction of probation and suspended sentence supervision is greater than a short prison sentence.

Q651 Claire Perry: We have just come from an interesting breakfast meeting about short sentencing, but that is a whole other topic. Thank you.
I wanted to probe on one thing you said, Professor Kemshall, about lack of consistency across Probation Services. If you think of supermarket chains—and we have lots of Tesco—if there is a failing Tesco, the management of Tesco works out why it is failing and does something about it, or at least brings it up to a group average. Why is that inconsistency of result allowed to persist? Is it a failure of inspection or is it a failure of these organisations not talking together or some other outside factor, in your view?

Professor Kemshall: I don’t think it is a failure of inspections. We have a lot of inspection reports and a lot of effective practice reports. Perhaps it is a failure to implement the learning from inspections, first, and perhaps also a failure to recognise that the Probation Service operates through individual probation trusts rather than as a single national unit in that sense. If you have that pattern of delivery, then you will get variation. It is a speculation, but I would suspect that the best performing areas in effective practice have senior management leadership and drive about that particular agenda.

Q652 Claire Perry: Thank you. Could I turn to risk management systems? We know the Probation Service has been very focused on risk reduction, and your point about media hype—meaning the risk focus on sex offenders was increased—is a very important one. Do you think the existing probation systems, and in particular the tiering of the staff structure, which is something we keep coming across, have helped allocate the resources effectively? Related to that, do you accept the idea of trying to push a bit more responsibility and broadness of approach down into the Service is a good thing to do?

Professor Kemshall: Tiering is an inevitability. Resources must follow risk and resources have to be rationed. There is no way round that. The resources for probation are finite and, in fact, are shrinking. There is always going to be a need to target resources most effectively at risk. OASys has helped with that tiering system—the level 1, 2, 3 and 4 tiering system—but there are two problems. The first is that OASys can still be inconsistently applied across all the trusts, and even, indeed, within a trust. Although it is still an important KPI for probation, one could see the use of that KPI as driving that quality up, hopefully. Also, one might wonder whether the tiering at levels 3 and 4 is exactly right. There tends to be, on occasion, a confusion about high risk of reoffending and high risk of harm. That can be a problem in how that tiering works.

Q653 Claire Perry: That leads into my final question. As we see potentially more involvement of voluntary and private organisations in managing the offender, do you think the duty of protection can be adequately controlled in those transfers? Is it a question of making sure OASys leads you to the right people to be passed over, if you like? What would be your view on how that universe of providers could work together to make sure the risk of harm is reduced or minimised?

Professor Kemshall: A decision would have to be made on the level of risk beyond which you could not pass that case—that person—on. You might decide that only low or medium risk cases were going to be passed to the third sector to supervise. In some sense, that already happens. Probation trusts do commission services from a range of providers and partners to do that. Taking the question as a whole, I don’t think we can be sure, one way or the other, about the competence and capacity of the third sector to deal adequately with the levels of offender risk. We do not necessarily know whether there is a competence and skill gap there to do that. Commissioners of those services would need to be assured of that through a rigorous tendering process. If you are going to pass a risk you need to be sure that the provider can adequately deal with it. That mechanism would have to be there.

Q654 Jeremy Corbyn: Welcome and thank you for coming to help us with our inquiries. This question is to Professor Pease, but I would like to hear comments from your colleagues. What evidence do you have for suggesting that community sentences offer no measurable level of public protection?

Professor Pease: There are three that I would like to compare in evidence. The first is the Ministry of Justice analysis, which uses the Copas statistical predictor of reconviction, which you will find up to and including, I think, the 2009 adult offending cohort. There you will find that statistically predicted and actual rates of reconviction for the community sentence group are almost exactly identical. The second one, as Carol Hedderman rightly says, shows a slight superiority of community sanction, or, rather, probation, over short prison sentences. It also shows superiority, of course, of long prison sentences over short prison sentences. The problem with both those analyses, and indeed every other analysis which has been done in this country, is that they cannot take account of things that are not in the dataset which the court takes account of. It is a statistical predictor, but if the court takes account of relevant factors above and beyond the factors which the statisticians take into account, there will be spurious additional treatment effects. The effect that Carol Hedderman refers to is very interesting because it is very age specific. It is very, very small for young people and substantially larger for older people. The third kind of evidence that I would call attention to is this. You will be aware of the Campbell collaboration—it is like the Cochrane collaboration in medicine, whereby the methodology of a variety of studies is compared and the gold standard, which is randomised controlled trials, is used to reach conclusions. The person who was commissioned to do the analysis of short custodial sentences against community sanctions was under the direction of Professor Martin Killias, a Swiss criminologist, and 300 studies were reviewed, of which five met the standards of randomised controlled trials and showed no statistically reliable difference in rates of reconviction. There were some strange individual effects, but I probably shouldn’t go into those because it would take me some time. Those are the three. The Campbell collaboration result, which is randomised controlled trial-based—
from five studies worldwide because it is very, very
difficult, some would say unethical, to make random
allocation as between short custodial sentences and
community sentences, so there are only five
worldwide—demonstrated no reliable difference
between the sanctions. I always feel I need to make a
caveat here. I don’t want it to be like this. I want
community sanctions.

Jeremy Corbyn: how to interpret that.

Who had had a short spell in custody showed better
slightly more reconviction, but not statistically
comparison showed that short custodial sentences had
this was a comparison, in this case, against
non-significant superiority. I should make it clear that
described, because they show a marginal,
from the Swiss study of Martin Killias that I

Claire Perry: Neither do we.

Professor Pease: Quite so.

Q655 Jeremy Corbyn: Do you mean this is an
inconvenient truth? Is that what you are trying to say?
Professor Pease: I believe it is a truth. Carol may
disagree. I am convinced it is a truth and it is one that
I would wish to change by incentivising—I am very
interested in the social impact bond approach, for
example, and ways of incentivising community
administrators of penalties to make things better—but
it feels like a truth to me.

Q656 Jeremy Corbyn: If we accept your analysis,
have you done any further research on the quality of
life of ex-offenders later on between those that did
custodial sentences and those that did community
sentences, such as educational attainments,
achievements, family, et cetera?

Professor Pease: Yes. These were the perverse results
from the Swiss study of Martin Killias that I
described, because they show a marginal,
non-significant superiority. I should make it clear that
this was a comparison, in this case, against
community service, not against probation. That
comparison showed that short custodial sentences had
slightly more reconviction, but not statistically
reliably, for the first five years. However, for the
following six years the thing reversed, so that people
who had had a short spell in custody showed better
social adjustment in years 6 to 11 than people who
had been given community service. I do not know
how to interpret that.

Q657 Jeremy Corbyn: How about your colleagues?
Professor Kemshall: There are two things I would
like to add. My area of interest is the most harmful—
the highest risk—offenders. It is worth remembering
that in 2009, for which we do have figures, only
0.26% of the probation caseload out of some nearly
180,000 offenders who would have been supervised
in the community at that time, went on to reoffend
seriously harmfully and to necessitate what is called
a serious further offence report.

Also, there may be other ways of thinking about this
issue. For example, I am a member of a probation
trust board which is either very close to the top, or
indeed the top, in terms of the performance measure
on reconviction. The way in which that is measured
currently for that service is to contrast the predicted
rate taken from the risk assessments in OASys:
in other words, what it is expected those offenders will
do and what, over each quarter, they do do. This
particular service performs very well in terms of
people doing less than is expected of them. It may be
quite interesting to contrast the very best performing
trusts on that measure against those which are at the
bottom, and to ask whether there is anything different,
in terms of what they do to achieve those rates, that
could help us here.

Professor Hedderman: I understand Ken’s point
about random controlled trials. The difficulty is that
that sort of approach comes from such things as
trials like medicines where you expect a heart drug to
corectly work the same way with people. That is true
in controlled trials for medicines, but when you
deliver it in the community you find that people who
are more overweight do more or less better on it, or
that older people may do more or less better on it, so
it is a prescription issue as well as an effectiveness
issue. Your GP has to accurately decide what sort of
medicine is suitable for you.

What the random controlled trial thing does is to say,
“We are going to ignore the expertise,” or, “We are
going to ignore what the sentencer thinks should
happen in this case. We are going to randomly give
you either a custodial sentence or a community one,”
and “Oh look, it’s ineffective.” It doesn’t seem to be
more effective because you haven’t taken into account
the particular circumstances of the individual. I am
not convinced that random controlled trials are the
best way of evaluating something like a patient. Aside
from the ethical issues, there is a question of: do you
expect a probation or prison sentence to work equally
well for different people?

Q658 Jeremy Corbyn: Breaking the Cycle, the
Government’s Green Paper, calls for more effective
and robust community sentencing. Do you have any
views on this and do you feel that is going to
make much of a difference? That is to any or all of
you.

Professor Hedderman: Sentencing is intended to do
a number of different things, and every individual
sentence is expected to do something, or probably all
of them. There is a distinction between whether that
aim of sentencing will have an impact on future
behaviour. “Robust”, to me, tends to sound like it is
a punishment. There is a difference between holding
people to account and being punitive. I think holding
people to account is quite an effective way of starting
to work with them to reduce their reoffending.
Although I don’t have a problem with punishment in
itself, it is quite important to distinguish whether
punishment is effective in reducing offending. My
own view is that it is not particularly effective.
Certainly short doses of prison do not strike me as
effective.

Professor Pease: Could you repeat the question? I beg
your pardon.

Q659 Jeremy Corbyn: Yes. In Breaking the Cycle
the Government emphasises the need for more
effective and robust community sentences. My
question is: will this make much of a difference in
your view? Do you think it is a helpful suggestion
from the Government?

Professor Pease: During the 1970s I was head of the
Home Office Research Unit’s social work section and
therefore responsible for various treatment initiatives.
One was called IMPACT—intensive matched
probation and after-care treatment. The thing that
frustrated me then—this plays into what Carol said—is that interactions are really important. To give one example from that era, it was the case that certain personalities of probation hostel warden were much more effective at stopping absconding and reducing reconviction among their charges than others. I asked repeatedly over the next 20 years whether these personality factors were ever used in selecting probation hostel or other wardens and, uniformly, they were not. If you like, the raw material for working out the interactions that Professor Hedderman refers to simply were not followed up. That is why the incentivisation of the Probation Service and other community agencies to do this strikes me as really important. Again, the social impact bond strikes me as an interesting way of developing this point.

As to the ceiling of that effect, I really don't know. Whether it will confer equal levels of public protection relative to custodial sentences is perhaps open to question, but it is certainly something worth striving for.

Professor Kemshall: That is why it might be worth comparing the best with the worst, because it might tell you what it is that people do that underpin the community sentences that are making a difference.

Q660 Mr Llwyd: Does the assessment of reconviction rates provide a reliable and robust means of measuring the effectiveness of various sentences?

Professor Pease: It seems to me that it is the only one the public has any right to look at. One’s lifestyle is one’s lifestyle and reconviction is when people intrude on the lives of others. My concern is that it is not a level playing field in terms of the way in which it is counted. Reconviction rate is counted from the date of release from imprisonment and it is from the date of sentence for community sanctions. That discounts the one thing that custody does do, which is to keep people away from those on whom they predate for a short while. It seems to me that a level playing field would require counting from the date of sentence whatever the sentence is. That would, of course, make the benchmark for community sanction success much higher. That doesn’t particularly worry me because it is a more accurate statement of public protection afforded by different forms of sentence.

Professor Hedderman: Can I put a different alternative to you? If you want to have a level playing field, the alternative way of doing it would be to not count reconviction until the sentence ended. If you think of probation as being like a course of antibiotics, it is unreasonable to expect it, on day 1, to have its effect. The alternative would be to wait until the probation order has ended and wait until somebody comes out of custody. If you measured it that way, probation would come out looking significantly more effective than a short custodial sentence. The simple fact about reconviction measures is that it is the best one we have. It isn’t in any way perfect. Basically, you have a choice between accuracy and transparency. The more accurate you want to make it, the more complicated the analyses get about what exactly you are measuring with what. It is, at the moment, the best thing we can do.

Q661 Chair: Although there is a difficult decision to make about which measure to use to apply payment by results, there is no reason, is there, why we shouldn’t have all three of these forms of information available to us as a general means of assessing?

Professor Pease: I agree, but I still like the “from the point of sentence”. This is only an argument by analogy, and therefore flawed, but if you are looking at five-year survival rates for medical treatments, one of which involves hospitalisation and the other does not, then you start counting from the point of diagnosis, not from the point of discharge from hospital, which would give an advantage to the others. Government statistics are vulnerable in three ways in relation to crime and justice. This will be one sentence, I beg your pardon. First of all, it understates the extent of crime, for example, by discounting serious crimes in the British Crime Survey. If you believed what people told you, which is what the British Crime Survey is supposed to do, then those who are chronically victimised would be much greater—a woman who has been hit by her husband every Friday night for the last year will have suffered 52 times, but the British Crime Survey will count it as her having suffered five times, so that is truncated. If you believed people, that would be much greater. The second is it understates the degree of inequality between areas and people in the extent to which they are victimised. The third, because of its use of, for example, prevalence measures—reconvicted or not reconvicted—rather than the number of offences for which they are reconvicted and those which are taken into consideration and others—Yes, Sir Alan?

Chair: I am having difficulty hearing you.

Professor Pease: Yes, okay. In all those three cases, it seems to me that official statistics underestimate the extent and the inequality of distribution and overstate the effectiveness of penal sanctions.

Ben Gummer: I missed that last point as well.

Professor Pease: I am sorry, I was trying to be brief.

Chair: The third of the three.

Professor Pease: The third one is the effectiveness of criminal justice systems. If one looks back at fine payment rates, to take one example which is not too contentious, I think, it is one which was savaged by the Public Accounts Committee and the National Audit Office a couple of years ago to the point that we do not know what proportion of fines imposed are paid and, if so, in what rate; there is also a set of perverse incentives to administratively cancel fines in certain circumstances. I use that as one easy example because your fellow Committee has made that point hitherto. I could produce other parallels in terms of things that are ignored. For example—

Chair: That is a long enough diversion from Mr Llwyd’s line of questioning, so I will put him back in charge.

Professor Pease: The reason why I went in that direction—I apologise that it was a diversion—is to say that reconviction is one figure but if you say “reconvicted/not reconvicted” you are understating it, as is typically the case in crime and justice statistics relative to the amount of crime which people suffer.
Q662 Mr Llwyd: But there is no unanimity as to when the period should start. You take your view and presumably another view is taken by other members of the panel. Your view is that it should start from the point of sentencing. You have explained that position. Professor Hedderman, you have been critical in the past of the use of cross-sectional snapshot samples used for measuring reoffending rates rather than the conventional longitudinal approach. Can you explain what the difference is and why the choice of technique is so important?

Professor Hedderman: The reason most studies take commencement as we know most people who reoffend after a court order or release from a prison sentence do so within about the first six months and the majority of their offending will certainly happen in the first year. If you take cross-sectional samples from the probation caseload, you are taking people who were sentenced yesterday, who are at very high risk, and people who have been on caseload for three years, whose risk is quite low, so it undercounts the extent to which the Probation Service are getting fresh cases in and dealing with high risk. That is the first thing.

The second thing is that the Probation Service tends to weight its work towards the front end for that reason. Even if they are getting credit for the people who have been there for three years they are not doing, usually—unless they are very serious cases—a lot of intensive work with those people. They have done that in the first few months. It is false to suppress how much reoffending those people are doing. It is this transparency thing as well, in that it gives you yet another set of different figures that look much lower than the annual reconviction rate for probation. The study I did in the East Midlands, when I looked at the overall East Midlands reconviction rate using a standard approach, came up with pretty much the national level of reconviction. I feel it is easier for people to understand if they see that the national rate is about 38% and the local figure is about 38%. They can see that they are coming from the same sources.

Q663 Mr Llwyd: Your view, presumably, will be important in terms of modelling payment by results. Professor Hedderman: The payment by results approach will be done on a commencement sample, yes, not a caseload sample.

Q664 Mr Llwyd: I beg your pardon? Professor Hedderman: The Peterborough analysis will be done on a longitudinal approach.

Q665 Mr Llwyd: On a longitudinal basis. That is presumably what you would like to see rolled out generally on payment by results. Professor Hedderman: Yes. It is only the local reconviction comparison. The area conviction is the only one that takes a caseload approach. All the others take the standard approach.

Mr Llwyd: Thank you.

Q666 Elizabeth Truss: I want to ask a question about payment by results. It sounds, from what you have been saying, Professor Pease, as though the only effective interventions are where it does not only involve the Ministry of Justice but wider public agencies; for example, the DWP and the Work Programme or, perhaps, social services or the NHS. How could a payment by results model work across those services as well as just the Ministry of Justice?

Professor Pease: I don’t think I am at all equipped to answer that question—not remotely—because the community safety partnerships, which I am more familiar with, have enormous difficulty, and the Department of Health is also extremely relevant in such things. The point is that payment by results would at least give an incentive for change, which I believe is now limited to the professionals—the community service and probation administrator.

Q667 Elizabeth Truss: You also have payment by results working in other areas. For example, somebody who has been convicted of a minor offence may also be part of a payment by results programme to get back into work. Could those things be integrated? Would that be helpful?

Professor Pease: With the motivation, I see no reason why not. There are two caveats, if I may, and one is an historical one—the Californian probation subsidy scheme, which should be looked at by the Committee in written evidence. It tried payment by results of a kind in 1965 that fell apart in 1970, for reasons that remain in dispute but include some of the difficulties that you half allude to. The second one is that, when it is evaluated, it seems to me important that you get some grizzled practitioners to look at it because there are all kinds of ways and means by which you can distort the figures by early terminations and back-loading stuff—all kinds of things. You need a grizzled practitioner. I fear I have not answered your question.

Q668 Elizabeth Truss: On the subject of community sentences versus custodial sentences, you have said that community sentences are not effective in reducing reoffending, essentially. Professor Pease: Not relative to other things, as Carol Hedderman correctly says.

Q669 Elizabeth Truss: What about the cost benefit of them? Clearly, the costs are lower. If you had to do it on a cost-benefit basis for a particular person being convicted of a particular crime, how would you assess one against the other?

Professor Pease: I did a piece of work for Civitas about six months ago which tried to calculate that and which I would be happy to supply the Committee with. What it showed, effectively, was that it depends on how many undetected crimes people have committed. The Home Office has costings of crime, and if one applies those costings of crime alongside the sanctions, then what I got it at was something like, on average, five and a half to six undetected crimes. If somebody, for every conviction, commits more than, say, six undetected or unconvicted crimes, then the cost-benefit analysis comes down in favour of custody.
Q670 Elizabeth Truss: Could the rate of detecting those undetected crimes improve by the use of more half-way house solutions, for example, tagging and you mentioned probation hostels earlier? What about those types of solutions where people who have been convicted aren’t necessarily in custodial sentences but are being more closely monitored? Have you investigated the effects of those kinds of interventions?

Professor Pease: I have not. Does anybody know? Can the collaboration stuff help?

Professor Hedderman: There is an evaluation by an organisation called Matrix, which comes up with slightly different results to Ken. It basically says that community supervision, particularly with a form of monitoring, is more cost beneficial than prison.

Q671 Elizabeth Truss: Can the collaboration stuff help?

Professor Hedderman: I can get that sent to you. You have got it.

Professor Pease: I would make one comment on that. That is true and the methodology is excellent. The trouble is that the standard for community sentence reconviction rates is not taken from Ministry of Justice statistics. It is from Campbell collaboration best performance statistics, so it is an unrealistically optimistic statement of the effects of community sanctions in that paper.

Q672 Elizabeth Truss: Do the panellists think it would be helpful if courts, when putting together sentences, had the information about the cost benefits of the sentencing for the particular crimes committed? Do you think more research should be done into the effectiveness of different penalties. When you ask sentencers what they would like, they don’t really want reconviction rates. They want to know about the cases they themselves have sentenced. It is quite a difficult thing to persuade them that it is information they would find useful. I don’t think they see that need themselves at the moment. Why hasn’t it? Do you think

Professor Pease: Yes. I support that. In the old days—and it may still exist—there was a little booklet which will not have been operated, as in Liverpool. You have members of the judiciary who see it as part of their job to follow up the offender through various stages and establish whether they are making progress or whether the sentence has to be varied.

Professor Pease: That is Carol’s point, isn’t it, that they are only interested in their own outcomes?

Professor Hedderman: The difference with a community court is that their approach is problem solving. Most courts are there to punish people and for public protection. That is not quite the same thing as a problem-solving approach where they are focused very much on the individual in front of them and what might be done to change that person’s behaviour.

Q675 Chair: But don’t magistrates say, “I don’t want to see you in this court again”? I’m quite surprised that you say that.

Professor Pease: That is to the person in front of them, not everybody else. That is an indication to the individual.

Q676 Elizabeth Truss: I want to ask a final question about the international evidence on this and also about the way international systems work. It seems to me, with a cursory look at it, that some other countries have more of a joint correctional service which will have a combination of custodial and non-custodial sentences, so more of a continuum. Do you think a system like that is to the person in front of them, not everybody else. That is an indication to the individual.

Q677 Elizabeth Truss: Why hasn’t it? Do you think it is a good objective?

Professor Hedderman: There is an interesting phenomenon in Britain: you take the results of research, the Government take them on and they somehow reinvent them in their own image. I don’t think anyone would disagree with the idea that you should have seamless management, but somehow that becomes an organisational and bureaucratic objective. The same is true of offender management. The idea behind offender management is that it is better to have one person dealing with the offender. They build rapport and relationships. What you get as an offender management is that the bureaucratisation of linking all the different little bits together. The concept never seems to get turned into practice; it gets bureaucratised. There are a lot of lessons we could learn from abroad and that seamless approach—

Q678 Elizabeth Truss: Which country would you pick from a hat?

Professor Hedderman: I think Australia has probably more of an understanding of the relationship that you need to build with the offender. On the organisational
front, I am not sure I am convinced that structures are necessary. Our Probation Service and our prisons do communicate pretty well with each other at an individual level but, because it is at an individual level, it may not be consistent. That is Hazel’s point, that there is inconsistency.

Professor Kemshall: It also has to be said that here, at home, it is interesting that the police and probation have made quite a strong partnership, particularly around integrated offender management—which I think you will hear about later this morning—and also in terms of public protection. It shows that MOJ agencies can work together and it is interesting perhaps to have some lessons about how those two do.

Q679 Elizabeth Truss: Can I get your views on the international point?

Professor Pease: I have nothing helpful to add.

Q680 Chris Evans: I want to focus on training and I direct my question to you, Professor Kemshall. The new probation qualification award was introduced in April 2010. What is your view of how it is working? Are staff being given significant time to train and is there significant supervision and support?

Professor Kemshall: It is a little too early to tell how well it is working. It came on stream in 2010 and we need time for the cohorts to go through, to evaluate that properly and to look at whether the structure is going to work particularly well. It does bring some very particular benefits here, especially to probation support officers, PSOs, because, perhaps for the first time, it is giving them a coherent structured training pathway, particularly up to level 3. It gives a clear pathway of both training and career progression for that grade to probation officer level. It is also quite important for PSOs in that it relates to the tiering question asked by Mrs Perry. PSOs are now increasingly taking on a lot of community supervision and engaging with high risk cases and we know, from previous inspection reports, that that is a grade that needs to be trained well in terms of risk.

Q681 Chris Evans: I was concerned that the 2005 Napo survey stated that 72% of respondents said there were too few opportunities for staff development. This was echoed later by research at De Montfort University. Why do you think this came about?

Professor Kemshall: Could you repeat that, please? I am struggling to hear you.

Chris Evans: I am sorry. Perhaps it is my accent, is it?

Professor Kemshall: No. I am struggling to hear you.

Chair: It’s the acoustics in this room, I think.

Chris Evans: It is the acoustics. I will speak up. I am often accused of shouting, so I kept my voice down. Napo’s survey of 2005 said that 72% of respondents felt there were too few opportunities for staff development. This was echoed later by a De Montfort University study. Why do you think that situation came about, or why do you think there was that belief there?

Professor Kemshall: Do you mean in terms of staff development for people in the workforce currently?

Q682 Chris Evans: Yes, why did they feel there were not enough development opportunities there for them?

Professor Kemshall: A proportion of that is going to relate to the issue I have just spoken to, which was the grade below probation officers, PSOs, the Probation Service officers. They are slightly confusing terms, I think, which is a little unhelpful. Traditionally, people had to leave that grade and leave their employment to go and train. There was no progression beyond that grade. You could move within it and receive incremental payments and so on, but there was no progression through that grade. Also, in terms of staff development within grade, I would suspect there are difficulties, in terms of in-service training, of people feeling that there are developments are developments that have particular specialisms; that people are building a portfolio of different skills through their work career.

Q683 Chris Evans: Do you think probation officers have enough training? Do you think it is about right now or do you think this is an area that should be looked at again?

Professor Kemshall: Did you ask me about probation officers?

Chris Evans: Yes. Do you think they have enough training or do you think this is an area where there should be a system of continuing professional development or something like that?

Professor Kemshall: Yes. We don’t know yet how well the PQF is going to work, for the reasons I explained earlier. Personally, I think it would help if we could see a clear pathway of building competence between years one and five within the workforce. We should not accept that, after the training period, I enter on day one and I am equipped to do everything. That is clearly not the case. I may need to learn a range of skills and competencies to deal with more challenging types of offender and offence types and more challenging types of risk throughout my career. At the moment, we don’t see that pathway and an awful lot of in-service training is by self-selection—members of staff choosing what they want to do—and much of that training is not then assessed in terms of competence on the job. We train but we don’t know the impact of that in-service training well enough.

Q684 Chris Evans: We have heard in the past, from other people in front of us, that there seem to be people recruited into the Probation Service but a high level of exit out of it. Why do you think that is? Do you think there is a general perception of probation and that there is a gap between what probation officers are prepared to do and what people think probation officers do? If so, how do we overcome that perception?

Professor Kemshall: Can you repeat the first part of the question, please?

Chris Evans: I am sorry, the table is creaking as well. I’m having all sorts of problems here. We have been told by people in the past here that people enter the Probation Service but there is high level of exit through being disillusioned, demotivated or whatever. The general feeling that has come out is that people have a perception of what a probation officer should
do compared with what a probation officer actually does. How do we address that fundamental issue of perception? How do we get people to understand what is expected of them when they enter the Probation Service?

Professor Kemshall: Recruit better.

Q685 Chris Evans: How do we recruit better? What types of people are we looking at? What areas do we recruit from in particular? What I am asking, essentially, is this. If you had somebody in front of you as a probation officer, what qualities would you be looking for?

Professor Kemshall: To people who came, I would ask the question, “Why do you want to join the Probation Service?” If their first answer to me was, “Because I want to help people,” or, “I like people,” or, “I wish to work with people,” that would worry me greatly. I would expect people to be able to express some understanding about the role and responsibility that they are taking on. It is a very big responsibility. I am very struck, for example, when I train probation trainees and we are talking about risk and start to look at the case studies, that people can be extremely surprised about the sorts of people and the sorts of things they have done that, in a very few months’ time, they may be being asked to deal with. I think there is a misunderstanding about the challenges faced within the job. You need high resilience because there can be a lot of failure. Sadly, people do come back. People don’t always do what you think is right for them and, for some people, change is a very long journey; but also some people have done some terribly awful things that have to be faced, talked about and changed.

Q686 Chris Evans: Have you done any studies into why people exit the Probation Service?

Professor Kemshall: Not personally. De Montfort has done those—I can supply them—and, indeed, they have been done by other researchers. There are issues about morale and about personal resilience to the challenges of the job, and particularly this issue of disappointment and failure. I think there are misperceptions about the workload and what that is going to look like and misperceptions about what some perceive as a mismatch between the face-to-face contact work and the administration and bureaucracy of the job, which is inevitable.

Chris Evans: That would be interesting to have.

Professor Kemshall: Yes, of course.

Chair: We need to move on.

Chris Evans: Thank you.

Chair: We are all very grateful to the three of you this morning. We have had to compress things in a short time but we are very glad of your help. Thank you.

Examination of Witnesses

Witnesses: Mr David Chantler, Chief Executive, West Mercia Probation, John Long, Assistant Chief Constable, Avon and Somerset Police, and Mr John Quick, Assistant Chief Officer, Merseyside Probation Trust, gave evidence.

Chair: Welcome, Mr Chantler, Assistant Chief Constable Long and Mr Quick. We are very glad to have your help this morning. As you will have heard, because you were listening to the previous session, we are working on the Probation Service at the moment and I am going to ask Robert Buckland to open the questioning.

Q687 Mr Buckland: Thank you very much indeed. It is good to have three witnesses from three different parts of the country, Avon and Somerset, Merseyside and West Mercia. The first question I want to ask all three of you is relating to your own local experiences about the term “offender management.” It was a term coined by Lord Carter when he set up NOMS. First of all, with regard to your own local experience with local partners, is there a shared understanding of what that term means? If there isn’t, what examples of any confusion have you found? An example I can give you is the newer term of “integrated offender management” that has been introduced. Has that caused some confusion at all in the common understanding of what offender management should mean?

John Long: I would be happy to start. It is a really pertinent question. Some of the historical understanding about what is meant by offender management has come from the world of NOMS and the modelling that followed various legislation five or six years ago. My own view is that the advent of developments such as integrated offender management have improved that understanding. The partners that I work with in the south west of England, in Avon and Somerset, do see it as more than just an end-to-end process—out of the prison gates and into the prison. The fact is that we have the Prison Service, the Probation Service, police, local authorities, criminal justice, drugs workers, family intervention workers and so on working in the same project with the common purpose of reducing crime and protecting the public in their area through reducing reoffending. My experience has been that they absolutely understand what we are doing with that cohort of offenders that we are trying to manage and whose reoffending we are trying to come to terms with.

Q688 Mr Buckland: You see it as a general reducing of reoffending rather than individual risk management of individual offenders?

John Long: There is very definite individual risk management of individual offenders. That is part of the strength of the scheme which all the agencies recognise. I know, from having heard some of the previous evidence when you were talking about the rehabilitative pathways, all the partners I work with on my local scheme understand the interventions that
can take place. Some say there are seven and some say eight; we have nine pathways on our local scheme and we sequence the interventions to the individual in a bespoke way. But of course overall we wish to see a reduction in crime in the area, increased safety and lower rates of victimisation. Each partner takes from that work what they see as the core benefits in the service that they are delivering to the public as well, in my view. It is very important, in such a framework, to understand that each partner brings distinct skill sets and experience. It is not about homogenising everything. It is understanding the sequencing and the actual interventions that individual offenders need, but we do have, certainly, a common purpose to improve things for the public in our locality.

David Chantler: I support that from my area. The word “areas” is significant because it does give the focus or the context in which one can understand what is required from partners. For instance, in West Mercia we are fairly unusual in that we buy in most of our pathway work from other providers, particularly through the context of our strategic partnership with the voluntary sector—a body—which means there does have to be that organic, holistic understanding about what we are all trying to do together. The fact that it is our local police we are working with, together with the local agencies and the local authorities, gives a focus to bring that to life. The problem I have always felt since the term “offender management” was coined, as a result of Carter’s work, is that it is passive. It is a bureaucratic process. It is “the process”. It has to be brought to life and can only be brought to life in local communities. That is where you make the linkages that make the difference.

To give you an example, we are very fortunate in Worcestershire—my largest local delivery unit in West Mercia—that there was a pilot for Total Place. That has opened up their thinking on how they worked with other agencies. Faced with a reduction in their Supporting People money and the removal of the ring fences, what they were able do was put £100,000 for each of two years into a joint project—but not administered by the Probation Service. We don’t want to grow; we want to act as the catalyst. We want to bring people together to make a difference, both for the community and for the individuals. We have matched that with focusing the interventions that we get through our pathway providers on the same families. For the same £200,000 over two years, matched by us with activity, we are focusing on what we can only know locally: the most vulnerable, the most at risk, the most likely to commit and the offending families in the area. That cannot be organised from Whitehall, yet what we have been through is a period of trying to run what is essentially a local service from the centre. There is ever more granulation of issues like standard benchmarking and costing, which makes the assumption that what we are looking for is a standard product. We need a product that meets local reality. We are in danger of getting ever better at doing the wrong things.

John Quick: Can I add something from a Merseyside perspective? In my view, there is a shared understanding of offender management and particularly, picking up on John’s point, in relation to the pathways into offending. By addressing those pathways, you can move people out of offending and from that lifestyle. The other point that David has picked up on is localism. That is crucial to the delivery. If you are thinking about prolific and priority offenders, that brings local agencies together in a particular area to address specific concerns of the local crime in that area. For example, in terms of violent offender management—particularly in north Liverpool—there is a particular group that has been set up with the police, probation and other agencies working together to address the needs of that offender but in the wider context of that offending—more holistically within an offender management model.

Clearly, in terms of offender management there are key aspects that probation are prescribed to do, for example, the management of high risk cases through the custodial sentence, sentence planning and other activities. With a multi-agency approach, through the Citysafe partnerships, the community safety partnerships, local IOM schemes, intensive community orders and PPOs, there is a shared understanding of offender management and what that means.

Q689 Mr Buckland: Mr Chantler touched upon it indirectly, but I want to explore the position with regard to the commissioning arrangements that existed up till April of this year and to find out your views as to what extent it was possible to achieve priorities relating to what you, as local partnerships, wanted to achieve—for example, intensive alternatives to custody schemes. How do you feel your ability was affected, either positively or negatively, by the commissioning regime as existed up until the spring of this year?

David Chantler: As a particular probation area, our determination was not to be affected but to find ways through. What we have achieved has been done despite that regime. I will give you a few examples very quickly.

It was wonderful that the centre, after Coulsdon, wanted to invest in women’s services. We got an investment from the centre in a very good project in Hereford, which got plaudits from the thematic inspection of services for women; but that wasn’t co-ordinating with the local Probation Service and we weren’t able to use our good offices to do what we are very good at, which is engage with the investment of other local agencies and indeed lever in money from other sources which would have grown that money. As part of the cuts, 12 months later—one absolutely understands the agenda—that money is withdrawn and the project closes. It was not sustainable. Had that money been invested through us, we would have designed in sustainability. To be honest, we probably wouldn’t have invested as much money in that particular project—a women’s project in Hereford probably did not merit that level of funding, certainly from one source. The other thing we would have done is made sure that that project was not dependent on one source of supply.
For instance, one of the things we have also developed, with funding from the Regional Development Agency because of the links into the local economy, is working with farmers to use their already fixed assets to develop care farms. We have encouraged them to seek to do work with people with mental health problems, learning disabilities and school refusers. There is a diversity of income streams so that people are not entirely dependent on the Probation Service. If you take it to the almost reductio ad absurdum of the unpaid work—the community payback contract—because of the commitment that I described earlier to get people to work with us and in partnership with us, we have other agencies paying us, to the tune of £300,000 in my budget for this year, to deliver unpaid work supervision. We are not precious that we have to deliver it. It is much better if people who have that in their area of expertise are working with offenders and giving them skills, sometimes with potential employment opportunities coming out of it, yet we have a Ministry of Justice that is proposing to pay people to do that which they are currently paying me to be allowed to do. It is a nonsense.

**John Long:** I, too, would say that the commissioning arrangements that existed until recently didn’t in any way contribute to the formation of integrated offender management in our area. It is true to say, I think, that our director of offender management was kept apprised of the developments and took an interest, but the commissioning arrangements were not pertinent. It came about by our local probation trust recognising that benefits would accrue from working with the other agencies and spreading their work across not just statutory cases but non-statutory cases too. It came about from local authorities understanding that if we got the sequencing right, we might only have to rehouse someone once or twice rather than five or six times, with lower levels of harm to local communities as well. It came about from similar views in the local prisons and, from my own service point of view, an understanding that if we could work better with others we could reduce crime in our area. Reducing crime is a very expensive thing to do in pure policing terms and comes with the victims as well.

Each agency has found its own way of delivering through mainstream resourcing. There was no additional funding whatsoever because we felt the sustainability of this was absolutely critical for the future. Some agencies looked to different models. For example, my own police force, Avon and Somerset Constabulary, is part of a joint venture company with a big computer company and some of the local authorities in the South West. We work as a joint venture company to deliver savings into the bottom line which allow us to maintain our efforts in new projects like this. This does diverge from your question a little but, in terms of commissioning arrangements and so on, joint ventures may provide some sort of solution there further down the line when we are looking at things like PBR and other things.

**Q690 Chair:** Further down the line you are looking at—what? I missed the last bit of that sentence.

**John Long:** I was dipping into that subject really. Further down the line, one model of delivering offender management—including payment by results—financial incentivisation and probably still involving statutory agencies—may be joint venture arrangements, which seem to offer some possibilities.

**Q691 Elizabeth Truss:** You mentioned about working with other agencies locally. I am interested to understand how the Prison Service fits into that. Could you all comment on that?

**John Long:** We are blessed in my own area because we have a governor at HMP Bristol who was very prepared to work with other agencies, not just within the prison walls but outside the prison walls. For example, we have three prison officers in the integrated offender management unit in the city of Bristol who ease the management of offenders in terms of their sentencing regimes inside the prison and then the continuance of those outside the prison; the location of offenders in the prison estate that can allow certain interventions to be brought to bear; and the identification of risk factors that allow us to concentrate on those who present the greatest risk of reoffending. Actually—I would say this, wouldn’t I?—I think it is a pretty seamless way of working as well that they have brought about within that local prison.

**David Chantler:** I support that in the sense that my experience of working with individual prisons and individual prison governors has been similarly positive. It is a case, though, of the spirit being willing and a lot of the flesh being very weak. The reason I say that is in West Mercia we have more than enough prisons to meet our local needs, but Herefordshire commits through Gloucester Prison, Shropshire and Telford used to commit through Shrewsbury Prison in the heart of the community, which was easily accessible but—again no consultation with us—the local prison function was switched to Dovegate on the Derbyshire-Staffordshire border. Worcestershire, fortunately, commits through the prisons at Redditch, the Hewell cluster, and we have got very good at working with them. Indeed, up until a couple of years ago, with the whole of the prison region, we ran a very successful rehabilitation programme for short-sentence prisoners who otherwise got no post-sentence supervision. That demonstrated, with external consultants looking at the figures, significant reductions in reoffending and savings to the public purse, using the voluntary sector to deliver the post-sentence wraparound service. That would not have been possible without that high level of engagement from the Prison Service, but it was funded by European money and, at that stage, NOMS did not wish to be seen to be a co-funder for European projects and the project was not able either to be continued locally or rolled out nationally. That—I will finish quickly because I am sure John will want to say something as well—also speaks to another part of the Prison Service contribution which is that we suffer, being between London and the less-populated-but-more-prisons north, from the ripple effect of London prisoners being sent to our prisons and our prisoners being sent to the north. We need to
go back to Woolf’s recommendation after Strangeways and make a priority of community prisons. When the prisoners are physically available and accessible, you can do all sorts of things through the prison gate, like Connect demonstrated. I would urge you to make that a key part of something that you attend to, or as much as possible: seal prison regions so we can physically work together.

John Quick: I can pick up on that point and hopefully give you a really good example in terms of HMP Liverpool, because that is a community prison. It is working towards getting the majority of the inmates in there from the local community. Of course, that assists in resettlement back into the community, whether it is short term or longer term. The linkages between probation and prisons are particularly important. We know that the relationship between the offender and the probation officer or the offender manager is crucial in terms of enabling them to desist from reoffending.

Q692 Elizabeth Truss: If it is all going so well locally and prisons are working together with the Probation Service, the police and the local DWP and so on, what value is the national structure adding in any of this? What is the purpose of having a national Prison Service, a national Probation Service and the NOMS structure and whatever is going on at the Ministry of Justice? What is the value there?

David Chantler: Is that a real or rhetorical question?

As you have seen from my CV, 10 years ago I was involved in the modernisation team that designed the national Probation Service. That is before NOMS. That was bringing together a central directorate for the Probation Service. The rubric we had at the time was “strong centre, strong local” because there were clear vertical lines between the previous vertically autonomous probation services. That paradigm, if you like, was creaking fit to bust. You couldn’t have 54 completely different versions—indeed, the funding arrangements were such that some were massively well resourced and some were very poorly resourced. Some local authorities thought there was an 80:20 split on the funding so, “If we put £1 in we draw in £4 worth of central Government funding. That’s a good deal.” Others felt, “Any pound we spend on what is essentially central Government concerns is not a good deal.” All of those things were driving unacceptable and irrelevant difference. Therefore, things were brought together 10 years ago to get that sense of consistency and leadership but still focusing on strong, authoritative local probation. It is now 42, based on the footprint of the police areas—that coterminosity was massively important in moving things forward. What is sad at the moment is that is beginning to break down: for instance, CPS West Mercia have now gone into a wide West Midlands CPS arrangement and yet we are told the Government is not interested in the regional structures anymore. Coterminosity really allowed us to move on.

For the reasons that you are aware of—you have heard about the Carter report and you have heard about the creation of NOMS—I think that balance shifted during those 10 years towards the centre and away from the local. What was really important in the design 10 years ago was that it said “strong local and strong centre”, not one at the cost of the other.

Q693 Elizabeth Truss: Also, as well as having an increased centralisation, it now strikes me that there are three vertically reporting lines.

David Chantler: Absolutely.

Q694 Elizabeth Truss: In other countries you have a correctional service which contains both prison and probation at a local level, but you do not necessarily have two chains of command going up nationally. Don’t we have a lot of duplication here?

David Chantler: Absolutely.

John Long: I have a couple of thoughts on that subject that you just covered there. Some probation chiefs in charge of probation areas may say the alignment between probation and police is a more meaningful one than probation and prisons on occasions.

Q695 Elizabeth Truss: I wouldn’t exclude the police from that. I am saying do we need all those other—

John Long: No, and I am not putting a case for the police to be aligned, but, in an indirect way, it gives a view from within NOMS that possibly those vertical reporting lines, as you say, might not always be helpful. In terms of the local versus the central tendencies of NOMS or other departments, I very much support what David has said about managing offenders on a local basis. Crime is essentially a locally based activity; let us deal with it locally, and so on. I am absolutely in line with that.

Having said that, I have a responsibility within the Association of Chief Police Officers to support the embedding of local practices nationally. It seems to me that we need some sort of national dimension as well. Investments and positive schemes in different parts of the country that then bring about benefits and lower reoffending rates are fine, but if someone walks out of a prison gate in another part of the country where there isn’t that sort of net, then those investments evaporate. It is about keeping that local dimension but understanding that perhaps we also need some coherence nationally. We cannot always leave it to local chance that you are going to have a Rolls-Royce scheme.

John Quick: I would support the view in terms of localism. It can be very different. In Merseyside, as an area, there can be differences within local authority areas—and it can be vastly different—and the priorities for those particular areas are different because of the populations which they are serving. I think it is really important to be able to have the flexibility to address the needs of the community. I agree as well that there needs to be leadership in terms
of the direction of what we are trying to achieve so that we can learn good practice from others.

**David Chantler:** I suggest, with respect, that perhaps what needs to happen is segmenting the notion of the upward reporting. The problem is at the moment that I am required to report upwards on the “how”. What ought to be required by the centre—in the world that would fit what we are trying to describe—is that you are meeting the needs of local communities and the need of engaging properly with the police and with the prisons—“Show us how you are doing that.” It will look different in West Mercia. Even within West Mercia, it will look different within Telford, which is a large new town, than in Hereford, which is one of the most rural communities in the country—it has to look completely different. But don’t tell me, with fine probation instructions and fine SBCs, exactly how I am going to do that. I will find the appropriate ways.

If I am wrong—and the way in which you hold me to account for that, for instance, is getting feedback from the local partnerships and from the local authorities—and if I am not meeting that centrally mandated requirement to meet the needs of my partners, then sack me, but don’t tell me how to do it on a day-to-day basis.

**John Long:** Can I very briefly come back to one final point around probation, police and prisons working together? You may find it interesting to watch the Channel 4 Dispatches programme next Monday where they followed three offenders over a 12 month period throughout our scheme in Avon and Somerset. You see them going in and out of prison and prison officers engaging outside the prison walls and so on. It is a shameless plug, I know, but it is a thought-provoking programme, seeing the dilemmas of offender management at different stages of offending careers.

**Q696 Elizabeth Truss:** As to the whole structure at the moment, we have heard accusations in previous meetings of the Committee that the sentencing is following the provision rather than the other way round. Our view is very much that it should be the other way round, that the sentences should be determined and the provision then provided. One of the comments you make about the prisons not being provided locally is a big problem. Surely, prison capacity should follow the local requirements for that capacity. One of the issues is that there isn’t a proper cost-benefit analysis or an analysis of the effectiveness of the various sentences that courts are giving out. Do you think it would be better if there was more of a role for magistrates and judges to understand the efficacy of various sentences and what could be provided locally in coming to their determination, and how would you see that working? Do you have any ideas about how that could work better?

**John Long:** Interestingly enough, I was in a meeting with many of the judges who sit at Bristol Crown court a couple of weeks ago talking about this very issue. They were very engaged with what the different schemes could offer in terms of their sentencing options and so on. I felt that they were very engaged and were much more confident about what those sentencing options could be as a result of hearing what has been put in place across the different sectors providing offender management locally.

**Q697 Elizabeth Truss:** Did they have an awareness of the costs and benefits of the sentences that they would be giving?

**John Long:** Certainly we were talking about the £50,000 a year, or thereabouts, that it costs to keep people in custody—in prison—and, yes, they were engaged with that. It was interesting to hear the previous panel putting their views about that issue, because there did not seem to be a consensus about the best way of doing that there. How we would bring that about, I suppose, would remain to be established, but I can certainly see how your line of questioning would allow us to make investments in the places that are going to bring a benefit.

**John Quick:** In terms of magistrates, sentencers and judges being involved in what is available in terms of community penalties, in Merseyside—and in particular around the intensive community order, or the intensive alternative to custody—they were very much informed. They understood what the project was aimed to deliver. The kind of feedback that we have had from sentencers is that they valued the restriction, the punitive element, but also the rehabilitative strand that the intensive community orders could offer. That gives an example of how magistrates, sentencers, can understand the benefits of community penalties. There are other aspects as well. It was picked up in the earlier panel around sentencers giving feedback on the progress of offenders through their order, which gives an added value in terms of that. That could be for drug rehabilitation requirements.

**Q698 Elizabeth Truss:** Would you advocate that budgets will be held at that level?

**David Chantler:** I wanted to take us back to that because you have the nub of the problem in the very first part of question. The problem is that a lot of the resource has already been deployed ahead of the game. It has been deployed by our own commissioner who has an interest in all of those investments being made in the prisons that are sitting there. The more intensive programmes—well we come up with—I have given you the example of care farms in my area and I know Merseyside have developed some very successful intensive programmes and that Manchester, for instance, have some very good intensive programmes—the more expensive they become, but the money has already been committed ahead of the body to an existing resource. How do you get the resource freed up to follow the body?

I would go as far, but then I am a bit of an extremist in these things, as to give the magistrates and the judges their own budgets. Unfortunately, they won’t do it because—and I can understand why entirely—they would not want to have the concerns of filthy lucre around the dispensing of justice in a particular case. One therefore falls back into a position, which I am reasonably happy with, of saying that the Probation Service locally should commission a lot of the services for the local sentencers.

**Q699 Chair:** Possibly including prison?
David Chantler: Including a large chunk of prison. If I was free to make a decision about investing in short-term prison places or care farms—which are not cheap—I could take an offender, put them in the middle of nowhere doing meaningful work, learning skills—in our case employment-related skills as well but, none the less, a whole range of social skills—in a range of working-together skills, and they would be well out of harm’s way. It could also be added to with curfews, etcetera, during the evening. If I got to do that at the expense of a normal probation order, my probation service is bust within a couple of weeks; if I could cash in some short prison sentences, we would be doing very well. The Youth Justice Board has shown that that approach works. They have given back large numbers of custodial places because they have had the ability to commission services according to local need.

There is a big question here about how you get the money out of where it has been put. It is one reason why we have been talking to social finance about trying to raise money outside to get ahead of the game so that we can demonstrate success. Unfortunately, because we work as part of Government accounting, we cannot hold reserves or carry money forward from one year to the next. We are very limited in how imaginative we can be. We have to try and get the money to the head of the queue rather than constantly using that which has already been bought for us which, overwhelmingly, is the prison estate.

Q700 Ben Gummer: If I can roll on from your comment there into talking about evidence base, of course, with Probation Services you don’t even have control of your own estate, do you?
David Chantler: Absolutely.

Q701 Ben Gummer: Could I ask a question about the current letting of PBR contracts? It concerns some of us on this Committee that it is being done on a horizontal basis, by prison or by probation area, and actually it should be done on a vertical basis, letting an entire area, with prisons, probation and community punishment all rolled into one. That might address your issue about how you get money out of prisons and put it into probation. If you are responsible for fixed costs of a prison but you are going to make a bonus from a community sentence which works, you have an incentive to reduce your fixed costs in the prison.

David Chantler: There are real problems, it seems to me, around the economics of prisons, which is, of course, that you cannot access the money until the last prisoner goes. Fixed costs are a massive proportion of prison costs, so you have to be able to close a whole prison to get the saving.

I would move this slightly into a different dimension. I agree with the horizontal integration, but I know from my local authority—or certainly some of my local authorities—that if we could free up the money we have to spend through the central contracts on property we could move into one-stop shops and move alongside the services that it is really important probation officers work alongside.

Q702 Chair: That is without prisons. Are you talking about just the central contracting side of the way probation is run?
David Chantler: Yes. We have a national estate—Chair: And national IT as well.
David Chantler:—for which we pay a fixed cost. I would rather be out of that, co-located with other bodies and then deciding how to invest to save money along with those partners.

John Long: I can give a specific example, if it helps. My colleague, who is chief of probation in Avon and Somerset at the moment, is in negotiations with the police, CPS and others to move the entire probation staff into a police building that we are refurbishing in the middle of Bristol next year. We are very hopeful that that can take place and we will be able to have shorter corridors again and work together, but the central estates contracts that are in existence for probation are making that very tricky. I think she is going to overcome them, but it is quite a long drawn-out process.

David Chantler: But she and I should not be spending our time fighting about estates contracts. I am a probation officer at the end of the day: I am not a property manager. I do not particularly want my property back; I want freedom to utilise the property that is most functional to what I am trying to do as a probation officer. I pay as much money for a community punishment tool store somewhere in the middle of Worcestershire as the London Probation Service pays for a probation office in Mayfair—if it has one in Mayfair.

John Long: May I come back to the point about horizontal, vertical or otherwise? There does seem to be potential there to me, certainly working via the local partners in my own area, for strong governance for the integrated approaches that come from the local criminal justice board, including the Court Service, the CPS, the defence community, police, Victim Support, etcetera, and, not least, probation, who have been a real driver in bringing that together. We do have a view that if some of those budgets could be pooled or aligned in a different way then we could start to look at payment by results in a different way as well and take the risk as a collective along with private partners and the third sector. If we deliver, obviously there are benefits in that.

With things like the cash-flow involved in surviving payment by results schemes, it seems to me—I am a trustee of a charity myself—the big problem is how you take some of the cash-flow against that, but we can do that as a collective. Looking round the country at the moment and looking at the work of some of my colleagues, for example, in London where they have established the reoffending board with probation and others, there does seem to be a body there that could do the sort of things that you are inferring.

Q703 Ben Gummer: Could I ask each of you about evidence base, please? You speak anecdotally of the excellent results that you have achieved by degrees of integration. Have you been able to measure that in terms of reduction in crime and in cost effectiveness? Can each of you describe how you make those measurements?
Can I have another go at that? We have had specific work done to analyse the effect on reoffending rates on our scheme. We have been trying to target, but if we also add in the quite excellent work they are doing providing support and accommodation in the community—again through a third sector partner. I earlier mentioned the Connect project we had. We did demonstrate, to the satisfaction of the MOJ or Home Office—MOJ at the time—that that was successful in reducing reoffending among that highly recidivist group. We got very interesting work done by an external firm of consultants, Hydra, that again worked out the saving to the public purse. That stuff is around.

Mike Hough, Professor Betsy Stanko and so on. We were able to show—and I think we provided written evidence to this end to the Committee—a reduction in offending from 0.5 offences a month to 0.3 for the most prolific band of offenders, those with 76 or more previous convictions. That was done on a methodology where reoffending before the scheme sentence and post scheme was being measured, and there is a longitudinal study going on at the moment. We can show specific evidence of that nature and we can also show that that is costing about 25% less per case we are managing through the inputs that we have made.

Are the costs you are associating there direct costs to the public purse or are there softer costs in there?

They are direct to the public costs, but in softer costs—and I make reference to the Home Office report on the costs of crime to individuals and households, which I think the Committee has agreed that there is quite a lot of sluggishness involved in getting data out of the central repository. The performance data that most agencies had to take account of up until last year could sometimes take six months to arrive with us. It is not very dynamic and a lot can happen in six months. In helping colleagues across the police service to embed IOM locally, I have suggested that they use similar methodologies adopted here, in London. In fact, the Ministry of Justice and the Home Office are helping us to do that by the recent production of what they have called two tool kits whereby we can get consistent measurement across the country on what is happening with our reoffending schemes by using this sort of grounded methodology. There is a lot more travel to be had there, but I can see certain promising developments coming together that may help us deliver to you the figures in a much more coherent way.
David Chantler: I want to support that and say, in my experience, six months is a fairly fast turnaround. Your reducing reoffending statistics are six months old? That is good, in so far as what we are used to. Absolutely, in terms of the sluggishness of the feedback, but—

Q709 Ben Gummer: Would it help you do your job better if it were quicker?

David Chantler: Absolutely. The other side of it is to go back to what you were saying about cash and soft. There is something in the middle where Government could help, which is about turning theoretical cash savings into really cashable savings. You can save, in accounting terms, let us say, on a prison as the population drops down, but of course, as I said earlier, you can only cash it when the last person leaves. How can you focus on those savings that remain beyond your reach but, by doing a few other tweaks, you could make cashable? There is a lot to be gained from looking at that area.

Q710 Chris Evans: The nub question, when we are talking about the Government’s intention to move towards short sentences, for all of you, is: do you have the capacity, along with other agencies, to manage that change? Also, do you have the financial resources, especially in this period of cuts? I am very interested to hear what your thoughts are should the Government carry out its intention to move away from short sentences. Is the Probation Service going to struggle? That is the short question, really.

David Chantler: The straight answer is if you give us all of our work with none of the resource you are saving from the prison—

Chair: Could you speak a little more distinctly, please?

David Chantler: It is the other way round now. The simple answer to your question, Mr Evans, is this. If we were to take up all of the strain in the system from not having short sentences—I know the Government are not proposing not to have any short sentences—clearly we would struggle. The question is: what is the “break even” from the saving from the system in reducing reoffending short sentences and giving us enough to be able to cope? I would suggest, from our experience, a contribution to deciding that point is the way in which other agencies can be used to do a lot of the day-to-day work. You are talking about very simple things. For instance, if you had a prisoner coming out of a prison it is reasonable to achieve for somebody—but it doesn’t have to be a probation officer—getting them to their home area and getting them signed up with the jobcentre, a GP, a bank and all the rest of those things before they get to their drug dealer. There are some very simple, straightforward interventions that will make significant changes. If, as part of the shift from short sentences to being picked up in the community, we also have the freedom and the ability to manage the money that has been referred to earlier to engage in that sort of commissioning, we can do a lot with it.

John Long: I agree with much of what David has said there. From an ACPO position, we have already stated that we think we can manage offenders in the community through things like integrated offender management in partnership. A lot of the capacity that we have created so far has been on the basis of existing resources to make it sustainable, but if we were to see a reduction in, for example, the prison population on the basis of community sentencing, ACPO takes the view that at least some of that saving should go to probation, police and other frontline providers so that we can manage those sentences and bring about the reoffending outcomes that we are all seeking. That seems like common sense to me.

John Quick: I would support that view. The reality is that you have to look at the caseload, for example, for offender managers within the Probation Service. For meaningful work to go on, you need the resources to enable the offender manager to work effectively with the offender. John is right in terms of the pooling of resources that IOM has brought about in different fields, whether it is PPOs, the violent offender management unit or other initiatives like intensive community orders, which provide that added base.

I will give you an example of how, in Merseyside, we have tried to address some of what might be considered soft and hard things, but which are absolutely crucial to offenders who have been released from custody. We have built, within our offender management, a volunteer mentor process that is enabling activities such as getting offenders to the Benefits Agency, helping offenders with accommodation referrals and looking at lifers coming out of prison and how we can enable them to have a more effective resettlement when they have been in prison for so long. These small activities can be really crucial to the resettlement and rehabilitation of offenders.

David Chantler: It has the additional benefit of involving more and more people with offenders and getting a much wider understanding and ownership in the community of those activities. We choose to buy that service in from a partner agency that specialise in training, recruiting and deploying volunteer mentors. The principle is exactly the same. You have a wide group of people out there in the community that know a lot of offenders are sad. There are ones that are really bad, absolutely, but there are sad people we are working with and volunteers and mentors can make a huge contribution to that.

Chris Evans: That brings me on to my next question.

Chair: I am afraid it will have to be the last.

Q711 Chris Evans: How have other agencies responded to your need to promote community safety at the moment? How are they responding, and is there any scope for improvement?

John Quick: I can give a few examples where I think agencies—

Chris Evans: We are short for time.

John Quick: I will be very quick. We have offender health provision in probation officers, nurse-led, in three of our local delivery units. That is a really good example. We have very positive outcomes in enabling offenders to get access to dentists, GPs, doctors and having health assessments. There are other examples of how the local health authorities have responded in terms of drug and alcohol interventions and in
securing provision for alcohol treatment requirements. That has been a crucial thing in Merseyside for us to achieve. Those are two examples. I could give you more but, as we are short for time, that will be sufficient.

**John Long:** I have similar examples to John. I have additional ones, though, with access to things like a debt support network. Some of the studies in London, for example, have shown that finance and debt as a pathway is very crucial. We have co-located nurses providing assessment services for offender health and mental health issues. That has helped us greatly on our scheme. Third sector alcohol workers are a significant feature of our alcohol pathway, and, again, the involvement of any number of agencies such as BusinessWest in terms of employment opportunities.

**David Chantler:** Very quickly, and in fact John has covered the same area, I do not think we should ignore the role of business. We have had tremendous support from our local chambers of commerce. We have made some interesting breakthroughs in terms of engaging with employers on the issue. I mentioned earlier the AWM investment. That is working with ordinary working farmers, to work with offenders—not producing silos, the stigmatised offender-only provision, but posing the question: What can this community do, against whom people have reoffended but, in the end, have to be part of, to sort the problem out? The role of the Probation Service is to be a catalyst to enable that to happen, not to have people pushed over to us, “You sort that out” and send it back to them when they are sorted. Sorry, that will not work.

**Q712 Chris Evans:** I noticed in your biography the gardening work you are doing with Monty Don. It is very good.

**David Chantler:** Yes, absolutely. It is a really good example because, when we were doing that, to begin with, of course, people were really worried about us coming to this lovely little village in north Herefordshire.

**Chair:** We really are running out of time.

**David Chantler:** In the end, people were knocking on the project door to say, “What can we do to help?” That is the point.

**Q713 Chris Evans:** Could you write to us with some examples of that?

**David Chantler:** Yes.

**Chair:** Thank you very much. I am sorry that time is working against us, but we have other responsibilities to carry out as well. Many thanks to the three of you for your help this morning. Thank you.
Tuesday 14 June 2011

Members present:
Sir Alan Beith (Chair)
Mr Robert Buckland
Jeremy Corbyn
Chris Evans
Ben Gummer

Yasmin Qureshi
Elizabeth Truss
Karl Turner

Examination of Witnesses

Witnesses: Mr Crispin Blunt MP, Parliamentary Under-Secretary of State, Ministry of Justice, Colin Allars, Director, Probation and Contracted Services, and Martin Copsey, Head of Community Commissioning, NOMS, gave evidence.

Q714 Chair: Mr Blunt, Mr Allars and Mr Copsey, welcome. We have been doing work for some time on the future of the Probation Service. We didn’t think we could get very far with today’s questioning without first finding out whether the Government’s change of plan on early guilty pleas is going to result in a big raid on the budget of the Probation Service.

Mr Blunt: I do not think those discussions are concluded. When they are, then of course we will come forward with a full set of proposals in response to the Green Paper consultation when we are ready to do so.

Q715 Chair: Are you worried that that might be an outcome?

Mr Blunt: I am permanently worried about everything that might happen within the whole remit of my responsibilities. Probation, as with all the other parts of the offender management system, is faced with very significant financial challenges as we stand today in order to make its contribution to righting the fiscal position of the whole Government. All of these things have to be looked at very carefully.

Q716 Chair: Although the Committee never took a view about it, some of us felt that the projected financial savings would never have been achieved from the guilty plea change. We would take it rather badly if we saw the vital work of Probation undermined because savings that would never have happened have to be re-provided from a service which might not be in a strong position to make them.

Mr Blunt: Everyone is extremely well aware that Probation has been on a falling trend in financing since 2008–09. As far as this Administration’s savings are concerned, the relative position of Probation has been protected quite significantly from the overall expenditure settlement that the Ministry of Justice has undertaken to contribute to the Government’s wider position. The Department is finding 23% and Probation is finding very significantly less than that.

Q717 Chair: In your experience, what are the strengths and weaknesses of the probation system as we now have it?

Mr Blunt: I have been lucky enough to be the Minister for Probation now for just over a year. I have been struck, frankly, by how good the Probation Service is. In going round the country and seeing the work of front-line probation officers, what really energises me is that we are moving into an environment where we are going to pay for results and measure outcomes. This is a service that in my view delivers a very significant social and economic benefit to the United Kingdom. We are going to move into a position where we measure those outcomes rather more than we have done in the past, where they have been delivered through targets, measurement of performance and inputs—what they do rather than what they achieve. One simply has to ask the question: what would happen if there was noProbation Service? What would we be doing with the 250,000 offenders who are either being supervised post-prison sentence or on community sentences by Probation,¹ and what kind of positive input into our society is the Probation Service making today? The answer is extremely positive. Overall, I am honoured and delighted to be the Minister for Probation because the work that 20,000 odd probation officers and probation service officers² do up and down the country is of very significant value.

Inevitably with the organisation of a service like that, particularly within 35 probation trusts and given the scale of the challenge they have to meet in supervising 250,000 offenders, from time to time things will go wrong. That is why we have all the process of learning from what happens. If one then looks at the systems that are in place, I am conscious that the United Kingdom is a place to which people come to see how we deliver offender management in the community. I have had Ministers from developed as well as developing countries come to see me who are determined to learn from what we do in the United Kingdom.

The OASys system and the developments around the whole process of integrated offender management are all areas where we cannot be complacent, but, relative to other countries, the United Kingdom can be proud of the oversight of offenders within the community that the Probation Service delivers.

If I am to identify one area of concern, for me, it would be around the rather variable delivery of community payback. It is one of the reasons why I

¹ Note from the witness: On 31 December 2010, 237,500 offenders were under supervision
² Note from the witness: On 31 December 2010, there were 6,976 qualified probation officers (31% of whom were male) and 5,009 probation service officers (33% male). There were 7,081 other members of staff (full-time equivalents).
thought it appropriate that the community payback competition that was planned by the last Administration should be continued. It is very important that punishment in the community carries public confidence and community payback is the principal vehicle by which to deliver the punitive element of sentencing within the community. That is something that can be improved on, both in terms of delivery and the simple economic efficiency with which community payback is delivered. It strikes me as rather odd that we put nine million hours of labour into the community and it costs us getting on for twice the minimum wage to administer it.

Q718 Mr Buckland: Thank you for that overview, Minister. I want to turn to specifics and the future role of probation trusts. Are they to be commissioners, providers or are they to be both? What is the role of probation trusts going to be in the future?

Mr Blunt: We have to accept that we are in quite a complex environment. For example, if we take the whole payment-by-results environment which we are now developing with NOMS as the commissioners of this process, there are now a very significant number of different pilots as we seek to learn how to deploy payment by results. Two of those pilots will directly be around two probation trusts. We are in the early stages of getting to work on precisely how those schemes will be structured. That follows on from the prison-based pilots. They are public so far as the pilot in Peterborough and the Serco pilot in Doncaster Prison-based pilots. It follows on from the work we are doing around six different community-based pilots. There is one with Manchester and five with separate London boroughs from the Diamond Districts. It adds to the work that is also being done by the YJB on four payment-by-results pilots that they are delivering and that link into the whole degree of early intervention within the youth justice area.

The challenge that we face is that you cannot see all of this in isolation. Probation is part of a wider regime, which delivers, if it is successful, better people once they have been in the custody of the state. The challenge that we face is to link all this up so that we drive earlier intervention in order to prevent people coming into the justice process in the first place, ideally. At its most basic, within the local authority pilots, that means driving early intervention to support mothers who are giving birth to children in circumstances where it is all too predictable what the outcomes are going to be unless those mothers are properly supported. It means looking at what happens with the children going into care, given the quite significant links between children in care and the very disappointing percentage of those children in the care of the state who then end up in the custody of the state, etcetera.

In this environment, I don’t see the simplicity of being able to say that probation trusts, who are currently providers commissioned by Colin and his team, are going to simply remain as providers. If we are to get the charitable and voluntary sector, in particular, properly engaged in the rehabilitation of offenders and in delivering a revolution in rehabilitation, that cannot be done without engaging all those people in our society who frankly want to help the state with the task of rehabilitating offenders and putting people back on the straight and narrow.

Getting those little platoons engaged, which I know is much of the evidence that you have taken and looked at, I don’t think could be done if we try to leave the commissioning role at the level of the National Offender Management Service. I think we are going to have a period where probation trusts will need to be in the position of occasionally being both provider and commissioner. We are in a complex environment. That is a very long answer to your question, Mr Buckland, but the answer is commissioner and provider. As far as I am concerned, we need to manage the complexity and the competitive issues that obviously then flow from that to make sure that there is proper transparency and that the Chinese walls between those people who are commissioning services at probation trust level are not simply favouring their own people.

Q719 Elizabeth Truss: By having the commissioning of probation separately, is that just one piece of the puzzle around the MoJ’s or has the MoJ looked at integrating the Prison Service and the Probation Service so that the whole idea behind NOMS of having a completely integrated solution works and you just commission in the local area for offender management in general rather than specific services like community payback and probation?

Mr Blunt: That would be the ideal. Obviously that was the objective, as you rightly say, of setting up a National Offender Management Service in the first place. I have read the evidence you took from Martin Narey where the intention was that there would be a probation officer and offender manager who was then going to be in charge of the offender throughout their period, presumably, of pre-custody, custody and post-custody. They would be the ones who were determining the appropriate interventions and sentence planning for that individual. That runs into the system that we have now where the prison system has been running at over 100% of capacity for some time. We have 20,000 prisoners living in overcrowded conditions, which means that we are basically running a hotel chain that is absolutely full. That then delivers in its wake a whole bunch of problems about making sure that these people are properly incarcerated and the sentence of the court is delivered in terms of people’s role in prison. That is a big administrative challenge. To try and put on top of that the ideal of having probation—

Q720 Elizabeth Truss: But couldn’t that challenge be given to a provider? For example, if one was commissioning for Norfolk and Suffolk, you could commission places at prison as well as places on community service. Are there not a lot of benefits from integration such as similar skills required to get prisons working in the same way as getting people working in the local community? Is that an administrative headache that needs to be dealt with at a national level? If you try and deal with it at a national level, does that not just create a whole ream of bureaucracy?
Mr Blunt: No; I think it is a capacity problem. We have a prison estate which has roughly 87,700 places in it at the moment. We have 85,000 prisoners. That is it in its overcrowded state. We are carrying within that 20,000 prisoners and we are effectively 10,000 places short of having normal capacity. It means that your prison estate and prison capacity has to be managed on a national basis.

Q721 Chair: Why does that follow?
Elizabeth Truss: I do not see why that follows.
Mr Blunt: It follows because, if you break the Prison operation down into the regions, there are very few counties, local authority areas and regions where you have a neat match between Probation—

Q722 Elizabeth Truss: But surely they could simply buy it?
Mr Blunt: I would like to do it, but I think it becomes quite difficult, if not impossible, to drive the savings that you require. If your prison is a local institution that is just serving the example you gave of Norfolk and Suffolk, then in order to drive the savings you have to close the prison institution as a whole. We have the estate as it is now. The prisons are not in the right places and are not properly geographically aligned with the probation, police and local authority areas from which people come. In my judgment, for now, given the resource environment in which we are operating, it is too much of a challenge to move to the scenario you have described. I would like to be able to get there but it is not realistic in the current environment.

Elizabeth Truss: Could I suggest that that could be done on a cost transfer basis? For example, Norfolk and Suffolk could buy in prison places if that was what was required. If you give the problem of managing capacity to a local provider, then the capacity starts to fit the sentences locally. You have more local budgeting and then you help address those capacity issues. If the capacity issues are managed at a national level, are we not always going to have this problem?

Q723 Chair: You have to ask why it is like that. Is it not a consequence of having had national commissioning for so long?
Mr Blunt: That is an entirely reasonable question, Sir Alan. Regrettably, I inherited the system as I found it. Making a very significant transition in getting people to think about the outcomes and to think about how effectively they deal with the people in their charge, both in the community and in custody, is a very significant challenge in itself. NOMS and the probation trusts have both just been through very significant changes in their own structures. Obviously NOMS has taken out its regional level. Probation trusts have just been formed. They are just over a year old. I want to present the existing system with the very substantial challenge that we are delivering to them, to which they are responding incredibly positively, particularly in the probation trusts with the leadership of the Probation Association and the Probation Chiefs Association.

I have to say that I remain absolutely open-minded about the future shape of the service and will look forward to the conclusions that you and your colleagues reach and what judgments you draw—I fully accept the desirability of the position that Elizabeth has outlined—about its practicality, particularly in the resource environment that we are in.

Q724 Ben Gummer: Minister, how do you see the various PbR pilots, which no doubt will be rolled out at some point into PbR contracts, interacting with PbR in other Government Departments, be they Work Programme, drug addiction or other health outcomes?
Mr Blunt: We are in the later stages of discussions, to which I know Helen Edwards alluded when she gave evidence to you, around an offender stream within the Work Programme. We are not yet ready to make an announcement about exactly how that will work. The principles that Helen outlined to you are clear. People qualify for the Work Programme once they have been on Jobseeker’s Allowance for a certain amount of time. With offenders and those who are in prison, the vulnerability of them reoffending is at its height when they leave prison. The support to them needs to be front-loaded. Of course, with a criminal record and all the causes of that criminality, they are a particularly challenging group to get back into work. Therefore, the construction of the Work Programme around offenders needs to be done with some care. However, it is likely to be extremely important, work being such a strong desistance factor. In terms of the wider achievement of justice objectives around reoffending, the Work Programme is very important. We will examine how we reinforce any Work Programme scheme that we are able to bring to fruition around a reoffending metric as well as around an employment metric on a pilot basis. What we are trying to do as far as possible with all the various justice pilots, which by 2013, once these are in place, will be a very significant number of different pilots, is to make sure that these are happening in different parts of the country so that we can measure the results of all the different pilots. We can measure the results of the prison-based pilots and the results of the community-based pilots, which are on a justice reinvestment basis. We can measure the effectiveness of the probation trust-based pilots, looking principally at community sentences. We can look at the four pilots of the Youth Justice Board and how they interact so that, when the Department of Health do their drug pilots, we will not be choosing the same areas as the pilots for probation trusts, for example.

Q725 Ben Gummer: I did not phrase the question perhaps as I should have done. The thing that has concerned this Committee is the complexity of integrating the measurement of payment by results across what will be, as you rightly identify, drugs and work being two key desistance measures with the PbR pilots within probation or prisons, and, likewise, probation trust pilots, prison pilots and work-based pilots for organised prisoner work. We are not quite sure how you bring all these pilots together, how the private or voluntary contractors know whether they
are going to get a bonus and how you can attribute that bonus to one organisation or another.

Mr Blunt: If there is overlap—someone takes a drug-addicted prisoner and turns him into a tax-paying employee, and they get the bonus for getting someone into work; they get paid for getting a drug addict clinically independent of drugs; and they get paid for stopping an offender reoffending, so they manage to score under three different schemes—I suspect that is probably a perfectly satisfactory state of affairs.

Q726 Ben Gummer: Except that you are paying three times for the same thing.

Mr Blunt: It is our job to make sure that one of the schemes isn’t paying for all three of them up front and they are getting double paid underneath. If the schemes are operating in isolation and a payment-by-results provider is cute enough to be able to get him into the Work Programme to deliver the employment outcome, to get him into the drugs programme to deliver the drugs outcome and to get him into the offender programme to deliver the offending outcome, I think that is a satisfactory state of affairs. I don’t see that as a problem.

Q727 Chair: But that doesn’t work in the system now. If someone who is supported by the Government for the provision of work delivers someone to an apprenticeship which the Government is funding, the system takes steps to ensure that they are not paid twice for delivering in that way.

Mr Blunt: I presume that is because you have two work-related outcomes, both based around work. The biggest challenge is the drug-addicted prisoner. How do you turn the drug-addicted prisoner into a tax-paying socially positive member of society? There are three different metrics there. You have to stop them reoffending; you have to get them clinically independent of drugs; and you have to get them into employment. If you have the Work Programme which also has an offending metric in it focused on offenders, then the Work Programme provider will obviously be paid rather more for those people than they are paid for people who they are more likely to succeed with in getting into work who don’t have the underlying issues of drug addiction or an offending record to take into account.

Q728 Ben Gummer: You seem to have a far greater confidence in comprehending all of this than almost everyone who has given evidence to the Committee. Why is it not just simpler to attach the bonus premium to the offender himself or herself from beginning to end and allow one contractor to deploy whatever is needed?

Mr Blunt: Because our problem as the Ministry of Justice is to take the savings. We can’t pay for results if we don’t get the results. Our benefits of results are a sufficient reduction in reoffending so that we close prisons. In order to close a prison, you have to drop the reoffending rate by a very significant percentage for a very large number of people. Therefore, the measurement is against a cohort. With regard to the Peterborough measurement, you have 500 prisoners leaving Peterborough jail each year who are sentenced to less than 12 months and who receive no probation supervision; so there is no intervention coming to them from the state from the moment they walk out of the prison gates. We know on current statistics that 59.4% of those prisoners will have been reconvicted within one year of walking out of prison. The Peterborough model is, year by year, 500 prisoners each year for six years. They will get paid if they reduce the reoffending rate down to 52½%, and that is measured against the entire cohort.

How Social Finance, the St Giles Trust, the YMCA and the Ormiston Trust, who are the principal agencies delivering those interventions, drive down that reduction from 59½% by 7½%, to get paid is, in the end, a matter for them. In Peterborough, they are choosing to deliver interventions to all 500 prisoners. That is their choice. I know you have had a number of discussions about cherry-picking and picking the people who are easy. That is why we measure against the whole cohort. If people do behave like that, they have to deliver for us in sufficient numbers so that in the end we can close prisons, because there has been a significant reduction in reoffending.

Q729 Yasmin Qureshi: Minister, I want to make one slight comment and then I have two little questions following on from that. Can we have a discussion on the issue of funding, moving away from the commissioning aspect of things? In the recent settlements made for various probation trust budgets, what is the rationale for certain areas which have a very low crime rate only getting a 1.74% cut, and others which have a higher rate of crime, getting cuts of 9%?

Mr Blunt: On that detail I am going to turn to the Director of Probation and Contracted Services, Colin Allars. I may need to write to you if you want detail on individual trusts. Those budgets were set when we had the directors of offender management in place, so the regional directors were responsible for the trusts. We sat with each trust and worked through what the needs were within their area, what their provision was and talked to them about the opportunities they had to make efficiencies and savings. We sought to agree with them. In all cases we may not have shaken hands and been entirely happy about it, but we reached agreement with every trust on what the right level of provision was against the targets that we set for them within their contracts.

Q730 Yasmin Qureshi: Are you saying all the probation trusts were happy with the budgets they have had and the percentage of cuts they are receiving?

Colin Allars: No, I am sure they were not. I am sure they would have wanted no cuts at all, but we sought to do that in an open way with them. We explained to them the basis on which we believed they could operate with the budget that they had and set the targets that they were to deliver within their contract against the amount of money that was available to

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3 Note from the witness: ie prisoners released from custody having been sentenced to less than 12 months.

4 Note from the witness: ie by 7.5% against a control group.
them. They have all signed up to the targets within their contracts and the funding that is attached to that.

Q731 Yasmin Qureshi: They would have no choice but to sign up to their targets. They can’t turn round and say, “No, we are not going to be signing up to these targets.” You do accept the fact that, as a result of these cuts, there is going to be a reduction of about 3,000 front-line probation officers. It is not rocket science to work out that less money and fewer staff means that fewer offenders will be managed properly. There will be fewer resources to help to intervene, say, with young people who are committing crimes, with the cutback to the youth services and others, which is all part of probation. Is it not a false economy here? It might cost a little more to have good reoffending programmes, more probation officers or youth workers, but if we can prevent somebody from committing a crime, then with regard to the costs associated with committing a crime or prosecuting people and putting them away in prisons, it is going to cost, say, £30 more as a figure as opposed to trying to save £2.

Mr Blunt: Regrettably, we are not in that fiscal environment. As an Administration we have to take emergency measures, frankly, in order to right the nation’s finances. Of course I would be much happier as a Minister to have had even a flat-line budget, let alone the normal circumstances which previous Ministers in my position have enjoyed of a rising budget. But we are not in that situation.

The benefit of that is that it forces us to innovate and think about how we deliver our services. One of the areas to which you draw attention is about the benefits of early intervention and whether we are making a false economy here. We need to look at the different roles of all the different public services that intervene to support troubled individuals in whatever way. Yesterday I was talking to the leader of Westminster City Council, Councillor Colin Barrow. They have family recovery units. Within troubled families there are a significant number of offenders in that framework. They have mapped out 14 different public organisations who are then involved in supporting individuals within those families. There are obvious efficiencies to make by bringing all the state’s services, both nationally and locally, together in order to support these people so that they don’t have to explain themselves 14 different times to 14 different agencies. You have had evidence here where five or 10 different agencies would be engaged with supporting offenders. That is where we have to build on the whole process of integrated offender management. For our most serious offenders, Parliament mandated MAPPA through statute and how offenders who could do the most serious harm by reoffending should be managed.

However, it is a process that is being rolled out and delivered across the whole piece. This is where you drive the savings from. It is from all the public authorities who can play a role in delivering the interventions to help people put their lives back together actually co-operating with each other and driving the efficiencies out of the system. It is integrated offender management as an approach and a description of what is happening around the management of prolific and priority offenders as well as rolling out through MAPPA. Frankly, that needs to be delivered to all offenders and to encourage all the public authorities to work together effectively. That is one area of efficiency.

The next one is to look to the army of auxiliaries out there: the tens of thousands of people and thousands of groups who want to get engaged in the rehabilitation of offenders and who think it is the right thing to do to help people get back on the straight and narrow, as I said earlier. If we can engage them with a much more efficient delivery of public services to these people, then we may address some of the concerns that you rightly raise about the necessary reduction in budget, even though it is significantly less for Probation than it is for the Ministry of Justice overall.

Q732 Yasmin Qureshi: You are saying two things, if they happen as you have set out. One is the rationalisation of resources and the other is about other people getting involved. If those two do not happen, then what happens? You are being very optimistic and saying that if these two things happen then you can resolve this problem. But what if it doesn’t happen? What if the rationalisation issue makes only very minimal changes?

Martin Copsey: I think that is a plan B question, Chair.

Q733 Yasmin Qureshi: If loads of people do not come forward to help, then what happens?

Mr Blunt: We do not have a choice. The comprehensive spending review has been settled and we have to manage within our resources. The other element of this is driving efficiencies out of getting all the public services to work more effectively together. There are very good examples of this happening on the ground, as I alluded to, with Westminster. There are very good examples around what is happening with the management of prolific and priority offenders, which is not mandated by Parliament as MAPPA is. How do we get the finance into this in order to create the capacity now to take the savings later? That is what payment by results is all about.

Social Finance has come in and financed the St Giles Trust, the YMCA and the Ormiston Trust to deliver new interventions. That is new financial capacity that has been brought in against their confidence that, by doing things more effectively and more efficiently than is done now, they will drive down the reoffending rate and help us secure the future savings, meaning that we are not seeing these people circulate round the criminal justice system ad infinitum.

Q734 Yasmin Qureshi: Therefore, you would disagree with quite a lot of people who are in the criminal justice system, such as the local chief of the bench of my local magistrates’ court whom I went to see a few months ago, who said that with the proposed cuts, especially to youth and probation services, a lot of the interventions they were doing with young people will stop. There will not be the resources and there will not be the people to help. That is going to
lead to a rise in crime as opposed to the fact that for the last 13 years they have seen a genuine decrease in youth reoffending and youth crime. They seriously said that, with the proposed cuts and with the way things are going to happen, they are going to increase the levels of offending.

**Mr Blunt:** If they stay in that mindset—

**Yasmin Qureshi:** That is a magistrate saying that.

**Chair:** Let the Minister answer the question.

**Mr Blunt:** Yes, I know, but if they stay in the position that the system is not going to change and all that has happened is a cut, if you apply that analysis, that will be correct. However, if you give people professional freedom in order to co-operate with other public authorities and the financial freedom to have budgets transferring between different heads, the freedom to find new sources of management, and the freedom to secure capacity today against results tomorrow, and the freedom to engage with the voluntary, charitable and private sector more effectively than they do now, then I think they can do considerably better than they do now, accepting that there will be fewer public resources driving this. People are forced to innovate and to think differently about how we are going to deliver the public services.

**Q735 Chair:** But you do not give probation trusts that kind of freedom. They are stuck with buildings that you insist they keep. They cannot just sell a building and invest the money into other things. They are stuck with being unable, unlike hospital trusts, to have reserves and carry them over to another year because it might be a more sensible and prudent way to use the money. The kind of freedom which you are advocating is not there in the system.

**Mr Blunt:** As you might imagine, on some of those issues, as the Minister for Probation, I am anxious to deliver as much freedom to them as I can. However, given the pressures and carry them over to another year because in May of last year in managing the whole Government’s property portfolio, which was not being done well, there was very properly the necessity for that to be taken over and managed directly so that some sense was made of the entire Government’s property portfolio, as it was with the entire Government’s not whole GP and carry them over to another year because in May of last year in managing the whole Government’s property portfolio, which was not being done well, there was very properly the necessity for that to be taken over and managed directly so that some sense was made of the entire Government’s property portfolio, as it was with the entire Government’s not whole GP, IT or other concerns for, for example. Some things were taken into the centre in order to deliver some serious and substantial savings in those circumstances and efficiencies were driven from the centre. I note the point you have made, Chair. It obviously goes with a localist agenda, trusting professionals and everything else and, when the time is appropriate, delegating these things and getting responsibility back closer to the ground. I fully accept that.

**Martin Copsey:** Perhaps, Chair, I might just add a point on freedoms. You will have heard from colleagues already about the significant revisions to national standards that we have introduced this year. Those are greater freedoms we are looking to give to offender managers on the ground to effectively manage, assess and deliver interventions and change to the offenders they work with on a case-by-case basis. I understand that those greater freedoms to work in that way have been welcomed by the stakeholders in the probation world. I do understand that that will result in much greater discretion and autonomy at a local level to work in an innovative and creative way as an offender manager with individual cases.

**Q736 Jeremy Corbyn:** Just at a time when the railway industry and the National Health Service are learning to their cost that a plethora of subcontractors does not lead to efficiency—it actually leads to greater cost and much greater difficulties of management and risk, so far as the NHS is concerned—why do you say, as you did earlier, that there should be no preference given to itself, as you described it, when the probation trusts are giving out contracts?

**Mr Blunt:** If we are to get proper engagement in the rehabilitation of offenders by the voluntary, charitable and private sector, we do not know to what extent who the probation trusts have the freedom to commission these services themselves, the competition has to be fair. You took evidence from the chief executive of West Mercia Probation, who has procured services for his probation trust and you also took evidence from the specialist in writing reports for court. I can’t remember the name of the institution now. You are not going to get confidence in the market if you say, “The people on the inside track have an inside track advantage.” That is why we have been extremely careful at the national level with the management of the competitions around the prisons that were recently competed, for example.

**Q737 Jeremy Corbyn:** What do you think this does for the morale in the Probation Service?

**Mr Blunt:** We are in a new environment about how people who are engaged in offender management are going to have a career in the future. I would say this to both probation staff and those who are engaged in community payback now, currently administered by probation trusts. We do not know to what extent the competitions are going to be, but it is a reasonable assumption that some will be won by the public sector and some by the private sector, and no doubt there will be areas that are won by a combination of the public sector working in association with the private sector. Who administers you in the course of your career is likely to change. As a prison officer, for example, Birmingham, the prison officers there are going to transfer to G4S, who won the contract after the competition. At some point Birmingham is going to be re-competed and the public sector might win the future contract for that, so people will transfer back again.

We have to manage that. I don’t think people should be frightened. It is not a threat that the administration of your career is going to move between the public and the private sector. Indeed, it is actually a benefit, because you are going to learn from the different strengths that come from working in the private and the public sector. It is an opportunity rather than a threat for all of those engaged in offender management that we have a properly competitive
service. There is always going to be a discussion in this area about what should be absolutely reserved for the state. We will make clear when we present our competition strategy where our judgment is today as to where those boundaries lie. I do not think this is something that people should get worried about. There are advantages working in the public sector and advantages working in the private sector. If you have a career where you are able to do both, then you will be able to draw on that experience to the benefit of both sectors.

Q738 Jeremy Corbyn: Last week we had a major private sector provider here who told us that his company had 300 subcontracts in dealing with its contract. You are the Minister responsible for the entire service. You are answerable to Parliament for what goes on. Does it not concern you that you are three or four steps down the line with different contracts, with different providers? When something goes horrendously wrong, as it may, who is going to take the rap for that?

Mr Blunt: The Minister for Prisons and Probation appears to take the rap for most of these things, so I would anticipate it will be me. Of course, that is properly so, because the contracts will have been let out of the Ministry of Justice and its agency in the form of the National Offender Management Service, and in the end the buck does stop with Ministers. We are trying to make clear that Ministers will take more responsibility for what happens, which is why, for example, our proposals are for bringing the YJB within the Ministry of Justice. I am perfectly clear where the buck stops. That is why, in terms of the management of the contracts, the requirements on those who have contracted with us have to be robust and clear about what their responsibilities are under any contract we let.

In the answer you received from the Work Programme provider, they made clear that their expertise was in bringing together 300 different subcontractors to deliver the Work Programme across a substantial chunk of the country. That is what, crudely, their unique selling point was as a business and that is what they were bringing to the party. They will certainly do it probably rather better than trying to run it out of the Ministry of Justice. In the end, we have to engage thousands of groups of volunteers and charities in the exercise that we are all engaged in, which is trying to rehabilitate offenders more effectively.

There is a vast capacity out there in the country that wants to help the state with this task. If we fail to have a mechanism that can deal with the complexity of engaging all those often very small groups who want to help on a very local level—if our system doesn’t deliver that—we will have failed to maximise our country’s capacity to deliver the rehabilitation of offenders. That will be a profound missed opportunity and it is why we have to address and work with the complexity to which you allude.

Q739 Jeremy Corbyn: Interestingly, the three private sector providers that were before us were either unable or unwilling to tell us anything about their income projections, their profit projections or how much they expected to make out of all of this. Does it not concern you that there are a whole lot of people queueing up to make a great deal of money out of the privatisation of a lot of public services?

Mr Blunt: We will have to see. People will have to make judgments here in letting the contracts and identifying what normal profits will be and where their investors are going to put their money up. I would sincerely hope that it will not just be Social Finance coming forward to finance schemes like Peterborough, and social philanthropists and charitable trusts investing in Social Finance to deliver Peterborough. I sincerely hope that with our paymement-by-results schemes we will be able to convince the market that this is a proper investment vehicle, because they should be sufficiently confident that they are going to add to our capacity to drive down reoffending and so improve the people in the care of the state, either in custody or in the community, that we are going to be able to take the savings that they have invested in creating the capacity to do it. That has to be the objective.

In the course of all of this, people will make losses and some people will make supernormal profits, because people will make judgments both in writing the contracts in the public sector and in taking up the contracts in the private sector which they will get right and get wrong. We are just going to have to learn as the market develops to make sure we get closer and closer to what should be a proper rate of return because it does not suit anybody if a company makes a disastrous decision, loses its shirt and then finds it is in difficulty delivering its contract. That does not help us any more than it does if it then becomes a national scandal that this company appears to be fleecing the taxpayer by having taken them to the cleaners in writing the contract.

Jeremy Corbyn: Like the care homes.

Mr Blunt: There are examples of both in letting these contracts. This is something that investors in the private sector have to get right and it is something that we have to get right in terms of our contracts.

Q740 Jeremy Corbyn: You are a man of vision. In five years’ time will there be a Probation Service?

Mr Blunt: Is there a Probation Service now? We have 35 probation trusts. Is that a national probation service? I know there was something formerly called a “National Probation Service”, which was a project that was abandoned in the early 2000s. I refer to “the Probation Service”. Exactly how it is going to be delivered in five years’ time we will see from the development of a localist agenda. How much probation trusts remain a creature of NOMS or what their development is with all the other local services that are delivered in their local area. One of the reasons we are running all these different pilots is to identify what is going to be the right way forward. Will there be offender managers delivering what we see as a Probation Service in five years’ time?

In the end, the people who have the nation’s offender management expertise are the Probation Service. Is that expertise going to need to continue? The challenge identified in the formation of NOMS is how to get the offender managers in charge of an offender
in his whole progression through the justice system more effectively so that they can deliver proper co-ordination of that sentence, and the sentence planning and rehabilitation programmes that are required to secure a successful outcome for that offender and society so that there are not future victims of crime because he has ceased offending. That dynamic and that requirement are not going to change.

Q741 Chris Evans: Earlier on you were talking about intervention. I recently spoke to a methadone dispenser who works for a charity. He said that he has about 50 clients with him and every one of them has been through the criminal justice system six or seven times. They have disappeared and very often their lives are chaotic. What role do you see the Probation Service playing in ending that cycle of going round the system, where they are in rehabilitation, they disappear, they then get picked up for a petty crime and then they are back at the beginning? How would you see that vision you have set out developing there?

Mr Blunt: The best example is in the management of prolific and priority offenders, many of whom are offending again and again and again on an unbelievably regular basis in order to fund their drug habit. I will ask Colin to comment. He has just finished being a director of offender management in the south-west, where integrated offender management was being delivered in Bristol and elsewhere.

Plainly what we have to do, and I saw it in Leeds when I went up there recently to see how they manage PPOs, is bring all the different agencies to bear on your drug-addicted offenders in that way. At one level, if an addict is not prepared to engage and give up his addiction, the penny hasn’t dropped that he needs to get on the programme and he is going to continue thieving in order to fund his habit, then at that point you have to have a police strategy which is to catch and convict and get those people out of circulation as quickly as possible in order to protect the public. You should be trying to support those people who are prepared to get engaged in addressing their addiction.

You have to accept that this is not magic. It does not usually work at the first attempt. It takes people a number of times to address their addiction. The second half of that, of course, is that for those people who are caught, convicted and put into prison we have to have a rather more effective delivery of drug treatment in prison and a rather more effective linkage from that drug treatment in prison back when they come out into the community. We are working on all of that. We are going to deliver drug recovery wings in prison as well as having proper identification of who these people are through integrated offender management and proper support of PPOs. That process is being developed, I am pleased to say, all over the country. Colin, I don’t know whether you want to say anything more about that.

Colin Allars: You have probably covered most of it, but it is quite timely that the Dispatches programme last night looked at the impact within Bristol of the integrated offender management unit.

Chair: Can you speak up a little?

Colin Allars: It is quite timely that, last night, the integrated offender management unit within Bristol was the subject of a documentary on TV. I have to confess that I only saw two thirds of it because my IT packed up halfway through. I got to the good bit, and if it went terribly awry thereafter maybe what I am about to say is all wrong. Bristol is a very good example of where agencies locally have come together, pooled their resources and looked at the needs of offenders within the system. Regardless of whether they have a statutory duty to work with that offender and where they come from, they just look at the needs of offenders and manage them collectively. Gradually, over time, they have co-located; they have looked at how they pool resources and how they pool expertise. They have had, as I think the senior police officer that spoke to the Committee pointed out, a real impact on crime rate reductions within Bristol. That is why we will deliver liaison and diversion in every police custody suite and every court by the end of this Parliament because it is a priority to direct people. They need to have their health requirements addressed before their justice requirements. It means we have to improve on the delivery of mental health outcomes in prison.

I am conscious that there are issues about the speed with which people can get referred to mental health services out of prison. That needs further work. In the same way that people are being diverted from police custody suites and courts, that should be the principal net through which people are caught in order to be sent to appropriate mental health treatment. The Probation Service is then sitting rather behind that, but it should obviously have the same capacity to refer. Hopefully, if you are catching people who are mentally ill and getting them engaged with the right mental health programmes from police custody suites and from courts, then you have got them before they get to probation.

Q743 Chris Evans: Do you think the right attitude to take is that substance abuse is a symptom of an underlying mental health issue and that maybe the whole prison treatment should be looking at it from the point of view that this person who is doing whatever drug or whatever substance is mentally ill
and needs help in that respect? Perhaps I am getting too philosophical; I don’t know.

Mr Blunt: Very properly, I am delighted to say, this is in a formal sense the responsibility of the Department of Health. It is the Department of Health who commission and provide services. You are inviting me to trespass into what is clinical territory, which would be singularly unwise. The truth is that the picture is extremely complex as to what the cause and effect is. It is pretty clear to me that people who have abused cannabis open themselves up to mental health conditions. There are people who will address their mental health conditions by drinking too much and abusing drugs. So which way round is it?

Of course, there is an enormous overlap. If you take offenders, the number of different problems that they are trying to resolve in order to get them to go straight, not reoffend and put their lives back together and become social members of society again are overlapping, complex and difficult. You have a whole bunch of things to do with mental health and substance abuse issues, communication skills, ability to read and write, social attitudes, etcetera.

Q744 Mr Buckland: Minister, and Mr Copsey in particular, you gave evidence about the importance of giving professionals discretion locally. How do you square those remarks with the probation instruction issued in May of this year relating to pre-sentence reports, which to my reading seems a very prescriptive and dirigiste way of dealing with what are very important documents that assist sentencers quite considerably in coming to considered conclusions? There is a danger, is there not, that in over-centralising the approach we are going to diminish the quality of the reports and fetter the discretion of probation officers in terms of their professional decision making?

Martin Copsey: Yes; I think I indicated direction of travel. It is our intention over time to move to an environment in which individual practitioners, whether in delivering assessments or interventions or planning that work, have greater discretion and greater ability to determine exactly how they do that. I think the current reporting arrangements are a good example of where we have already moved to give probation trusts and local areas much greater discretion in the type and nature of report they deliver to courts. You will probably be aware that, historically, the vast bulk of reports produced were things described as standard delivery reports, which are written reports. We now give a much greater discretion for local court-based staff to make a decision about whether in that particular case, in consultation with the court, that should be a standard delivery report, a fast-track report or, indeed perhaps, an oral report. Again, it seems to me it is about that probation representative in court engaging with the court to understand what sentencers want and to scope the report appropriately to address those needs.

Q745 Mr Buckland: We have moved back, have we not, to a position where what we used to call stand-down reports are being encouraged? Frankly that is a good thing. My worry is in terms of the delivery time. Are we not in danger by reducing the delivery time of what I still call standard reports that the quality of those reports could diminish because professionals have less time in which to consider the issues and to write a report that is a full reflection of the offender and the risks and issues posed?

Martin Copsey: Part of the challenge here is to make sure that those cases which require full reports, which will be the more complex and more serious cases, actually get that level of attention. In the past everybody probably got that level of attention, and in some instances that might have been unnecessary because it might have been a very specific issue or a very specific sentencing option that the court wanted to know about, for example, unpaid work. They would still have had that full report. We have now moved to an environment where there are, as I have said, different types of reports at different levels, taking different amounts of resource and time. That enables individual staff to make a judgment more linked to the needs of that case, the needs of that offender and the court, and to tailor that level of reporting and that level of assessment to that case. I hope, through that, we will see an improvement in the quality of targeted assessment and information for courts.

Q746 Chair: Can I return to probation trusts for a moment? The community payback contract mechanism looks like charging off in the wrong direction entirely in terms of the large areas which were chosen for the purpose, which I assume were dictated by these quite large contracts. It has resulted in authorities being grouped together with areas with which they have nothing in common or a very long way away, from south Yorkshire to Northumberland. In some cases there is a really strange jumble of areas. Is the Department not set on a course which is inimical to what we were discussing earlier, that is a genuinely local and recognised-to-be-local system of commissioning?

Mr Blunt: There is an issue about trading off a number of different factors against each other in trying to produce the appropriate competitive lots. The truth is that there is not a right answer that would best meet this. If we had insisted that localism was an appropriate commissioning base, you might be tempted to run 35 different competitions based around each probation trust. That would have been beyond the capacity of the Ministry of Justice to manage and beyond the capacity of the market to invest in.

Q747 Chair: But there are more naturally recognised groupings than the ones that were used in community payback.

Mr Blunt: Correct. I would ask the person who has most responsibility for the design of the lots to say something.

Martin Copsey: The answer to that is that there is probably no ideal design in terms of lots. What we try to do in lot construction is to have roughly equal proportions of volume of activity. The ambition through that and through the competition process would be to deliver a number of outcomes. Clearly we want to see efficiencies and value for money delivered in those contracts, but we will certainly want
to see innovation and performance improvement, and we will certainly want to see the ability of those successful bids to demonstrate proper and rigorous local delivery arrangements, which, as the Minister was suggesting earlier on, will be critical in terms of enhancing voluntary third sector local groups and local communities in working with those offenders and the community payback scheme to deliver the types of projects and outcomes that local communities want to see.

**Mr Blunt:** Therefore, in order to drive what we think is the best competitive option for lots of around a million hours of work being competed into the market—that is roughly the size of each of the lots—you are correct to point out that there are then the disbenefits of a new set of boundaries around the regions that are being designed around the payback, which is forcing probation trusts to engage in a set of discussions with probation trusts with whom they have not normally engaged in order to put the public sector bids together, if that is how they are going to approach it.

What has been very encouraging in this process is just how innovative the probation trusts have been in responding to this. You are quite right, and I heard the criticism, as you will have done, about the shape of the proposed contracts. Having made their complaint, which I think Sebert Cox and others repeated here about the process, they have engaged with it in a way that is very encouraging, which reflects the whole approach of the Probation Association and Probation Chiefs Association to the new environment which we are in. They are making partnerships not just with each other as probation trusts to put these bids together, but they are looking innovatively at partnerships with private sector companies in order to deliver the most effective bid in their case to secure these contracts. We are in the early stages yet, but in terms of the partnerships we are seeing, not just within the public sector but between the public sector and the private sector, what is happening is very encouraging. I want to take this opportunity to give credit to the Probation Association and the Probation Chiefs Association for the leadership they are showing in this whole new environment. It is not just around this particular contract but also their whole approach to payment by results and a much greater focus on outcomes. They have picked up the challenge that has been put down to them and are running with it in a way which I would highly commend.

**Q748 Elizabeth Truss:** Is not one of the issues with the strange shape of these lots the fact that it is a lateral-based commissioning on certain types of service rather than a geographical-based commissioning? I just want to understand how much the Ministry of Justice has examined the possibility of commissioning on a vertical basis all of the community service probation products and also the prison commissioning? Has that really been looked at or has it been dismissed as too difficult?

**Mr Blunt:** In that sense, community payback arrived to me in isolation—13% of what the Probation Service does by cash value across the delivery of services—as a competition that had begun under the last Administration. The decision I was facing was whether or not to continue with it. I am extremely conscious that we have to carry public confidence about effective punishments in the community.

Community payback is the most appropriate vehicle by which to do that. I want to deliver much greater clarity about what the purpose of community payback is. It is the punitive element of a community sentence. If it is rehabilitative because it happens to work well and people go on well-managed schemes and they come out better people having been on well-managed schemes, that is well and good, but its purpose is to deliver punishment.

I was concerned that there was too much differential performance in the delivery of community payback across the country. I do not think it was very difficult for ITV to go in and put cameras on offenders who were being administered in community payback and produce a television programme that produced a very negative view of community payback. I spent a number of my early visits going to visit community payback schemes around the country and was struck by the fact that if you visit a community payback scheme during the week you are likely to see about half the people who are meant to be there actually there. At the weekend it is about 75%.

**Elizabeth Truss:** My question was not really about that.

**Mr Blunt:** I know. Forgive me for the length of the answer. Therefore, community payback’s importance in delivering confidence in community sentencing meant that I then came to a judgment, obviously along with the Secretary of State, that it was appropriate for this competition to continue. The importance of getting community payback robustly delivered with greater intensity, to carry greater public confidence, was an urgent necessity, and so we proceeded with the programme. As you have said, the alternative would have been to look at a vertical integration of services, including prison and everything else.

**Q749 Elizabeth Truss:** The answer is that the Ministry of Justice has not looked at the savings and efficiencies that could result from vertical commissioning.

**Mr Blunt:** We discussed this earlier. There have been discussions, for example, about Cumbria, where there is a rough balance between the prisons that serve the population there, the probation trust, the police and everything else. Should we look for areas where we could do, in effect, vertical commissioning with a completely localised vertical process, as you describe it? The decision has been taken that in fact we should proceed with our payment-by-results pilots that we are engaging with across prisons, probation and communities in the youth justice area and in cooperation with the Department of Health and the Department for Work and Pensions. That is what we have decided to do.

**Q750 Ben Gummer:** This does fit into our discussion on probation but you are also responsible for sentencing. In looking at additional savings that might

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5 *Note from the witness: ie direct service costs.*
need to be made in the MoJ, have you looked at the abolition of the Sentencing Council?

**Mr Blunt:** It was considered early on, but I was conscious that politicians appeared to have been redesigning the Sentencing Council. Previously it was the Sentencing Guidelines Council. I think there were two bodies responsible for this as recently as last year. It did not seem sensible at this stage to rip up the new framework and to start again. We decided to let the existing framework run and see how it performs.

**Q751 Ben Gummer:** But you have just identified a whole series of local peculiarities about capacity. You have also professed a need for there to be local commissioning, albeit on a different model from the way that this Committee seems to be moving. Surely it would be appropriate, therefore, to have local sentencing.

**Mr Blunt:** I would be interested in the views of the Committee as to whether you think there should be consistency in sentencing across the country. Certainly one of the principal assumptions has been that, if you commit an offence in one part of the country, you should be getting a reasonably similar sentence wherever you have committed that offence. That is what the Sentencing Council and their guidelines are for. It is to achieve consistency in sentencing.

**Q752 Ben Gummer:** Sentencing is part of the commissioning process. The Government cannot in one instance insist on local provision of sentencing and in another a nationalised sentencing directorate. That is something that even Sir Brian Leveson is not able to reconcile.

**Mr Blunt:** To a degree, you are of course intellectually wholly correct. The logic of a vertically integrated service, and, say, a police and crime commissioner who is responsible for the management of criminal justice policy in their area, would be to allow local sentencers and a police and crime commissioner the freedom to pursue the criminal justice policy in their local area as they see fit. If they want to bang people up and their sentencers want to send people to prison for exemplary periods for burglary or whatever else it is in the county of Surrey, for example, and to have an extremely robust sentencing policy, well, that is fine as long as the people of Surrey are prepared to pay for it through their council tax because of all the prisons they are going to have to build to hold them. Equally, they could pursue a different policy which is focused on sharing the savings with the Ministry.

The issue in those circumstances is that we would go to a completely different environment where the state was not procuring custody. I do not think we are quite ready to make that jump yet. It is a very interesting discussion and I will look forward to the views of the Committee about where this should be taken. Should there be differentiated sentences in different parts of the country? How far should the relationship between sentencers and their local criminal justice agencies go in terms of influencing what sort of sentence there should be?

The position of the Government is quite clear. There should be consistency in sentencing across the country to make sure that there is a robust message sent out about the wholly unacceptable nature of crime and the necessary consequences of people who perpetrate crime and what they do to their victims. In the end, we are in the business of carrying the confidence of the country in making sure that the victims of crime know that their offenders are, as far as possible, going to be caught and appropriately punished and that our entire system is going to work to effectively rehabilitate offenders so that they do not create more victims of crime in the future. I do not think we can reconcile those necessary national objectives by having a very local different sentencing regime and doing without the services of the Sentencing Council. Crime and punishment is a national issue, and in the end the responsibility, as you say, for sentencing policy—through me to the Secretary of State and to the Cabinet—sits with me. It is a national and not a local issue.

**Q753 Chair:** In the past the Committee has not challenged the assumption that sentencing should be consistent across the country but has regularly expressed concern that the structure that we have denies the sentencers the opportunity to deliver the appropriate sentence because one part of the commissioning process, namely, prison, is so remote from all the other decisions. The sentencer knows that if he imposes a custodial sentence a van will come and take the prisoner away to, perhaps, an overcrowded prison, whereas if the sentencer believes that a different kind of punishment and rehabilitation is required he has to establish that that is available in the area. There is an automaticity about prison commissioning which does not apply to a number of other disposals. That has been the Committee’s previous area of concern.

**Mr Blunt:** I hope I can give the Committee some comfort. We have just reviewed with the Department for Business, Innovation and Skills the offender learning provision. You will see in that that there has been a change in the procurement unit that is available to NOMS. The future procurement unit for offender learning into prisons, which is about £150 million out of the budget of the Department for Business, Innovation and Skills, will be the prison cluster. It is going to be up to NOMS to identify the prison cluster. I am absolutely clear that the prison cluster needs to reflect the individual prisoner journey. There is a way in which we should be able to get to a system whereby a Category B local prison serves the courts where people first get sent to after sentence in the courts or on remand before they get sentenced and will spend short sentences. If they are on a longer sentence, they will move to a Category C training prison and they will then move to a Category D resettlement prison. All of this depends on the length of their sentence. We have an estate that ought to be able to be managed to support the offender journey. There has been criticism—and I think it has been expressed to the Committee here—that people are on programmes, then they are moved and they lose the programme they are on. If you are procuring support and programmes into prison that is through a cluster
of prisons, and you get roll-on roll-off programmes so people are in the appropriate institution for where they are in terms of their sentence but the programmes are still available from the same providers within a prison cluster, I hope that will be a step forward. I hope it will then make it easier to make these local links between the local probation trusts and the prisons and the management of their offenders.

Chair: Minister, Mr Allars and Mr Copsey, thank you very much indeed.
**Written evidence**

**Executive Summary**

- Many offenders have multiple and complex support needs including poor mental health, drug and/or alcohol problems, homelessness or unstable housing, poverty and debt, and poor family relationships.
- Probation services should be commissioned to identify and respond holistically to this range of need. This should involve a wide range of partner agencies.
- Probation commissioners should work with agencies from other sectors to identify shared priorities and targets and pool resources in order to address these needs.
- Involving service users in the design and delivery of services can be beneficial to both service provider and service user, but is underdeveloped in criminal justice services. This should be explored by probation services.
- In many areas, services to address this range of needs already exist but offenders, especially those with multiple needs, find them hard to access. Multi-agency partnership working is essential in addressing this issue.
- Partnership working with these agencies can help probation services save resources and work more effectively with people with multiple needs.
- A move away from short sentences will result in more offenders with multiple needs being worked with in the community. This will require probation services to improve their understanding of multiple needs, expertise in responding to this group, and partnership working.

**About Revolving Doors Agency**

Revolving Doors is a charity working across England to change systems and improve services for people with multiple problems including poor mental health who are in repeat contact with the criminal justice system.

The problems they face often include poverty, mental health difficulties, substance use and homelessness. These problems interact so people end up living chaotic lives of crisis and crime. The problems they then cause impact on us all. We call them the revolving doors group.

We base our work on 16 years of research, service development and service user involvement which has given us a strong evidence base of the unique challenges faced by people with multiple problems. Our three areas of work are policy and research; service user involvement; and partnerships and development.

Our vision is that by 2025 there is an end to the revolving door of crisis and crime, when anyone facing multiple problems and poor mental health is supported to reach their potential, with fewer victims and safer communities as a result.

**Introduction**

Revolving Doors welcomes this inquiry into the role of probation services by the Justice Select Committee. We particularly welcome the examination of the probation service’s capacity to cope with the move away from short custodial sentences, and the recognition of the need for different approaches for different groups.

Members of our service user forum provided verbal evidence to the Committee on 12 October.

**Consultation Response**

*Are probation services currently commissioned in the most appropriate way?*

Experiences of members of our service user forum have shown that probation services are often unable to respond appropriately to people with multiple needs:

"when I got out of prison I was basically homeless. Probation didn’t help me trying to find a place … I was released with a £47 giro. I had nowhere to go. I went to probation, said “I’m homeless” and they said, “There’s nothing we can do for you”. … Every week I go to probation, it’s every two weeks now. I get seen for five minutes and none of my problems actually get resolved.”

"Well you go there and all they ask you is are you alright? Well that’s all they ask me, “ Are you alright, how you doing?” They didn’t reassess any of my offending behaviour. … I don’t think they knew what to do “cos my crime was linked to my mental health so I think they found that hard to understand; and I didn’t feel comfortable talking to him anyway.”

(Quotes from “Multiple needs”: Service users’ perspectives) [1]

In order to address this, we argue that any probation service commissioning arrangements should consider the following three principles:

1. Focus on addressing offenders’ multiple needs

Many offenders, particularly those serving repeat sentences, have multiple and complex support needs, including poor mental health, drug and/or alcohol problems, unstable housing or homelessness, debt, and relationship problems. These needs exacerbate each other and make it more difficult for the person to access the help they need.

Addressing the full range of these needs is vital in order to effectively tackle the root causes of offending and consequently in efforts to reduce reoffending.

Probation, as a law enforcement agency, cannot address these needs in isolation. If the service is to be more effective in reducing reoffending, commissioners should recognise this wide range of needs and work with a corresponding range of commissioners and providers to address them. This should include health, substance misuse, social care, education and learning, criminal justice, and housing agencies.

Both children’s and adult services should be involved in recognition of the specific challenges faced by young people making the transition from children’s to adult services. (See Revolving Doors’ guide to commissioning services for young adults with multiple needs2 for more details)

2. Facilitate multi-agency working through identifying shared priorities and targets and sharing resources

The multiple needs of many offenders mean they are often in contact with a range of services. In some cases, this results in service duplication. In others, no one agency takes overall responsibility and the offender’s needs remain unaddressed.

Working towards shared targets is likely to be of benefit to all, with improvements in one area influencing improvements elsewhere. Shared targets are also essential in maintaining commitment to joint working.

CASE STUDY: DEPAUL UK OLDHAM

Depaul UK’s project in Oldham, Porter Street, was developed in recognition of a gap in provision for young people with multiple needs. The project provides supported accommodation in a purpose built unit for up to eight young people between the ages of 16 and 23 years with complex needs. Responding to the residents’ needs requires a high level of support including some double cover; thus the costs are relatively high.

A foundation of well established partnership working, led by the local authority and including Youth Offending Teams, Supporting People, the Primary Care Trust and substance misuse services enabled unmet needs to be identified and a shared understanding of possible future options developed. The project is jointly funded by the above agencies.

The commissioning objective was to provide more specialist support for young people, which would ultimately enable them to maintain their own tenancies and live as independently as possible. More specifically the service aims to support young people with offending behaviour, mental health problems and substance misuse. There is an explicit understanding between the agencies involved that a multiagency approach is the only way to deliver the core objectives for young people with multiple needs.

Through identifying patterns of service use by offenders, commissioners can identify where duplication is taking place, and hence where budgets could be aligned. Funds from multiple sources can be joined together effectively to work towards shared priorities and targets.

Evidence around cost savings to local and national budgets can be useful here in backing up decisions to pool or align budgets.

Through our national development work3 we have identified the following elements as necessary for targeting and addressing the needs of this group:

— Local leaders who take responsibility for multiple needs and act as champions to find solutions.
— A local strategic steering group bringing together relevant agencies.
— Joint commissioning or partnership working.
— A lead professional who can support the client to access the range of services they need.
— Breaking down barriers between services.
— Information sharing.
— Evaluation and monitoring of outcomes.
— Service user involvement.

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3. Involve service users

Service user involvement is under-developed in criminal justice, not least due to the conflict between punishment and empowerment. However, we are keen to emphasise its importance and benefits. Involving service users in the design and delivery of services is beneficial for both the service user and service provider and is an essential step in ensuring services are genuinely focused and effective.

Probation services have much to learn from other sectors such as health and voluntary agencies where involving service users has become more embedded.

What role should the private and voluntary sectors play in the delivery of probation services?

As outlined above, offenders frequently have multiple and complex needs, and hence require support from a range of services. Our development work has demonstrated that the services that people with multiple problems need already exist but they are unable to access them or receive a poor service from them.

Often, what is required is a reshaping of existing services or pathways to better engage people with multiple problems in contact with the criminal justice system. Voluntary, private and public sector services should all be included in this approach, which may be cost neutral or require only small amounts of funding.

Many of our development projects have focused on this kind of reshaping. Often they have involved an individual or organisation taking a lead in navigating people with multiple problems to services that can support them.

Case Study: Navigator Project, Watford

The Navigator Project in Watford is exploring how the police can better respond to people with mental health problems and other issues such as homelessness or substance use when they are arrested using volunteer navigators from a local voluntary organisation to offer support and guidance on services available in the community.

Multi-agency partnership working has been essential in our development work. The success of many of our projects is predicated on the inclusion of a steering group drawn from a range of local health, social care and criminal justice agencies. Local leaders in health, social care and criminal justice contribute to the convening of partnership groups, make resources available and are able to make the case for the mainstreaming of services after the pilot period. Much of the success of projects is attributable to their leadership and willingness to innovate.

We learned that the success of the projects was to a large degree attributable to local ownership and consensus; in other words, to the “permission” given by several commissioners and organisations to projects operating according to a more flexible and responsive set of rules.

Does the probation service have the capacity to cope with a move away from short custodial sentences?

Those who are currently sentenced to short custodial sentences typically suffer multiple social disadvantages. This is demonstrated by the 2009 report Health Needs Assessment of Short Sentence Prisoners. This found that short sentenced prisoners “are likely to: have truanted from school; half are unemployed and possess no formal qualifications; 15% were homeless or in temporary accommodation; nearly all used illegal drugs in the 12 months prior to a sentence and 40% were problem drinkers”.

A move away from short sentences is unlikely to be matched by a change in this profile of need. Those who are currently seen in prison will instead be under probation supervision. While the probation service already has some degree of expertise in responding to this complexity of need, the move away from short sentences would need to be accompanied by increased understanding and capacity for working in multi-agency partnerships.

In order to respond effectively to these offenders, probation services will need to take a holistic multi-agency approach to address a range of needs. They will need to improve partnership working with other agencies that can help address a range of needs (public, private and voluntary). As outlined above, these agencies may...
already provide services that could help address offending related needs, but those with multiple problems may have trouble accessing them. Joint working is required to explore the reasons behind this and break down barriers.

It is essential that criminal justice reforms recognise that women face specific challenges. They are often more likely to breach community sentences and the consequences of imprisonment can have more severe effects especially on children. The importance of gender-specific sentences is outlined in *The Community order and Suspended Sentence Order for Women*.6

Does the probation service handle different groups of offenders appropriately, e.g., women, young adults, black and minority ethnic people, and high and medium risk offenders?

Young adults are disproportionately represented in the criminal justice system and have needs and characteristics, which are different from those of the general adult population. The probation service and criminal justice system more widely often fails to recognise the need for a distinct approach. Revolving Doors is a member of the Transition to Adulthood Alliance and refers the Justice Select Committee to the response to the Alliance for further details on this.

*October 2010*

**Written evidence from the Probation Chiefs Association (PB 17)**

*Are probation services currently commissioned in the most appropriate way?*

1. Probation Trusts need a new “strategic commissioning” approach to the delivery of probation services which opens up the potential for new ways of working with a range of public, private and voluntary sector providers.

2. Current commissioning arrangements, through the Directors of Offender Management (DOM), are too remote from the communities where the services are delivered.

3. The procurement processes used by the Ministry of Justice/National Offender Management Service (MOJ/NOMS) are unnecessarily bureaucratic. This often results in potentially suitable and locally accountable providers excluding themselves from tendering exercises and the usual “Prime Providers” taking the available resource.

4. Probation Trusts have the business skills to commission offender services. They have established links with the local communities and operate with sensitivity to local issues. Crucially, Probation Trusts have the advantage of highly developed relationships with local Magistrates and Judges. Probation Trusts are Responsible Authorities on the Community Safety Partnerships, increasingly commissioning through joint and co-commissioning initiatives with local strategic partners.

5. Probation Trusts are the most appropriate local commissioners of probation services, and should be more centrally involved in the commissioning of the whole range of offender interventions required to protect the public and rehabilitate the offender. It is important that Probation Trusts take primary responsibility within communities for offender management.

**PCA Recommendation 1**: Improve and consolidate local joint and co-commissioning arrangements by reducing centrally-driven procurement of services.

**PCA Recommendation 2**: Develop Probation Trusts role within local joint and co-commissioning arrangements as a responsible authority for offender interventions.

*How effectively are probation trusts operating in practice? What is the role of the probation service in delivering “offender management” and how does it operate in practice?*

6. The new governance arrangements for Probation Trusts provide the potential for greater autonomy and therefore greater flexibility to meet local needs. It is not clear that these issues of governance are fully understood or appreciated yet by NOMS.

7. Some of the barriers to developing the full potential of Probation Trusts are:
   — over-regulation and lack of proper autonomy;
   — having severely limited freedom to control finances (for example, no year-end flexibility); and
   — having severely limited freedom to design and control the regime within which offenders are managed.

8. Probation Trusts, in recent years have already achieved substantial efficiencies. However, some of the processes informing these efficiencies (for example the Specification Benchmarking and Costing Programme) need to take more account of the effectiveness of services delivered.

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9. There are some unanticipated consequences of becoming Trusts, for example an increase in bureaucracy, monitoring, and financial controls and having to commit resources to manage VAT and Corporation Tax.

**PCA Recommendation 3**: Realise the potential of Probation Trusts by increasing their autonomy and streamlining central controls.

10. Whilst the Offender Management (OM) model is clearly articulated in the national documentation, the emphasis at present can appear to be on an administrative approach with the focus on outputs rather than outcomes. The emphasis should be on the direct addressing of offending behaviour to achieve desistance from offending and the protection of the public. The “management” of an offender through the different requirements of the sentence is a corollary to this work.

11. Within the OM framework there are currently a range of accredited programmes delivered by Probation Trusts which the most recent research evidence from the MOJ shows are successful in reducing reoffending.

12. In order for Probation Trusts to work effectively with offenders within the OM model they need to have greater professional flexibility within a less regulated performance management framework and a reduced emphasis on process targets. It is also crucial that work with offenders is predicated on evidence based practice and a demonstrable link to reducing re-offending.

**PCA Recommendation 4**: Build on the existing Offender Management Model through an emphasis on direct offender supervision as the means of protecting the public through rehabilitation of the offender.

**Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?**

13. The Criminal Justice Act 2003 provides for a range of additional requirements to be included in Community Orders, many of which are not delivered by Probation Trusts. Most of these can be utilised fully by sentencers but there are the following constraints:

- some Probation Trusts have no or only partial access to Senior Attendance Centre provision;
- some Probation Trusts are unable in all or part of their areas to offer requirements in relation to Health Service delivered interventions of Mental Health Treatment or Alcohol Treatment;
- there is still variance in the use by courts of electronic monitored curfews;
- the provision of accredited programmes is currently driven by targets set by the DOMs, not by need as assessed by Courts and Pre-Sentence Report (PSR) writers; and
- the increases in offenders who need interpreters has resulted in limited access to some provision such as accredited programmes and Community Payback.

14. Probation Trusts have been increasingly able to provide sentencers with a wide range of Specified Activity Requirements to address the needs of specific groups, for example, women offenders, and specific issues such as lower level alcohol misuse, debt and money management, compliance, and parenting skills.

15. In 2009–10 the Probation Service nationally delivered its best ever set of performance results. These demonstrate that increasingly the whole range of interventions delivered under community orders are completed successfully. This has been driven by volume targets which sometimes get in the way of delivering interventions based more specifically on needs in the OASys assessments.

16. Where offenders fail to comply, orders are rigorously enforced; a process which has been transformed over the last ten years. Probation staff have developed approaches which are designed to achieve compliance rather than enforcement per se. These include a more thorough exploration with individuals at induction of factors which might inhibit compliance like employment, or care responsibilities.

17. Whilst there is still some scope to ensure that all the requirements in a Community Order are available and fully utilised nationally, when requirements are made sentencers can have confidence that they will be delivered as expected and rigorously enforced.

18. A critical issue is public confidence and research evidence (MORI) shows that public confidence in the use of community penalties goes up the more the public know about them. There would also be benefits to developing ways of providing feedback to sentencers on the progress of orders which would promote confidence in community sentences.

**PCA Recommendation 5**: Allow Probation Trusts to focus more on meeting criminogenic needs that are identified in court reports rather than meeting regionally commissioned sentencing targets.

**PCA Recommendation 6**: Establish procedures for providing increased levels of feedback to sentencers on the progress of orders.

**PCA Recommendation 7**: Increase the provision of information about community sentences to the public and other stakeholders.
What role should the private and voluntary sectors play in the delivery of probation services?

19. Probation Trusts already work closely with a wide range of agencies in both sectors and would welcome the opportunity to extend this. The commissioning and oversight of probation services, including offender management, require the unique blend of professional skills, knowledge and experience which Probation staff bring to the sector making Trusts ideal brokers to undertake this role.

20. The strength of the third (or voluntary) sector is in its values, its local connections, its capacity to attract additional resources and to present a positive image of work with offenders. The voluntary sector’s strengths include linking offenders through positive engagement, like community payback and restorative justice schemes, with local communities, as well as improving employment and leisure opportunities for offenders.

21. In respect of the private sector Probation Trusts already have examples of creative contracts providing, for example, offender mentoring services, staffing cover and supplementing report writing. The private sector also provides employment opportunities to offenders. The private sector can also contribute to “back office” functions and to driving the role of technology in delivering effective supervision and reducing the cost of support services. There is also potential for the private sector in the skills development aspect of Unpaid Work/Community Payback. Probation Trusts could themselves create “social enterprises” or “arms length” companies to deliver traditional public service programmes for offenders.

22. Annually some 32,000 individuals are sent to prison for periods of up to and including three months from the Magistrates’ Court (2008). There is currently no capacity in Probation Trusts to take on the work of supervising a sizeable proportion of these offenders in the community without a number of radical actions and alternatives to the way in which resources are currently deployed. There would need to be action in respect of:

— demand management;
— resource transfer;
— releasing capacity through a lifting of unnecessary process requirements; and
— greater reliance on professional discretion.

There is enormous potential and substantial cost saving for the Government in this area. However, there are prolific offenders in that population, some very dangerous, and Probation Trusts will need to be involved in the risk assessment and allocation of support to this group.

23. On the issue of demand management, capacity would be created if there was use made of diversion from probation caseloads of lower risk level offenders through Police/Crown Prosecution Service (CPS) action and the use of alternatives to prosecution and greater use of fine/conditional discharges. There could also be diversion via Problem Solving Courts to the voluntary sector. The use of shorter orders, including stand alone Specified Activities, and an increase in the use of other requirements (eg Exclusion, Prohibited Activities) would target resources more efficiently.

24. The issue of resource transfer would need to be addressed: specifically there would need to be a transfer of resources from custody to community as well as from the centre to Probation Trusts. Resource transfer from the female custodial estate to the community would also allow for the prioritising of sustainable services for women offenders.

25. The transfer of budgets; alcohol, drugs, ETE and accommodation to Trusts would allow them to commission local partners to target more effectively the most excluded offenders at the local level.

26. Finally, there is the potential for releasing capacity through increased use of professional discretion in relation to National Standards of supervision and meeting process targets. There is an urgent need to release highly trained and professionally qualified staff from process monitoring in order to focus on the direct supervision of and engagement with offenders.

27. There are already innovative examples of restorative justice (RJ) being used in Probation Trusts. These include conferencing, RJ as a specified activity requirement in a community sentence, or as an element within...
an Intensive Alternatives to Custody programme or Integrated Offender Management. Judges and magistrates have signalled their support for these options.

28. Community payback already has a clear restorative element (visible payback to the community) which is highly valued by local communities. The restorative elements within community payback could be strengthened.

29. There is clearly scope for increasing the use of RJ and, given the high value victims place on it and the impact it can have on offenders, it could be established as a core option in sentencing. This could be part of a broader RJ framework that allows all personal crime victims to opt into a RJ process at different stages in the offender/victim journey. Victims could have an entitlement for an RJ approach to be investigated if they want the option pursued.

_PCA Recommendation 12_: Make Restorative Justice an entitlement for victims in cases in which they have expressed a preference for it.

**Does the probation service handle different groups of offenders appropriately, eg women, young adults, black and minority ethnic people, and high and medium risk offenders?**

**Women Offenders**

30. Probation Officers are skilled in identifying the complex needs which women offenders have (mental health, substance misuse, histories of abuse) and engaging with women to provide interventions which will divert them from custody and crime. Probation staff are able to apply National Standards whilst remaining responsive to specific needs like working patterns, childcare, and health appointments.

31. Probation Trusts work with the Women’s Community Projects (WCPs) which provide “wrap-around” services for women offenders and those women at risk of crime. In the WCPs supervision takes place in a safe, women-only environment with access to “one-stop shop” facilities.

32. With increasing numbers of women being diverted from custody and the female caseload increasing the ability to continue to make services, accessible, sensitive and appropriate to need is likely to become more difficult.

_PCA recommendation 13_: Increase the capacity of Probation’s current work with Women’s Community Projects in order to meet the needs of the rising numbers of women offenders.

**Young adult offenders**

33. The Probation Service has demonstrated an effective approach to working with young adults who offend, both in managing Community Sentences and Custodial licences. Youth Offending Services and Probation Trusts have established practices for managing the transition from youth-based Community Justice provision to adult provision. The transition to young adulthood is crucial; a time typified by the tailing away of traditional youth service provision.

34. A third of those subject to Community Orders managed by Probation Trusts with bespoke requirements are reconvicted within a year compared to 60% of those who serve a prison sentence of less than 12 months. The Probation Service has demonstrated that well-managed Community sentences are more likely to be effective and act to prevent the “revolving door” for young adults in custody.

35. Local initiatives within Probation Trusts, such as Integrated Offender Management projects have Probation, Police and Local Authority combining services in targeting specific risk factors.

_PCA recommendation 14_: Develop a sector-wide approach to commissioning services to meet the special needs of transition to young adulthood.

**Black and minority ethnic offenders**

36. The Probation Service has an outstanding track record for employing Black and Minority Ethnic (BME) staff who reflect local communities and for being able to demonstrate that all offenders should be able to have confidence in the services that are offered. Where Probation Trusts are working with a high concentration of BME offenders it has been possible to provide specific programmes for BME offenders which also addressed issues of identity, history, culture, experience and opportunity.

37. Probation Trusts ensure that BME offenders do not find themselves as isolated members of predominantly white groups of offenders, including on community payback groups. In some areas local contracts or partnership arrangements have ensured community provision has been developed for BME offenders or members of specific communities.

38. All Trusts provide access to registered interpreters, and set expectations of providers of offender services within contracts. Probation has a long history of seeking to identify and drive down disproportionality or prejudicial treatment, with rigorous monitoring of the quality of reports and the outcomes from proposals in
court reports. Increasingly offender surveys and user groups are being developed to receive and act on feedback from offenders, including those from BME communities.

**PCA Recommendation 15:** Increase the use of offender surveys and user groups to receive and act on feedback from offenders, including those from BME communities.

**High risk offenders**

39. The Probation Service has made significant strides in managing medium and high risk offenders effectively, through the development and professional application of robust assessment tools, which make sure offenders who present the highest risk of harm are tightly managed and resources prioritised, through the Multi Agency Public Protection Arrangements (MAPPA). Offenders who are assessed as less harmful but commit high volume crime are also managed on a multi agency basis as Prolific and Priority Offenders (PPOs). Through these arrangements information is shared and resources pooled across key agencies to ensure agencies achieve the greatest impact in reducing crime and protecting the public.

40. Approved premises also provide a valuable mechanism for containing very high risk particularly in relation to dangerousness, sex offenders and more recently some terrorism offenders.

41. This multi agency approach is internationally recognised as an effective way of managing risk. Both MAPPA and the PPO scheme make sure that greatest weight of offender management techniques are brought to bear on those offenders in the community that demonstrate the capacity to cause the greatest harm. Assessment is kept under regular review to spot escalation from medium risk offenders and move up the intensity of supervision or in reverse to recognise progress and concentrate resource where it is most needed. Working in partnership with the police, prisons and local authority and health partners has become a key ingredient to effective practice and is currently informing the development of Integrated Offender Management.

**PCA Recommendation 16:** Promote public and stakeholder understanding of multi-agency approaches to public protection and risk management work.

**Is the provision of training adequate?**

**Qualifying Training**

42. The new Probation Qualifying Framework (PQF) was introduced in April this year (replacing the Diploma in Probation Studies which ran from 1998–2010) and has the support of Probation Trusts.

43. However, because of reductions in recruitment due to the recent budget cuts the new qualification will be slow to start; the new qualification also has a long delivery time. Combined, these factors have the potential of creating a gap in qualified Probation Officers which could become acute by 2012, creating a potential risk to public protection practice. This needs careful monitoring to ensure Trusts retain the levels of skilled staff required.

**PCA Recommendation 17:** Establish a national body to oversee the implementation and continuous development of the Probation Qualifying Framework (PQF).

**Post Qualifying and In-house Training**

44. There are no formal post qualifying arrangements for Probation practitioners, which is a significant gap in their continuous professional development, although all Probation Trusts have training programmes. Much of Trust training time has however been taken up by preparing staff to implement new Government initiatives. The recent Criminal Justice Joint Inspection recommended that there be better training for staff working with high risk sexual offenders.

45. Training for staff to deliver accredited offending behaviour programmes is comprehensive, but there is a long lead time which can cause significant workforce planning difficulties.

**PCA Recommendation 18:** Agree a framework of recognised national qualifications for certificating the continuous professional development of probation practitioners.

**Leadership and Management Development**

46. There has been no consistent development needs analysis of senior managers even whilst Probation was a national organisation resulting in variable provision for both Chief Executives and their senior managers. A number of Trusts and Regions have invested their own scarce resources in their own senior or middle manager programmes. This is not funded as part of their contract. In our view a proportionate level of NOMS’ resources for leadership development should be allocated to Trusts.

47. Senior managers in Probation Trusts manage a complex system of partnerships with enhanced scrutiny of a public protection role, which is highly visible and volatile. The development of joint training opportunities with their peers in community organisations is required if local commissioning is to be successful.
48. More attention needs to be paid to succession planning and the development of new senior managers for the future. There has also been a lack of access by Probation managers to critical posts in NOMS.

PCA Recommendation 19: Establish a leadership development and succession planning framework within the Probation Service.

September 2010

Supplementary evidence from Mark Mitchell, University of Portsmouth following the oral evidence session on 2 November 2010 (PB 60)

The uncorrected transcript of the oral evidence given to the Justice Committee on the morning of Tuesday 2 November 2010 includes the following exchange on page 19.

Q213 Anna Soubry: I was just going to ask—forgive me, I don't know if it is in the papers—what percentage of the training as you move to the higher level is actually academic training and what part of it is practical? What is the percentage?

Robin Wilkinson: I couldn’t give you that percentage breakdown, I am afraid. I suspect my colleagues behind could, but I couldn't, I am afraid.

Chair: If you would like to drop us a note on that point, that would be very helpful.

In response to this invitation from the Chair, I would like to submit the following additional evidence to the Committee.

The higher level of the new Probation Qualification Framework comprises an integrated programme of academic and practice learning, making it difficult to separate the academic from the practical.

NOMS, in letting the contracts for the delivery of the PQF, required contractors to demonstrate how they proposed to achieve:

"Integration of teaching and practice, including integration and articulation of vocational qualification(s)." (Ministry of Justice Contract Document RPU NE0910/39/11, Appendix G, Section A, question 1.1)

This is achieved in two ways. Firstly, the vocational qualifications themselves are formally accredited by the contracted higher education providers and contribute directly to the attainment of the community justice academic awards that lead to qualification as a probation officer.

Secondly, the majority of the assignments undertaken by probation services officers studying for these awards require them to refer to their practice with offenders in order to answer the assignment questions. This ensures that PSOs are able to integrate the theoretical and practical components of their learning.

November 2010

Supplementary written evidence from Professor Martin Chalkley following the evidence session on Tuesday 8 March 2011 (PB 72)

PAYMENT BY RESULTS

There are two issues that I did not articulate in oral evidence which I would like to comment on:

1. On contracting for “process” versus “result of process”

The particular conception of Payment by Results that is set out in the Consultation Paper is a contract in which the remuneration is varied according to the outcome of supervisory intervention, specifically re-offending. As I suggested in reviewing the use of Payment by Results in health care, other notions of “result” are possible. In health care the “result” is a completed hospital treatment. I would contend that the most important change is a movement away from contracting on process—whether it is completed interventions (the health care example), or successful interventions (the proposed probation example) is more an issue of detail. I contend this because research strongly supports the idea that by delegating process to providers there will be efficiency gains. To use the jargon of the literature, contracts specified in terms of result make the provider a residual claimant over any process savings they can achieve. The lure of contracting over “successful” outcomes is that it is success that we really want—but there is another literature that warns against attempting to be too specific in terms of reward structure.

2. On the evidence base for conditioning payment on success rates

The other witnesses were more enthusiastic regarding the robustness of the evidence that links re-offending rates to “risk factors” (age, gender, socio-economic status etc) than I am. We were described as “drowning in data” concerning the correlates of re-offending; the implication being that it would be a straightforward task to determine whether a provider has improved on the average and therefore warrants a bonus. In healthcare I
would contend there is an ocean of data, compared with the swimming pool that we are drowning in with regard to reoffending. And yet there are many unresolved issues in health care in agreeing risk factors. The problem is that many factors are interdependent, so that untangling the competing influences is very hard. I think that this means that the practical problems of contracting upon successful outcomes (ie reduced reoffending) are being understated.

March 2011

Written evidence from A4e (PB 66)

1. INTRODUCTION

1.1 This formal response is submitted on behalf of A4e in response to the Justice Select Committee’s inquiry into the role of probation services. A4e is able to provide further clarification on any aspects of the response and is available to give oral evidence to the Committee.

1.2 A4e is an international social purpose company that designs, manages and delivers public services in partnership with governments, public and private sector organisations and the voluntary and community sector. This submission draws on our key areas of expertise through answering relevant, selected questions posed by the Committee in the call for supplementary evidence.

1.3 A4e currently provides education and training to over 8,500 prisoners within 28 prisons across the UK. We are the largest independent sector provider of education and training in the public prison estate, delivering the Offender Learning and Skills Service (OLASS) in 21 establishments and CIAS (Careers Information and Advice Service) in 8 establishments. Since 2005 we have delivered 2.5 million hours of learning and vocational training to offenders and ex-offenders, working with over 100,000 customers with a conviction.

1.4 A4e is the prime provider of Way4Ward, a region-wide NOMS/ESF initiative in supporting offenders in the South West. We work in partnership with the local Probation Trusts, The Prince’s Trust, BME groups, specialist housing providers and social enterprises to support 3,285 offenders who are leaving prison or serving a community sentence. In the North East, we deliver First Steps to Employability working with Northumbria and Durham Tees Valley Probation Trusts to provide employability-focused qualifications to offenders carrying out their Unpaid Work orders in their local communities. The NOCN accredited Steps programme is also delivered through local community based referral sources. Since April 2009, First Steps has engaged with over 1,600 individuals assisting 700 achieve a City and Guilds or NOCN accredited qualification, helping 92 move into employment and a further 60 access an education or training option.

2. EXECUTIVE SUMMARY

2.1 A4e welcomes the Ministry of Justice’s intention to introduce greater competition into the provision of services and to pay providers from all sectors according to the results they achieve. A4e has long been an advocate of linking payment to outcomes and has been a pioneer in the delivery of outcome-based employability contracts for the Department for Work and Pensions (DWP) and overseas. In Israel, A4e was involved in a pilot programme that preceded the development of outcome-based models in the UK and tested whether and how payment could be linked to success in reducing the number of claimants in receipt of welfare benefits.

2.2 In the UK, A4e is the largest provider of Flexible New Deal (FND) and is currently bidding to be a similarly significant provider under the Work Programme, which will significantly extend the principle of payment-by-results in the employability arena.

2.3 Much can be learnt from the experience in welfare reform when developing payment-by-results. The Ministry of Justice’s payment-by-results model will need careful design and rigorous testing as there are significant differences between the established welfare-to-work model and a model to reduce reoffending. This is especially relevant to the appropriate attribution of outcomes to providers, the management of external factors and the extent to which success will lead to an identifiable reduction in costs. As outlined in our submission, we therefore have clear views on design and implementation in applying a payment-by-results model to criminal justice.

3. What can be learnt from the implementation of payment-by-results models in health and welfare reform?

3.1 There are a number of significant lessons from the area of welfare reform which can be applied more widely to the implementation of payment-by-results. To develop the market, the Ministry of Justice (MoJ) must broaden the base of large providers with the scale to take on the management of high profile government contracts, such as the delivery of probation services, and the financial capacity and appetite for risk needed to deliver contracts linking payment to results. Providers will need to demonstrate a wide circle of experience, extending far beyond the range and type of services hitherto subject to competition (such as private prisons, electronic monitoring and secure escort services). In parallel, it is vital to retain and enhance the skills and experience of the smaller and specialist providers whose expertise and knowledge are essential to the delivery of successful rehabilitation solutions.
3.2 Both of these objectives can be achieved through the adoption of a contracting model similar to that used successfully by the DWP to procure Flexible New Deal, which is now being used to implement the Work Programme. This model involves the appointment of a lead “integrator” to manage and deliver a significant, high-volume public service contract, working with a network of sub-contracted partners to support the delivery of multiple, and often complex, interventions. DWP’s use of this “integrator” model has encouraged entry to the market by a number of new providers whose traditional expertise have not have been in welfare-to-work, while encouraging innovation and supporting specialist providers across the public, voluntary and private sectors.

3.3 For the MoJ, competition opportunities must be of sufficient scale to attract new providers from comparable public service markets. This will enable potential bidders to more easily to justify the investment in systems, personnel and partnership development that will be needed to submit credible proposals, deliver statutory services at low risk to the Ministry of Justice, and create significant gains in efficiency and effectiveness.

3.4 There must be encouragement for the formation of innovative consortia and partnership for the delivery of services which make best use of the skills and experience of smaller providers.

3.5 A clear and comprehensive future competition programme is needed which gives providers sufficient advance visibility of commissioning appetite and scale to plan for and make the necessary investment to bid for and competently deliver those services.

3.6 To support providers to access the working capital needed to make payment-by-results successful and workable, a phased-approach to risk-transfer and payment-by-results must be introduced. Few potential providers will be able to bear the risk and cost of delivery on their own balance sheets and from the experience of the Work Programme most, if not all, potential providers would need to raise capital from external investors in order to fund rehabilitation programmes where all or most of the payment is based on future outcomes. The social investment market is not yet mature enough to provide the level of investment necessary to roll out social impact bond models on any level of scale to make demonstrable savings to the Ministry of Justice. Similarly, in the early stages, providers will find it difficult to attract commercial investors in the absence of a full risk profile. This “investment hole” will need to be remedied before the market is viable.

3.7 In the phased payment-by-results commissioning process, the MoJ can play a useful role in supporting providers in communicating the principles, objectives and contractual arrangements of payment-by-results to potential investors. Providers should engage with investors directly, but the MoJ can support them by, for example, explaining how the payment regime will work in terms which will make it easier for them to understand the risks involved. Secondly, the MoJ should provide reassurance that there is broad consensus about the direction of travel with regard to the competition programme, to indemnify as far as possible against contract termination or significant variation resulting from any change in government. Investors will be especially concerned about the risk of significant policy or programme change once investment is committed and it is here that the department can play a role in providing the necessary support.

3.8 In designing the programme, it must be easy for investors to understand and determine whether they can accept the risks associated with achieving a volume reduction in reoffending. Clarity and simplicity should therefore be key design principles.

3.9 As in welfare reform, the MoJ should expect larger, lead contractors to protect the voluntary sector from risk and from the financial stringency of payment-by-results models. At A4e, we do this through our Flexible New Deal supply chain management process by designing service levels with our voluntary and community sector partners that are achievable and do not pass on the full outcome-related payment mechanism incurred by A4e as Prime Contractor.

4. What results should determine payment in applying such a model to criminal justice?

4.1 In our view there is no perfect measure of the reduction in reoffending and there will need to be much care taken in designing the payment by results model to ensure that any measure reflects the direct impact of intervention by providers and excludes, so far as possible, the impact of other factors. However the MoJ has adopted reconviction as the most appropriate measure of reoffending and there are good arguments for the use of this measure, especially as opposed to a measure which adopts a wider definition of reoffending. Any such wider indicator will be hard to measure accurately, given the risk of offences going undetected, and will be more susceptible to external factors that lie outside of the control of providers. An appropriate measure of reconviction will most directly reflect the cost burden (and therefore cashable savings) directly attributable to the MoJ rather than to other departments such as the Home Office.

4.2 There are also arguments in favour of measuring success in reducing offending at cohort rather than individual offender level. A4e believes that the larger the group of offenders to which performance by results is applied, the greater the likelihood of accurately measuring performance. We therefore recommend that measurement should be across groups of offenders and that the size of such groups should be of a scale (of the order of 1,000 offenders as a working minimum) to reduce the likelihood of statistical abnormality due to external factors or the unpredictable behaviour of individuals. This principle should apply irrespective of whether different measures or approaches are applied to specific types of offender.
4.3 Experience of welfare-to-work programmes shows that it is particularly important to incentivise providers to target those individuals with the most intractable barriers to work. This helps to avoid practices which have become widely known as “creaming and parking”—focusing on those easiest to help and avoiding those where the outcomes are harder to achieve or the costs are higher. For that reason, the MoJ must include “differentiated payments” which reward providers for achieving success with those offenders more likely to offend and/or by increasing rewards aligned to reduced reconvictions. It is imperative that providers have a positive incentive to target offenders whose offending is prolific and more severe. In such cases, there is likely to be a high correlation between the high cost of offending and the intensity of the support and supervision required as part of their sentence or rehabilitation. In such cases, differentiated payments would more fairly recompense providers for working with a specific cohort of high cost offenders.

5. The Government proposes a lead provider model and suggests that commissioning for the delivery and enforcement of sentences and for efforts to reduce re-offending will not be separated. What is the appropriate role for probation in such a model?

5.1 Commissioning for the delivery and enforcement of sentences and for efforts to reduce re-offending should not be separated. We support the MoJ’s Green Paper proposal for probation providers to be given one payment for delivering the statutory requirement and ensuring compliance with the sentence and then receiving a further payment depending on the results the provider delivers in reducing reoffending. The following diagram describes how such a contract might operate on a local level:

5.2 Through this approach, probation providers would be fully recompensed for the costs associated with delivering the minimum statutory requirements, but will have additional contractual incentives to invest in non-statutory rehabilitative interventions (which increase the likelihood of a positive impact on an offender’s reoffending behaviour) due to a bonus payment linked to reduced reconvictions.

5.3 This model does not require external investment or significant additional government funding. Probation providers would have a contractual incentive to collaborate with key local delivery partners to access rehabilitative interventions (such as mental health, drug treatment, housing and Work Programme budgets), leveraging and maximising existing funds wherever possible. In addition to being paid core budget payments, rehabilitative delivery partners would be jointly targeted to reduce future conviction events alongside the probation provider, with both parties rewarded through savings realised by the MoJ. However, if probation providers are to be capable of delivering innovative, cost-effective and truly integrated support around individual offenders to affect reconviction rates, contracts must be designed to transfer the appropriate level of risk, autonomy and flexibility.

5.4 This model has the benefit of minimising the need for additional/external investment to support rehabilitation by better joining-up existing services around individuals which are likely to place high demands on the public purse, leading to a significant improvement in the effective use of public spending. Providers of probation services are ideally placed to fulfil the role of strategic integrator, taking on accountability for reducing reoffending and enabling the MoJ to build up a greater evidence base of “what works”, in order to design future generation contracting arrangements which move closer to full outcome-based models pushing greater levels of risk and autonomy onto an increasingly capable and mature provider base. The MoJ would then be better able to commission contracts which have challenging but realistic performance metrics and pricing structures which are attractive to potential providers, whilst providers will be better able to attract the necessary external investment by being able to demonstrate delivery.

January 2011
Written evidence from the Transition to Adulthood (T2A) Alliance (PB 67)

Executive Summary

The Transition to Adulthood (T2A) Alliance is pleased to have the opportunity to submit further evidence to this Inquiry, having already made a submission following the Committee’s initial call for evidence. This submission welcomes the Government’s recognition, in its Green Paper ‘Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders’, that young adults are a group that will require a different approach in the development of payment-by-results processes. However, the T2A Alliance is disappointed that the Green Paper does not consider the transition from the youth to the adult criminal justice system. Addressing this will be central in developing services that effectively rehabilitate young people.

About the Transition to Adulthood Alliance

The Transition to Adulthood (T2A) Alliance is a broad coalition of organisations and individuals which identifies and promotes more effective ways of working with young adults, aged 18–24, in the criminal justice system. Convened by the Barrow Cadbury Trust, its membership encompasses leading criminal justice, health and youth organisations Addaction, Catch22, the Centre for Crime and Justice Studies, Clinks, the Criminal Justice Alliance, the Howard League for Penal Reform, Nacro, the Prince’s Trust, the Prison Reform Trust, the Revolving Doors Agency, the Young Foundation, Young People in Focus and YoungMinds. Following a comprehensive programme of research and consultation, in November 2009 the T2A Alliance published a ‘Young Adult Manifesto’, containing ten recommendations that would make the way in which we deal with young adult offenders more effective, fairer and less costly. This work forms the basis of the analysis contained in this submission.

In addition, the Barrow Cadbury Trust has established three pilot projects, running from 2009–12, which are testing different approaches to improving services for young adults in the criminal justice system. The T2A pilots enable community interventions to be tailored to the needs of the individual, with the aim of reducing both the risk of reoffending and social exclusion. The pilots are based in London, delivered by St Giles Trust, in Worcestershire, delivered by Youth Support Services (YSS), and in Birmingham, delivered by Staffordshire and West Midlands Probation Service. The Birmingham Pilot focuses on 17–24 year olds with medium to low needs, specifically providing assistance with accommodation, employment, relationships and substance misuse. Support includes advocacy, advice and mentoring both in custody and the community, as well as additional support to motivate the young adults to access appropriate interventions. The Worcestershire pilot offers a flexible, community based, one-to-one support and mentoring project using paid staff and local volunteers. The London Pilot engages with offenders in custody and supports them upon release into Southwark and Croydon. The service is delivered by qualified ex-offenders and comprises mentoring and motivational and attitudinal work, alongside practical support in areas such as housing, benefits, employment, training and education. These pilots have received a formative evaluation by Oxford University’s Centre for Criminology and will receive an outcome-based evaluation by young people’s charity Catch22. This practical experience has helped to inform our policy development work and influenced the content of the “Young Adult Manifesto”.

Submission of Evidence

1. The T2A Alliance welcomes the proposals set out in the Government’s Green Paper, “Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders”. The Green Paper sets out a clear agenda for criminal justice reform, prioritising rehabilitation and reducing reoffending, and many of the issues identified by the T2A Alliance in our “Young Adult Manifesto” are addressed by the Government’s proposed reforms.

2. In the context of this inquiry, the T2A Alliance particularly welcomes the recognition in the Green Paper that, in the development and delivery of payment-by-results, young adults are a distinct group that may require a different approach. The Green Paper states that “We also understand that there may be a case for rewarding providers differently for rehabilitating different types of offender. Different offender groups may require different treatment, including … young adult offenders” (p 45).

3. The T2A Alliance advocates a distinct approach for young adults (aged 18–24) within the criminal justice system, due to their levels of maturity and the economic, social and structural factors that specifically impact upon them. Brain development continues into the mid to late 20s, affecting reason, judgement and impulse control. The age at which someone becomes a fully independent adult in society is also much later now than it was forty years ago and the criminal justice system’s arbitrary determination that those over the age of 18 are “adults” is thus out of step with cultural and social norms of transitions to adulthood, and fails to recognise changes in broader society. In addition, young adults are the most likely age group to desist and “grow out of

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7 For more information on the T2A Alliance, see http://www.t2a.org.uk/ alliance
8 Although the work of the T2A Alliance reflects the views of its membership, this submission should not be seen to represent the policy positions of each individual member organisation.
9 The ‘Young Adult Manifesto’ is available at http://www.t2a.org.uk/publication-download.php?id=27
10 For more information on the pilot projects, see http://www.t2a.org.uk/pilots
4. Young adults in trouble with the law also often have high levels of complex need and are from backgrounds of great disadvantage, and young people with the most troubled or traumatic childhoods often take a lot longer to mature. Young adult offenders frequently have few or no educational qualifications, and no experience of work. They also suffer from high levels of mental ill-health, and alcohol and drug misuse problems. These are often even more acute during someone’s transition to adulthood, as child-focused support services—such as care services, child and adolescent mental health services, children’s services and youth offending services—fall away when they reach the age of 18.

5. The issue of young adults is central for the Probation Service. Young adults aged 18–24, who constitute less than 10% of the population, make up more than one-third of the probation service’s caseload. During 2009, 44,836 young adults (aged 18–24) started a community order, 36% of the total number of people to receive a community order, and 16,233 young adults (aged 18–24) started a suspended sentence order, 35% of the total. As of 31 December 2009, 33,728 young adults (aged 18–24) were serving a community order, 34% of the total, and 14,656 were serving a suspended sentence order, 34% of the total. Reform to the Probation Service can therefore only be successful if it addresses the specific needs of young adults, as recognised by a previous House of Commons Justice Committee report, which argued that “it does not make financial sense to continue to ignore the needs of young adult offenders”11. However previous efforts by the Probation Service to develop a distinct approach to young adults, for example the Intensive Control and Change Programme and young adult probation teams, have been discontinued.

6. We therefore welcome the Government’s recognition, in the Green Paper, that a distinct approach to payment-by-results may be necessary to address the needs of young adults. The T2A pilot projects, established and funded by the Barrow Cadbury Trust, are already beginning to demonstrate the benefits of an approach that focuses on young adults (while the Intensive Alternative to Custody pilot run by Greater Manchester Probation Trust, which focuses on 18–25 year old males, is also promising). In particular, the T2A pilot projects demonstrate the strengths of an approach that provides additional support to young adults, who may have particularly chaotic and unstructured lifestyles and therefore face particular challenges in complying with community sentences. In developing payment-by-results, the T2A Alliance would also support an approach to measuring success that focuses on distance-travelled and on achieving positive steps towards desistance, including reducing the frequency and severity of reoffending, rather than a binary ‘yes/no’ measure of reoffending. This would better reflect what we know about the offending behaviour of young adults.

7. We hope that the Government will seek to learn from the lessons learnt in setting up and delivering the T2A pilots in developing payment-by-results models for young adults. In this context, however, the T2A Alliance is disappointed that the Green Paper does not address the transition between youth and adult services in the criminal justice system. The T2A Alliance has argued that there is a need for improvements in transitional arrangements and communication between agencies working with young adults, with particular focus on Youth Offending Teams and the Probation Service. As part of this, Government needs to consider how commissioning arrangements for projects working with young adults can work across the age boundary of 18.

8. This will be particularly important in the design of payment-by-results. It is essential that a focus on delivering outcomes by different providers based in the youth justice system and in the adult justice system, alongside a fragmentation in the providers of criminal justice services, does not prevent effective collaboration and communication across the division between the youth and adult systems. Incentives will need to be developed to ensure that agencies working with young people under the age of 18 and with young adults work together to prevent reoffending.

9. It is therefore important to ensure that all potential providers of criminal justice services in the community, including the Probation Service, consider how they can bridge the gap between the youth justice system and the adult system in the development and delivery of rehabilitation services. This will help to address high reoffending rates by young adults and can play an important part in implementing the Government’s “rehabilitation revolution”.

January 2011

The members of the T2A Alliance are: Addaction, Catch22, the Centre for Crime and Justice Studies, Clinks, the Criminal Justice Alliance, the Howard League for Penal Reform, Nacro, the Prince’s Trust, the Prison Reform Trust, the Revolving Doors Agency, the Young Foundation, Young People in Focus and YoungMinds. The T2A Alliance is convened and supported by the Barrow Cadbury Trust.

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Written evidence from the Ministry of Justice (PB 36)

1. Probation as a means of dealing with offenders had its origins in voluntary activity in the latter part of the 19th century. In 1907, the Probation of Offenders Act established the probation order as a sentence available to the courts and gave persons supervising offenders official status as officers of the court. The Home Office assumed responsibility for the service in 1938. In 2000, the Criminal Justice and Court Services Act gave the service a new name (the National Probation Service for England and Wales) and replaced the 54 probation committees with 42 local probation boards. Probation’s role has evolved from advising, assisting and befriending offenders to protecting the public, reducing re-offending, punishing offenders within the community, ensuring awareness of the effects of crime on victims, and rehabilitating offenders. In 2007, the Offender Management Act once again changed the nature of how probation services would be delivered, by providing for the creation of Probation Trusts.

2. Following a report by Patrick (now Lord) Carter, in 2004 the Government announced plans to establish a National Offender Management Service (NOMS) with the aim of reducing reoffending through more consistent and effective offender management. It proposed to introduce commissioning and contestability into the provision of probation services.

National Offender Management Service

3. NOMS was established in June 2004, but following the Carter review of Prisons in December 2007, an agency of the same name was created by merging the Prison Service agency with the NOMS structures, under a single Chief Executive. Directors of offender management were appointed in each English region and Wales to integrate offender services, to commission prison and probation services and to directly manage public sector prisons. This move also resulted in reduced costs and leaner structures. The National Probation Directorate functions were either performed centrally in NOMS, (for example, Offender Management Policy), or discontinued, as Probation Trusts were created with more autonomy (see below).

4. In accordance with government policy, NOMS pursued a programme of creating Probation Trusts, and by April 2010, following a series of voluntary amalgamations, the 42 local boards became 35 Probation Trusts. The Trusts are organised around some 150 Local Delivery Units (LDUs) which are broadly coterminous with local authorities. LDUs are expected to be empowered, community-based units with strong links to local policing, local government and local providers. As a condition of achieving Trust status, probation boards were required to demonstrate how they would operate these empowered LDUs. Trusts operate under contract, with Directors of Offender Management who contract with them on behalf of the Secretary of State. Providers of probation services need not be Probation Trusts: the Secretary of State may contract with any provider, except for the purpose of assisting courts in making a decision in respect of a person charged with or convicted of an offence. (At present, such assistance may only be provided by a public sector body—though not necessarily a Probation Trust.)

Caseload, Staffing and Finance

5. The main role of the Probation Service is to supervise offenders over 18 who receive community orders, suspended sentence orders (SSOs) or custodial sentences of 12 months or more. It also assists the courts by providing reports on offenders due for sentence. With other agencies, probation staff also form part of Youth Offending Teams. The great majority of adults convicted by the courts, in 2009 the Probation Service prepared a total of 218,000 reports on offenders who were due to be sentenced. Over the last decade both caseload and staff numbers have increased, although this upward trend was discontinued, as Probation Trusts were created with more autonomy (see below).

6. The initial 2010–11 budget allocation for delivery of probation services through the 35 Probation Trusts was £884 million. The June 2010 emergency Budget necessitated savings of £20 million. At the time of writing, the Spending Review settlement has not been agreed, but reductions in the cost of provision of probation services are expected to be in line with the rest of the public sector.

How Performance is Measured

7. The performance of Probation Trusts is measured in a number of ways, within the Probation Trust Rating System (PTRS). A set of national key performance indicators (KPIs) is approved by Ministers, and Trusts negotiate local targets with Directors of Offender Management. While most KPIs are currently input-based, we are developing outcome measures which will drive more local, results oriented services.

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12 A 38% increase over the same point in 1999. 97,500 had received community orders, 43,600 SSOs and 102,000 custodial sentences.

13 At the end of 2009, there were 20,440 probation staff, of whom 7,649 were Probation Officers (POs) and 5,867 were Probation Support Officers (PSOs) (see paragraph 20, below). This compares with a total 10 years previously of 14,671 staff, of whom 7,163 were POs and 2,502 PSOs.

14 In the first quarter of 2010, the number of offenders starting supervision was 3.4% lower than in the same period in 2009: staff numbers were 5% lower.
8. The PTRS takes account of other measures of performance, such as audit and inspection results and financial management. There are also measures which address delivery of services to the courts. An assessment is produced of each Trust’s overall performance. Performance arrangements are currently under review as part of the Government’s transparency framework. It is expected that a small number of outcome-based measures, supplemented by results-based payments, will replace the current approach.

CURRENT PERFORMANCE

9. The latest published results\(^{15}\) show that probation met or exceeded all but one of its KPIs, including its contribution to joint prison and probation indicators.

10. Re-offending is also used as a measure of performance. The latest local adult reoffending statistics\(^{16}\) show that the three-month rate for all offenders on the probation caseload who were at risk of reoffending during the year 2009–10 was 9.7%. This was a statistically significant decrease of 2.9% compared with the 2007–08 baseline.

11. Probation Trusts have responsibility for liaising with local sentencers and agreeing, within national frameworks, the sentences to be delivered to the courts. Generally, the full range of requirements is available, and there is a high degree of concurrence between what practitioners recommend in pre-sentence reports and what the court orders.\(^{17}\)

LONGER-TERM PERFORMANCE TRENDS

12. Since accredited Offending Behaviour Programmes were introduced in 2001–02, there has been a five-fold increase in the number of offenders completing such programmes. Over the same period, the rate of timely enforcement action following breach of an order increased from 53% to 95%. Between 2005–06 and 2008–09, there was a 22% increase in Community Payback completions. The percentage of offenders at the end of their period of supervision who were in employment rose from 40% in 2007–08 to 45% in 2008–09 and the number in settled accommodation from 72% to 78% over the same period. The average annual level of staff sickness declined from 12.1 days in 2007–08 to 11.0 in 2008–09.

OFFENDER MANAGEMENT MODEL AND INTEGRATED OFFENDER MANAGEMENT

13. Following the 2003 Carter Report, which led to the establishment of NOMS, it was concluded that a new approach was needed to improve the management of offenders. The underlying principle is that offender management should be a single process spanning the whole of the sentence. Each offender serving a community sentence, or a prison sentence longer than 12 months, has a single manager, whose role is to build a relationship with the offender and be responsible for the sentence plan. Over the same period, the Offender Assessment System (OASys) has provided a consistent tool for practitioners to assess offenders’ needs and address their offending behaviour. Developments in recent years include integrated offender management (IOM), a locally devised and implemented collaboration between criminal justice agencies, using local data, including OASys aggregations. Areas that have implemented IOM have provided positive feedback.

PROCESS AND CULTURAL CHALLENGES

14. Changes that have been made in recent years have improved overall performance and the quality of risk assessment and management. However, one consequence has been an increase in bureaucracy and over-reliance on processes. There has been a tendency to focus more on meeting process standards than on delivering outcomes, such as a reduction in reoffending. There is clear evidence that the quality of one-to-one engagement is a significant factor in reducing re-offending. Although standardisation has brought benefits, there has been less reliance on professional judgement and discretion—which are essential for effective work with offenders. NOMS and Trusts are seeking to address this through the development, with the Probation Service, of an offender engagement approach. Following discussions with Trusts, there is clearly a need to improve both the quality and quantity of time that practitioners spend with offenders. The contributory factors to unacceptable levels of bureaucracy (many of which relate to excessive concentration on targets) are being identified and addressed, as are the cultural and training issues identified by practitioners. Returning probation to a front-line, profession-led approach requires the abandonment of target-driven methods, to give front-line staff and their managers the freedom to exercise professional judgement, while retaining frameworks of standards, risk assessment and common methods of working with other criminal justice agencies.

\(^{15}\) In the NOMS Annual Report 2008–09, see http://www.justice.gov.uk/publications/noms-annual-report-08–09.htm

\(^{16}\) Published on 17 August 2010. See http://www.justice.gov.uk/publications/local-adult-reoffending.htm. Local statistics are calculated on a different basis from the national figures. The differences relate to: the sample of offenders, the measure of reoffending; time allowed for reoffending; and the types of sentence for which an offence is counted.

\(^{17}\) There are some exceptions (see paragraphs 15, 16 and 17, below).

\(^{18}\) Community Payback is a form of unpaid work. The courts may make it a condition of a community order or a suspended sentence order.
Professional Challenges

15. The nature of probation work delivers a range of challenges. In order to deliver court requirements and address offending behaviour, probation staff often depend on other agencies. For example, offenders with personality disorders form a significant proportion of the probation caseload. For some, this is linked to a high risk of serious harm to others. These offenders have complex psychological needs that create challenges in terms of management, treatment and maintaining a safe working environment. It is recognised that insufficient resource and expertise is directed towards this group, who require a complex, multi-disciplinary approach. Another group that creates particular challenges is offenders with learning difficulties or other conditions which make engagement with supervision and programmes difficult. While some adapted programmes are available for offenders with special needs, provision can be inconsistent and difficult to access, because of lack of availability of specialist suppliers and funding constraints.

16. Similarly, alcohol treatment requirements (ATRs) are used by courts for those offenders who are medically dependent on alcohol: these are a minority of the offenders with alcohol problems who are under supervision. Although the number of ATRs made and completed has increased each year since their introduction in 2005, there is still a gap between offender need and treatment availability in some areas and this restricts the use courts can make of ATRs. While ATRs should be provided by local health bodies, in practice provision is patchy. In order to fulfil the requirements of the sentence, some Probation Trusts have had to procure these treatments direct from providers.

17. Similarly, the number of Mental Health Treatment Requirements given each year has been very low (less than 2% of those identified as potentially needing treatment), owing to problems of supply.

18. These issues are being addressed in the context of the Government’s Health and Criminal Justice Plan which is in the process of final agreement with all parties.

19. Maintaining confidence in the ability of the Probation Service and its partner agencies is a key challenge. There remains a risk that a high-profile serious further offence committed by an offender under supervision could undermine public confidence in the Probation Service, even where it can be shown that all reasonable steps were taken to manage the risk of harm effectively. In addition, if community caseloads were to rise, pressure on local budgets might mean that offender managers were not able to see offenders as frequently as they do now. While that would not necessarily undermine public protection, it might affect public confidence.

Training

20. New training arrangements have been introduced into probation. Much probation work is now done by Probation Service Officers (PSOs), for whom previously there was no formal qualification. In April 2010, the new Probation Qualifications Framework introduced a minimum vocational qualification for all PSOs. Within the first year of appointment new PSOs must now demonstrate their competence in key areas of their work, including how they assess risk of harm and support offenders to change. PSOs can also become fully qualified Probation Officers (POs), without having to leave their current role to become full-time trainees. This improves the potential for effective workforce planning and reduces the risk of wasted investment in newly qualified POs who are not offered a substantive post. A 15-month Graduate Diploma route to PO qualification for graduates with a relevant degree has also been introduced. These measures will improve the training regime, but need to be complemented by supportive line managers who can promote better assessment of risk and need, using the principles of offender engagement referred to at paragraph , above.

Commissioning

21. 2010 is the first full year of Trust operation: Directors of Offender Management, as commissioners, have negotiated volume targets and budgets with Trusts, in line with the required deliverables.

22. Commissioning requires analysis of requirements, definition of deliverables and outcomes, placing of appropriate contracts and monitoring to ensure the required outcomes are met. Responsibility for this is shared between: the Ministry of Justice (where national trends and needs are identified through analysis of, for example, offender assessment national data); NOMS (where specifications are prepared for nationally-commissioned services—for example, approved premises and unpaid work); the regions (where analysis of local trends is used to adjust national requirements and set local outcomes); and, at local level, Trusts and their LDU (which work with the voluntary sector, the health service, local authorities and the police to determine the best approach to services such as IOM and prolific offender management, and to minority groups, including women offenders).

23. Probation Trusts are currently providers who often define certain services locally, and sub-contract those services. As competition develops and a mixed market emerges, commissioning will be a major driver of change. Over the last 18 months, NOMS has developed specifications and benchmark costs for probation services, which form a framework for future commissioning. The commissioning of probation, however, is such a new activity that comment on its effectiveness would be premature. The Government’s impetus towards more competition, payments by results, community engagement in determining outcomes, practitioner discretion and locally-defined services could be achieved within a commissioning structure with a mandate to
effect the required changes and outcomes at national and local levels. Further proposals will be contained in the rehabilitation Green Paper.\footnote{19 See paragraph 28, below.}

**Future Role of the Private and Voluntary Sectors**

24. An effective commissioning system requires a strong and diverse provider market. The voluntary and not-for-profit sectors already provide some services under contract, either to Probation Trusts, or direct to NOMS. However, their involvement is limited and that of the private sector even more so. All these sectors undoubtedly have the capability and the desire to engage. NOMS is currently concluding the award of a national framework contract for provision of Community Payback by private sector providers. This is a first, but significant, step in opening the market to new entrants. New mechanisms, such as social impact bonds, are also under consideration.

**Restorative Justice**

25. Restorative justice (RJ) is a widely-used term covering a range of interventions where an offender makes some form of reparation, or where the victim has an opportunity to explain how he or she has been affected by the offence or to seek an explanation.

26. RJ may be used as an alternative to early formal intervention, such as a caution, or instead of prosecution. Victim satisfaction with diversionary RJ is high and there is some evidence that RJ conferences, as an alternative to prosecution, can reduce the frequency of re-offending. However, there is no conclusive evidence that diversionary RJ interventions prevent re-offending. It seems likely that RJ can help to rehabilitate some offenders in some circumstances. Community Payback has an evident restorative component and people in local communities can nominate—direct to Probation Trusts—projects that they would like to see undertaken.

**Handling Different Groups of Offenders**

27. NOMS is committed to ensuring fair treatment for offenders from all groups. All Probation Trusts have published Single Equality Schemes, describing how they meet their legal duties and including action plans setting out how they are working to address risks and issues around unequal treatment. There is limited monitoring data on outcomes for different groups of offenders. NOMS is working with the Probation Chiefs Association and Probation Trusts to devise a system for collecting comprehensive data to enable us to address any disproportionality in outcomes.

**Future Developments**

28. The Government is committed to a greater role for the private and voluntary sectors in delivering offender management services. A Green Paper on rehabilitation reform is in preparation, which will ensure that all the principles (social action, public service reform and community empowerment) and techniques (decentralisation, transparency and access to finance) of the Big Society are embedded in policy.

29. Probation Trusts and their predecessors have played a key role within the criminal justice system in helping to address community safety issues through membership of a wide range of local statutory and community partnerships. Recently the importance of this role has increased, with probation becoming one of the partners responsible for agreeing the relevant targets in Local Area Agreements and a statutory “responsible authority”. LDUs lead the development of initiatives such as IOM. They form a strong local delivery unit for the integration of rehabilitative services which could be developed further.

30. Moving from very short custodial sentences to a revised form of community punishment is under review as part of the forthcoming Green Paper. The requirement for custodial places would decrease, to be rebalanced with an increase in community punishments for offenders who currently serve very short prison sentences, which are both ineffective and expensive. To provide for the delivery of revised community punishments and rehabilitative activity in a cost-effective and innovative way, we are developing “payments by results”. By linking payments to outcomes, providers of probation services (both existing and new) will be incentivised to deliver improved services, while the public will only pay for what works. Trials of diversionary activity from custody to community are in progress. They have been supported by magistrates in the pilot areas, and by the Magistrates Association. These Intensive Alternatives to Custody trials are running in seven areas across England and Wales. Early results are encouraging.

National Offender Management Service

_Scemeptember 2010_
Written evidence from the Ministry of Justice (PB 71)

Payment by Results

1. Continually increasing Government expenditure on offender rehabilitation services without holding service providers to account for the results they achieve is unsustainable. By shifting the emphasis away from specific process-related targets towards genuine reductions in re-offending, and implementing a payment structure based on performance against outcomes, we can deliver more effective public services at the same or less cost.

2. Under a payment-by-results structure, the Government will only reward those who demonstrably deliver the type of outcome required—reduced re-offending. If re-offending rates do not fall, providers will not receive full payment. We have begun to move toward measuring existing providers against this type of indicator and this will also encourage new and alternative providers, including local statutory partnerships and other agencies involved in managing offenders, to focus on what works and promote innovative practices to achieve the long-term rehabilitation of offenders. A particular challenge in developing this approach is ensuring that the results delivered are attributable to the work of the provider and do not generate any adverse outcomes.

3. The Green Paper Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders sets out proposals to test the application of payment by results for offender rehabilitation through a series of six projects. Two large-scale projects will target offenders serving community sentences, while two further projects will exclusively target offenders serving less than 12 months in custody—offenders who currently receive no post-release probation supervision but typically have high levels of repeat offending.

4. The final two projects will trial a local financial incentive model in Greater Manchester and a number of London Boroughs. In these projects, local areas will have increased discretion over offender management expenditure. Any cashable savings that are generated through reduced crime and a reduction in demand for criminal justice services will be shared with the area, for reinvestment in further crime prevention activity. This will act as a clear incentive for local partnerships to maintain a strong focus on reducing re-offending.

Community Budgets

5. From April 2011, 16 local areas, with their electorates, will decide which local projects and services public money should fund from a pooled budget, in order to offer the best support for families with complex needs. Community budgets will make funding more transparent and make it easier for citizens to get involved in deciding how the funds are spent and services delivered.

6. Supporting families with complex needs is a very broad and difficult business that needs an integrated approach by a range of organisations, and involves a number of different, potentially overlapping, funding streams. Around 120,000 families in England fall into this category. They suffer from multiple disadvantages, experience regular crises and are a huge drain on the state—costing the taxpayer an estimated £10 billion a year.

7. The problems facing these families are often interrelated, and no single organisation or intervention can provide the solution. Similarly, the factors that lead individuals to offend and continue offending are wide-ranging and interconnected, and vary from one offender to the next. However, many members of problem families are offenders or are at risk of becoming offenders, and building enduring family and personal relationships can have an important stabilising impact on them.

8. The Ministry of Justice will support the development and delivery of these pilots locally and nationally, and continue to work with the Department of Education on our response to families with multiple problems.

Payment-by-results models in other areas of Government

9. The Department of Health is leading the development of six pilots to improve outcomes relating to recovery from drug dependency. Offenders and those in contact with the criminal justice system are involved in the pilots. However, these pilots are testing an innovative approach to treating drug dependency (as set out in the Government's Drugs Strategy, published December 2010), and so there is no established best practice available about how these payment-by-results schemes might be implemented. The pilots will be evaluated as they are developed and implemented by local partnerships.

10. The Department of Health is also developing a payment-by-results model for mental health, which is not specifically targeted at offenders (although some offenders may come within its scope). The Department of Health aims to undertake preparatory work from April 2011, with a view to the model operating fully from April 2012. The model is likely to be designed on the basis of payment by activity—as opposed to outcome—in line with other Department of Health payment-by-results approaches. This is because the Department of Health does not consider it feasible to pay only for successful outcomes, as some users will have much worse prognoses than others, even with excellent care.

11. However, we will continue to work closely with the Department of Health to ensure we capture any areas of best practice and learning as these payment-by-results schemes are developed.
12. The Department for Work and Pensions (DWP) has been using a payment-by-results approach for some time in the commissioning of welfare-to-work programmes. It recently announced a new welfare-to-work programme—the Work Programme—the design of which takes on board lessons learnt from previous programmes. We are drawing on the DWP’s expertise and experience in developing our own payment—by-results approaches and our proposals for joint commissioning with the DWP.

**What results should determine payment?**

13. The Government plans to move towards paying providers for success in reducing re-offending, paid for by cashable savings subsequently generated in the criminal justice system. It is imperative that a robust and transparent measure for assessing provider performance is developed, to ensure that the Government only pays for genuine success and that the results delivered do not have adverse or unintended consequences in other parts of the system. As part of the consultation on the Green Paper, the Ministry of Justice is seeking views on the most appropriate measures to apply.

14. There are risks that savings subsequently generated are either not cashable, in that prisons cannot be closed or disposed of, or staff savings achieved; or that a reduction in numbers is offset by new cohorts of offenders. In either case, the ability to pay for reductions in re-offending may be limited. There are also current financial market constraints that may affect the ability of a wide range of providers to attract funding to underwrite payment-by-results models.

15. Re-offending is currently measured by comparing rates of reconviction. These show whether an offender has been convicted of a further offence or offences committed within a year of being released from prison or starting a community sentence. We can measure the overall level of re-offending either by seeing whether an offender has re-offended, or by measuring the number of offences an offender commits. The Ministry of Justice’s Chief Statistician has launched a consultation on the best way to measure re-offending in the future.

16. A wider measure of whether an individual offender has been successfully rehabilitated is whether, as well as not being convicted of a further offence, he or she has not been cautioned or given a Penalty Notice for Disorder.

17. We have identified three options which could be used as an outcome measure:

<table>
<thead>
<tr>
<th>Measure</th>
<th>Description</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>All proven re-offending</td>
<td>The number of reconvictions, cautions or penalty notices for disorder for a given group of offenders</td>
<td>This is the broadest measure of re-offending covering all further offences</td>
</tr>
<tr>
<td>All proven reconvictions</td>
<td>The number of reconvictions, for a given group of offenders</td>
<td>Excludes less serious disposals and focuses on reconvictions at court</td>
</tr>
<tr>
<td>Reconvictions leading to a serious disposal</td>
<td>The number of reconvictions which lead to a community order or custodial sentence</td>
<td>Focuses on only those offences which lead to a community sentence, suspended sentence or immediate custody</td>
</tr>
</tbody>
</table>

18. We want to incentivise providers to focus their effort particularly on those who are likely to re-offend most frequently. This would suggest focusing on the overall number of offences that a group of offenders has committed.

19. In addition, there are a number of ways in which we can calculate a provider’s level of success in reducing re-offending. This could include measuring progress against a “predicted rate”, or measuring reductions for a particular group of offenders against an agreed level based on previous years’ levels. In all cases, the larger the group of offenders, the greater the likelihood of accurately measuring performance. This minimises the risks of rewarding or penalising providers for any random variation in reconviction rates.

20. There may be a case for rewarding providers differently for rehabilitating different types of offender—such as female offenders, offenders from minority ethnic groups and young adult offenders—since different offender groups may require different treatment. We are inviting views under the Green Paper consultation on whether there are any particular groups where a different outcome measure and payment scheme would be desirable.

**Role of probation in a lead provider model**

Probation Trusts have an important role in providing local strategic leadership for managing offenders. They jointly commission services with partners including the police, the courts, health and local authorities. We expect that the range of services which Trusts directly provide will be increasingly subject to competition, the only exception to this being the provision of advice to courts which will remain an activity exclusively undertaken by public-sector providers.

21. We are committed to ensuring that a diverse range of providers can bid for, or be involved in, payment-by-results contracts. The Ministry of Justice Business Plan 2011–15 explains that we will no longer provide rehabilitation services directly without testing where the private, voluntary or community sectors can provide them more effectively and efficiently.
22. As explained above (paragraph 3), the Green Paper sets out proposals to test payment-by-results for offender rehabilitation through a series of six projects. The consultation process will inform the continuing design and development of two community-based and two prison-based rehabilitation projects. We will complete the design of these projects, working with providers to refine the proposals, by August 2011. The Probation Trusts in Greater Manchester and London will have a central role in the remaining two projects to test the local financial incentives model, which are due to commence in April 2011.

23. The Government plans to amend the contracting and performance management arrangements for Probation Trusts, to support the transition of public-sector probation services towards a payment-by-results model. By April 2012. Probation Trusts will have slimmed-down contracts focused on ensuring the effective delivery of sentences of the court and reducing re-offending. We will also develop proposals to allow Trusts greater freedom to manage their own business. The aim is to create a more level playing field, to enable the public sector to be more directly compared with payment-by-results providers.

24. The Government intends to ensure that the 35 Probation Trusts are increasingly managed against the outcomes they deliver, rather than by inputs and processes. To support this, the performance arrangements for probation will be revised to reduce the number of process and input measures and to focus more on outcomes. We will also publish new Probation National Standards, to give front-line professionals much more discretion in how they manage offenders, particularly those serving community sentences.

25. We will explore the scope for new business models that can deliver better services, reduce costs, and facilitate partnership with the communities in which local agencies work. Some Probation Trusts are already making innovations of this type. We will consider giving public-sector workers greater independence in managing the services they deliver, through the creation of social enterprises, co-operatives and mutualisation.

January 2011

Written evidence from the Probation Association (PB 11)

1. The Probation Association is the membership organisation representing the interests of the 35 probation trusts which employ the 21,000 probation staff in England and Wales.

2. Trusts are Non Departmental Public Bodies sponsored by the Ministry of Justice, comprising a non-executive chair and at least four other non-executive members appointed by the Secretary of State. Each trust board is contracted by the Secretary of State to deliver services within a defined geographical area. Each trust employs all local probation staff. Trust boards are expected to demonstrate leadership and good governance and to take a commercial approach to their business.

3. The Association:
   — undertakes national collective bargaining on terms and conditions of employment for all employees of probation trusts;
   — promotes the interests of the 35 trusts to central government and other partners; and
   — provides advice and guidance to trust on their employer and governance responsibilities.

EXECUTIVE SUMMARY

4. The intentions of the Offender Management Act 2007 have not been reflected in the way probation trusts are enabled to operate. This Government’s aspirations for probation could substantially be met by implementing the spirit of the existing legislation.

5. Current arrangements for commissioning probation services are too complex and neither stimulate the commercial and innovatory potential of trusts nor reflect trusts’ dual lines of accountability to the Secretary of State and local authorities. Commissioning arrangements should be revised to eliminate the current regional tier and to require all local commissioning to take place through trusts.

6. The Ministry of Justice should identify the “What” required as national policy outcomes and leave the “How” to trusts to deliver locally by whatever arrangements produce best value for money within required standards.

7. Probation trusts have a track record of performing well against performance targets, and courts have access to a world class range of offender supervision programmes which are intensive and challenging, cost efficient and effective in reducing reoffending. While there is always room for improvement, orders and licences are generally well managed and enforced.

8. There should be no limits to the use of the voluntary or private sectors as providers of interventions with offenders. In deciding who provides, the only issues should be effectiveness and cost. However, all provider commissioning should be undertaken directly by trusts to provide qualified oversight of standards of service delivery.
9. Probation trusts would welcome a reduction in the use of short prison sentences and are confident they can manage the professional challenges posed by this “revolving door” population. However, at a time of budget reductions and downsizing, redirected resources would need to be provided.

10. Restorative Justice (RJ) should be a standard option within community sentences.

11. Probation supervision reflects the diverse needs of all groups of offenders.

12. The training arrangements for staff are broadly adequate, but more attention needs to be given to the development of senior staff, including chief executives, and to succession planning for the most senior posts.

Are probation services currently commissioned in the most appropriate way?

13. The current system of commissioning has three tiers—national, regional and local. Probation is a relatively small “business” and such multiple layer commissioning processes carry the risk of fragmentation and disconnection in provision. This is already a problem in relation to national contracts for estates and facilities management, where probation trusts must use services commissioned by NOMs and the Home Office from private sector providers who deliver on a sub-national structure. The poor value for money of these contracts has been recognised and NOMS is currently taking remedial action. We would not want similar experiences with other provision, for example, direct work with offenders where the public may be at risk from commissioning failures.

14. The current system frustratingly fails to take advantage of probation trusts, created by the Offender Management Act 2007, being enabled to operate in a competitive environment in which the public sector is no longer a monopoly provider. At the heart of the legislation is the principle that commercial flexibility leads to efficiencies, innovation, effectiveness and value for money. The Government’s aspirations for probation could substantially be met by implementing the spirit of the legislation.

15. Trusts have a unique governance structure within the criminal justice sector. Appointed by the Secretary of State and drawn from the local community, non-executive board members hold executive managers to account. Chosen for their commercial awareness, business and governance skills and experience, they have the position and authority to blend national and local interests into effective service delivery. However, currently NOMS acts in a quasi-line management relationship to trust boards. The potential for trust boards to exercise clear local leadership remains unhelpfully curtailed.

16. Trusts urgently need more business freedoms and flexibility and less costly regulation so that they can realise their full competitive and innovative potential in line with the spirit of the Offender Management Act 2007. It makes little sense to replace the public sector monopoly in the provision of probation services with an environment based on the virtues of competition, yet grant probation trusts no more operating freedom than they enjoyed as probation boards when they were in a line management relationship with the Ministry of Justice. See attached document Enabling Effective Probation Trusts.

17. Trusts are currently expected to demonstrate compliance with numerous regulatory processes. This is costly, time consuming and distracts trust boards, managers and staff away from a focus on front line delivery.

18. The impact on front line staff of complying with the demands of monitoring, audit and inspection is one contributing factor to the time spent in face to face contact with offenders: only 24%, or the equivalent of one working day in four, according to a recent survey.

19. Recommendation: The current national regulatory framework of audit, inspection, performance reporting, etc., should be reformed so that it provides efficient independent assurance to the public and Parliament with minimum bureaucratic demands on trusts.

Commissioning Structures

20. The Probation Association supports a “lead provider” model, in which the Secretary of State contracts with each trust for all offender management in an area and the trust provides these services itself and/or through sub-contractors or partners. Such a model does not require a regional infrastructure and savings will be made by eliminating the regional commissioning tier.

21. There must be a mechanism for the Secretary of State to commission services from (ie contract with) trusts and other providers. We are interested in the potential for Police and Crime Commissioners to act on behalf of the Secretary of State, as this would help reinforce local multi-agency collaboration on rehabilitation and community safety. Alternatively, we would support the Secretary of State’s commissioning function being located in a single probation unit in the Ministry of Justice (see below). Either approach could provide a cost-effective, light-touch means of ensuring national priorities were delivered through locally accountable services.

Contracting Arrangements to Support Commissioning

22. The contract between the Secretary of State and trusts should incentivise trusts to deliver high quality services at the lowest possible cost. We believe the contract between the Secretary of State and the trust should be based principally on required outcomes, leaving the trust to assess how best to deliver them within regulation and required standards.
23. Therefore the Probation Trust Rating System, the current framework for national targets, must be modified so that it contains only key national policy outcome indicators. Otherwise trusts must continue to focus on the current plethora of centrally set input and process targets which add little to the delivery of effective outcomes such as reoffending rates.

24. Probation is a local service. In April 2010, trusts became Responsible Authorities under the Crime and Disorder Act 1998. The Local Government and Public Involvement in Health Act 2006 introduced the LSP/ LAA local partnership frameworks within which the local probation trust commissions and co-commissions services and performs against local partnership targets. Together, these Acts introduce a radically different operational and strategic environment. Probation trusts now account both vertically through the Ministry of Justice/NOMS and horizontally to local communities through local authority scrutiny arrangements.

25. Magistrates represent their local communities in deciding how best to sanction offenders. Consideration should be given as to how their sentencing requirements can better inform the content of each contract.

26. The contract between the Secretary of State and the trust consequently must:
   — be outcome based;
   — reflect trusts’ dual accountability; and
   — reflect the needs of local communities and sentence expectations.

   The current arrangement of a centrally prescribed standard contract based on national targets is not fit-for-purpose in this environment.

   27. Recommendation: The framework of the contract between the Secretary of State and trusts should be redesigned so that it can explicitly address both national policy requirements and local agreements and give due weight to the views of sentencers. A supporting contract development process must be created.

How effectively are probation trusts operating in practice?

28. Trusts have demonstrated their ability to rise to successive performance challenges. Each probation Board was required to achieve a “green” status in relation to performance against current national probation targets and successfully move to trust status from 1 April 2010. All 42 boards (since reduced to 35 trusts through agreed mergers) met the necessary elevated levels of performance. The Government has signalled its intention to explore more commercial, results driven approach to commissioning of probation services. To enable trusts to respond they must be granted the business flexibilities and operating freedoms referred to above.

29. National policy and standards of service delivery and professional practice will, by definition, always need to be set centrally. Since its inception in 2004, NOMS, which brought the prison and probation services together within one Departmental Agency, has not fully reflected in its operations the separate governance arrangements, structures, priorities and culture of probation.

30. In particular, the Probation Association has been pressing for adequate attention at national level to be given to the strategic development of probation’s local partnership responsibilities under the legislation referred to at paragraph 24 above. See attached document Local Partnership Strategy.

31. Recommendation: There should be a separate, dedicated probation policy unit within the Ministry of Justice to ensure the specific requirements of probation trusts receive appropriate attention. The unit should be headed by a postholder of sufficient seniority and probation service experience to speak authoritatively on probation matters at the highest levels.

Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?

32. On any one day there are approximately 85,000 offenders in prison and 240,000 under probation supervision. With over a dozen “rehabilitative” programmes and numerous “restrictive” conditions available, there is a plethora of options for magistrates and judges to include in community sentences and for offender managers, through prison governors, to include in post release licences or parole orders. All programmes must have been accredited by the Ministry of Justice. All staff delivering programmes are appropriately trained to deliver that programme.

33. Not all programmes are available in every Petty Sessional Division as priorities will have been agreed with local courts based on the prevalence of particular offences and assessments of offence causation.

34. While trusts seek to manage demand from sentencers, they must accept whatever orders are made and from time to time this creates backlogs when the number of orders made exceeds the capacity of the trust to supervise them safely.

35. Effecting change in offender attitudes and behaviour takes time, patience and focussed intervention, often from a range of professionals and contracted organisations. Programmes are designed to be demanding and rigorous so attrition rates within some programmes, such as drug rehabilitation, can consequently appear relatively high but probation staff manage orders and licences effectively. Overall, 82% of orders are
successfully completed and 95% of “failures to comply” result in breach action through a return to court or to prison.

What role should the private and voluntary sectors play in the delivery of probation services?

36. Probation has worked with providers in other sectors for many years. We support the Big society approach and believe there should be no limit to the use of voluntary or private sector organisations as providers of interventions with offenders.

37. Staff qualified to the standards set by the Ministry of Justice remain best placed to provide the core offender management duties of assessment (for courts, prisons, Parole Board and Safeguarding Children Panels) and case management. Public protection responsibilities are addressed through Multi Agency Public Protection Arrangements.

38. In order to avoid the risk of fragmentation of services and to preserve proper professional oversight of the quality of services delivered, the need for trusts to retain responsibility for all sub-contracting and commissioning is paramount. For this reason, while we support the Government’s interest in exploring greater use of the private and voluntary sectors in the rehabilitation of offenders, we strongly recommend that any testing of potential arrangements should be carried out in the closest collaboration with trusts.

39. **Recommendation:** the Payments by Results proposals in the Ministry of Justice Structural Reform Plan should be tested through a collaborative project initiated by the Ministry, in conjunction with the Probation Association and Probation Chiefs’ Association.

Does the probation service have the capacity to cope with a move away from short custodial sentences?

40. In principle, probation trusts would welcome a reduction in the use of short prison sentences and are confident they can manage the professional challenges posed by this “revolving door” population. However, at a time of financial stringency, many trusts are faced with reducing staffing complements. A transfer of resources from prison to probation should underpin such a change in sentencing.

41. **Recommendation:** The Probation Association would welcome involvement in preparing a business case for the reduction in use, or abolition, of short term prison sentences which would include the transfer of resources from prisons to probation.

Could probation trusts make more use of Restorative Justice (RJ)?

42. In principle, every offender should be brought face to face with the consequences of his or her crime(s) and should, where possible, be offered the chance to make amends to the victim. Elements of RJ have already been ad hoc features of probation supervision for many years. Subject to the resources and capacity to innovate in this way, trusts would welcome the opportunity to formalise the provision of RJ, possibly as part of a revised set of national standards. As part of their current statutory duties, probation victim liaison units already have relationships with partner organisations and this approach could capitalise on these arrangements.

43. The mainstreaming of RJ into practice would provide a more equitable balance between the right of victims and the obligation on offenders. It would complement the work already being done by probation victim liaison units to support the victims of the most serious crimes of violence.

44. **Recommendation:** the Ministry of Justice should facilitate a pilot approach to the mainstreaming of RJ in a range of probation trusts to assess the resource implications of full internalising of RJ principles into probation practice.

Does the probation service handle different groups of offenders appropriately, e.g. women, young adults, black and minority ethnic people, and high and medium risk offenders?

45. The probation service has been in the forefront of development of a national approach to diversity for staff and offenders. In relation to offenders, each sentence plan must consider how best to address the needs of women and minority ethnic offenders and bespoke offending behaviour programmes have been developed, supervised by specially trained staff.

46. All trusts operate a “tiering” system which categorises offenders according to the risk they present to others and their rehabilitation needs. Programmes of supervision are then delivered in accordance with this ‘triage’ approach. The highest risk “dangerous” offenders have extra resources directed to them, and are managed through Multi-Agency Public Protection Arrangements.

Is the provision of training adequate?

47. The recently implemented Probation Qualifications Framework provides broadly adequate training for operational staff. It was only implemented on 1 April 2010 and needs time to “bed in”, but there are three areas in which we think positive action is needed now:

— the up-skilling of all Probation Services’ Officer grade staff will take more time to deliver than is desirable;
— senior management professional development has been seriously neglected; and
— today’s chief executives trained as probation officers and many have had little or no significant
business or strategic leadership training or development unlike, for example, their counterparts in
the police service.

48. Currently the resources for management and leadership development rest with NOMS. Henceforth these
responsibilities should be transferred to probation trusts to manage corporately.

49. Recommendation: We would propose that this transfer is achieved through the Probation Association as
the trusts’ “trade body”.

September 2010

Updated supplementary written evidence from the Probation Association (PB 68)

1. The Probation Association is the membership organisation representing the interests of the 35 probation
trusts which employ the 21,000 probation staff in England and Wales.

2. Trusts are Non Departmental Public Bodies sponsored by the Ministry of Justice comprising a non-
executive chair and at least four other non-executive members appointed by the Secretary of State. Each trust
board is contracted by the Secretary of State to deliver services within a defined geographical area. Each trust
employ all local probation staff. Trust boards are expected to demonstrate leadership and good governance
and to take a commercial approach to their business.

3. On behalf of the trusts the Association:
— undertakes national collective bargaining on terms and conditions of employment for all
employees of probation trusts;
— promotes the interests of the 35 trusts to central government and other partners; and
— provides advice and guidance to trusts on their employer and governance responsibilities.

Executive Summary

4. There is clear evidence from the Total Place (TP) pilots that the devolved governance of public services
located at the right spatial level results in better value for money. Place based budgets (PBB) are part of this
coherent, tested concept whereas payment by results (PBR) is as yet an untested tool. However, PBR and PBR
are not mutually exclusive and PBR could become a selectively valid feature of a PBB model.

5. PBB has more to offer than payment by results in the drive for better outcomes in relation to reduced
reoffending. Crime is caused by many inter-related factors and these are most effectively tackled when all
agencies in a locality work collaboratively, drawing on their respective strengths and pooling budgets to deal
with the problems that are prevalent in their area. PBR should be reserved to tackle very specific issues and
be commissioned through local agencies as part of their place-based approach.

6. The probation trust is the obvious vehicle through which reductions in reoffending should be achieved.
Trusts can do this most effectively when they work to an outcomes based contract with the Secretary of State
and collaborate with local partners. Best results will be achieved when trusts are freed from current over-
regulation and financial disincentives.

7. To maximise locally prioritised outcomes, deliver value for money and minimise risk, only probation
trusts should hold court orders and be responsible for their supervision. Introducing new players as “lead
providers” will create fragmentation and critical gaps in communication and liaison. A reward system should
be introduced to keep trusts motivated to seek best results at least cost.

What are the relative merits of payment by results (PBR) and place-based budgeting (PBB) models as means
to encourage local statutory partnerships and other agencies to reduce re-offending?

8. There is clear evidence from the 13 TP pilots (see HM Treasury’s report Total Place: a whole area
approach to public services) that the devolved governance of public services located at the right spatial level
results in better value for money. PBB is a fundamental element of the TP methodology which has now
iteratively developed into pilots focussed on Families with Multiple Needs based from 1 April 2011 in 16
Places covering 31 local authorities and 11 probation trusts.

9. Seven of the TP pilots were focussed on aspects of crime reduction with probation staff playing a major
part in their implementation. The concept of “Place” has in a very short period resonated through probation
trusts giving substance to the reality of probation as a national service delivered locally working collaboratively
with other Responsible Authority (RA) and co-commissioning services.

10. The Local Government Association publication Place-based budgets: the future governance of local
public services provides a summary of the potential of PBB.
11. PBB:
— enables responsibility for commissioning to rest with locally accountable bodies, increasing the likelihood that services will be responsive to the communities they serve;
— allows the geographical dimensions of the place for which the services are provided to be determined according to what makes most sense locally;
— encourages all services in the place to work together to deliver results, drawing on their diverse resources and strengths for the collective good;
— focuses on the place and its needs, rather than organisations and their activities, creating a solutions and outcomes orientation;
— promotes the flexible use of pooled budgets to deliver outcomes;
— can be responsive to changing needs. The local partners can by agreement adapt their activities and targets, albeit respecting accountability requirements, as local circumstances change; and
— supports a holistic approach to problem solving. The causes of crime are rarely one-dimensional and PBB enables integrated, multi-agency solutions to be developed. Criminal justice agencies need help from other partners to be fully effective.

12. Its disadvantages are:
— the risk that activity rather than outcomes dominate because of the need to coordinate and direct many agencies in working together; and
— that there may be few penalties for not achieving outcomes unless the bodies to whom the partners are accountable are prepared to be robust in holding them to account. It may be difficult to pinpoint where the responsibility lies for a failure to produce results.

13. PBR is designed to deliver pre-set outcomes through a contract. It thus has the advantages of:
— clarity about what is required;
— outcomes which have to be tangible and measurable;
— payment only being made when contracted for outcomes are delivered;
— possibly being more likely that PBB to attract investment from the private sector because of the clarity of how financial rewards can be earned; and
— makes delivering results an over-riding imperative because of the “no win—no fee” basis of the contract.

14. Its disadvantages are that:
— the complex causes of offending and what works to prevent it are difficult to reflect in a contract-based, cash-for-results relationship. Only the easiest to achieve outcomes may be amenable to PBR because providers will only risk entering a PBR contract where there is a reasonable likelihood of securing payment;
— as with other approaches that are heavily target-based it may drive perverse behaviour as the need to produce evidence of results dominates;
— it is relatively inflexible and unresponsive to changing requirements; and
— it tends to focus on a single issue in order to enable targets and rewards to be clearly expressed.

What results should determine payment in applying such a model to criminal justice?

15. Measures of success in criminal justice are of three types. Each is measured in relation to individual offenders and data aggregated to report results for chosen populations:
— the headline outcome measure of reduced reoffending. This is problematic to measure absolutely but the proxy measure of reduced rates of reconviction (usually after 12 months following the end of a community order or licence) is used instead. Refinements include reduced seriousness and/or reduced frequency;
— probation staff regularly measure offenders’ progress against those factors known to have a causative association with offending and desistance from it, e.g. educational or vocational qualification, employment, accommodation, substance misuse; and
— changes in attitude measured through self-reporting and/or professional assessment.

16. Probably only the first two are capable of measurement through PBR. The Probation Association and the Probation Chiefs Association are about to publish a joint report setting out a recommended framework for the measurement of probation performance (Contract Outcomes—facing the right direction?). The near final draft is attached for information. As well as summarising an approach it discusses some of the technical issues around measuring progress and achievement in reducing reoffending; these would apply particularly to PBR.
17. We believe there is a place for PBR. However, PBR based programmes should be managed within multi-agency PBB arrangements, enabling local partners to target specific issues, where they lend themselves to a PBR approach, in support of their overall aims.

18. We also consider that probation trusts should be rewarded for achievement against the requirements set out in their contracts with the Secretary of State. Our original submission to this Committee discusses our position and see also paragraph 21 below.

**What freedoms would probation trusts like to have to enable them to manage offenders and reduce reoffending more effectively?**

19. Probation trusts should be contracted to deliver outcomes, leaving probation staff to decide what professional practice will produce the right results. The current contract between the Secretary of State and trusts consequently needs reform so that it deals less with inputs and process and focuses more on required results. The joint paper from the Probation Association and the Probation Chiefs Association (referred to in paragraph 16 above) sets out our recommended framework.

20. Trusts need to be freed to be efficient, entrepreneurial and innovative. In addition to a revised contract they need:

- the ability to retain income earned from sources (eg local authorities) other than the Secretary of State;
- the ability to carry forward unspent money at the financial year-end; and
- a proportionate regulatory regime. The Probation Association is publishing a report on the regulatory burden on trusts (*Hitting the Target, Missing the Point*), which contains recommendations for improvement. A copy is attached.

The Government proposes a lead provider model and suggests that commissioning for the delivery and enforcement of sentences and for efforts to reduce reoffending will not be separated. What is the appropriate role for probation in such a model?

21. The State should be responsible for the delivery of justice, including the implementation of court orders. Efforts to reduce reoffending and enforcement of sentences are most successful when one body is responsible for all delivery, commissioning and enforcement in a locality. Therefore the Secretary of State should contract only with public sector probation trusts (using an outcomes based contract—see paragraph 16 above).

22. A criticism of such a “public sector monopoly” type approach is that it provides insufficient incentive to be more efficient or effective. A reward model for trusts would drive a robust local commissioning approach: trusts would be spurred to provide services in the most cost-effective way, either themselves or by sub-commissioning locally. Trusts should therefore be rewarded through a “core plus” model, in which the Secretary of State pays a guaranteed sum to enable trusts to meet central costs and agreed baseline performance with “top-up” payments for extra volumes and better outcomes.

23. Though providers to the Secretary of State trusts should, at local level, therefore primarily be commissioners. The advantages of this approach are that it:

- enables probation services to remain totally integrated at local level, managed as a cohesive, inter-related whole;
- reflects and supports a place-based, multi-agency approach to public protection, reducing reoffending and community safety (see above);
- encourages trusts to explore new models of service delivery such as mutuals and other partnerships; and
- leaves intact existing arrangements for the sharing of sensitive information around high risk offenders, which depend on mutual trust developed over time.

24. The disadvantages of a model in which the Secretary of State commissions from multiple providers are that:

- it fragments provision;
- extra systems have to be created to join up the resulting fragmented provision eg re offenders subject to supervision by more than one provider, or between public sector offender managers and providers in other agencies contracted by the Secretary of State;
- it introduces new players into the sensitive arena of public protection with the risk that police, in particular, may be very cautious about sharing information with them; and
- trusts will become weaker strategically and financially if they lose business, less able to engage as strong local partners in the often complex multi-agency environments, and less flexible internally.

25. An effective local commissioner model depends on trusts taking a very active commissioning stance in relation to all aspects of work (apart from services to courts which are reserved to probation trusts or other public sector bodies by the Offender Management Act 2007). Trusts must be willing to test whether even core
services might better be delivered by another provider under contract to the trust. Instead of investing in competition at national level, resources therefore should be devoted to helping trusts continuously develop as commissioners. Trusts should also be supported to further develop alternative models of provision such as social enterprises and other partnership arrangements with local public, private and not-for-profit organisations.

26. Thus we support competition and diverse models of provision but they must be managed at local trust level by trusts themselves.

27. The imminent competition for the provision of community payback (CP), formerly known as unpaid work and before that as community service, will, if any one of the six contracts is won by a private sector provider, introduce the weaknesses set out above that arise in a multiple provider environment.

28. It will also erode local accountability, conflicting with the Government’s localism strategy whose effectiveness was endorsed by the TP pilots. CP is a local sentence whereby local offenders make amends for their crimes to local communities but, for example, any organisation, public or private, winning the contract for CP in the lot covering Wales, Cheshire, Greater Manchester and Merseyside (an area covering 42 principal local authorities) is unlikely to be able to be held to account locally. We are concerned the “big is beautiful” approach mitigates against the validated benefits of locally commissioned services, locally accountable organisations and place-based budgets.

29. We will support our members in their bids to win the contracts, but we believe there are better, less risky, ways of introducing competition into the justice arena.

January 2011

Supplementary written evidence from the Probation Association (PB 74)

What is the place for an offender management model in a more locally determined system?

1. A national offender management (OM) model can still fit with a local system, as it encourages integration of services to meet offender need. If OM became a more locally determined system, it could encourage more flexibility to target offenders that local partners see as problematic. Historically, the model of offender management has its origins in locally planned and delivered services to offenders, Courts and victims—the locality is the place for many of practices which are subsumed within the model of OM.

2. The concept of offender management (OM) is not new in terms of many of the practices or processes it includes. The introduction of NOMS in 2004 provided a timely opportunity to formally review and update probation/prison processes developed piecemeal from the ground up over the previous 40 years and to bring best practice together within a framework henceforth known as Offender Management.

3. OM now provides a formal, holistic, detailed and computerised framework for Risk and Needs Assessments, (starting at the Pre Sentence Report), community and sentence/release plans and the identification of interventions. OM formally identifies the Offender Manager (replacing the title of probation officer) as responsible for overseeing the process of individual offenders’ progress through community order and prison processes. The offender manager has responsibility for ensuring both the offenders compliance with statutory instructions and the delivery of his/her sentence plan, which includes access to the necessary interventions during and after a prison sentence.

4. Offender management, in its many guises has and always should be locally driven. There is no inherent tension between what is now a national framework and more locally focussed policies surrounding devolved commissioning—quite the opposite, as in reality as many of the shortcomings identified in OM practices, particularly related to the lack of the necessary local providers of interventions, could be mitigated by Trusts having prime responsibilities for local commissioning or co-commissioning within local partnership arrangements.

What evidence is there to suggest that the existing delivery of community sentences is not sufficiently effective and/or robust? What do you believe can or should be done to improve the effectiveness of community sentences?

5. Probation resource limitations mean particularly lower tier offender needs may not always be met and this inevitably jeopardises effectiveness. If an offender feels his/her needs are not being met, he/she is likely to be less compliant or to complete successfully. Resources follow risk is the principle, which makes economic sense, but does not necessarily fit with the new desistance research which is about making someone feel valued and building up their social and human capital. For community sentences to be effective, such flexibilities need to be built into guidance and performance frameworks thereby removing the previous negative emphasis on moving straight to breach as dictated by targets.

6. A depressing feature of the recent past has been the frequency with which community sentences in their entirety have been criticised by politicians and the right wing press as being “ineffective” or insufficiently “robust”. Undoubtedly, the notoriety attached to high profile tragedies such as Sonnex in London has provided critics of “rehabilitation” with an opportunity to extrapolate from the clear fateful shortcomings of a few
specific cases to the generality of the many thousands of “effective” and “robustly” supervised orders staff are managing daily. Probation Trusts have been required to follow rigid guidelines and meet national targets for enforcement and breaching which have largely been met thus contributing to the rise in the prison population, an unintended consequence of over-prescription (see response to question on levels of breach below).

7. The reality is that reoffending rates for community punishment are significantly lower than for offenders released from prison (as Ken Clarke acknowledges) and most offenders complete their orders without further offending or being breached. The more demanding an Order in terms of conditions or requirements, the greater becomes the risk of non-compliance. Currently there is no mechanism to enable Trusts to measure performance (e.g. reoffending rates, compliance with orders) within complex orders. In its recent publication, “Contract Outcomes” (link below) the Probation Association advocates a more positive, outcome-based approach to future performance frameworks which rewards Trusts for efforts made in ensuring greater compliance within different types of orders and licences:http://bit.ly/ContractOutcomes

8. Probation Trusts are always looking for ways to improve the efficiency and effectiveness of community punishments—for example, the quicker commencements of programmes, reducing drop-outs from demanding offending behaviour programmes, offenders starting work as soon as possible after an Order is made and working more hours of community payback in every week are constant themes of managers and front line staff.

Are existing case management systems fit for purpose? How effectively does the tiered approach to enabling resources to follow risk work in practice? Is it an appropriate model to pursue in the context of greater professional discretion?

9. The concept of a cradle-to-grave offender management is sound. However, core features such as the OASys (Offender Assessment System) have become overly complicated. Originally introduced as a tool to supplement professional judgement, driven by the centre, OASys completions have unfortunately now become an end in themselves (Trusts have had to reach national targets for such completions, irrespective of quality) and have now morphed into a mechanism more geared towards management reporting. OM depends on the availability of programmes both inside prisons and in the community which can be unavailable for numerous reasons. The role of Offender Supervisors in prisons, their fluctuating availability due to other demands on their time and relationships with community based offender managers can be problematical.

10. Tiering is based on risk, and some offenders are low risk but very high need—this particularly applies to women offenders who are rarely high risk, but are frequently high need. They often have complex needs and safeguarding issues and the level of intervention they require is not always reflected in their tiering, which has implications not only for resourcing, but for the workload allowance given to that case for a member of staff.

11. Based on OASys scores, the tiering of cases was originally introduced to guide Pre Sentence Report authors towards an appropriate recommendation to the Court and to assess the level of overall risk and resource to be allocated in any subsequent community order. Tiers 1 and 2 are usually supervised by unqualified probation service officers (PSO’s) and tiers 3 and 4 by qualified probation officers.

12. In practice, risk is individual, dynamic and rarely a static feature of the supervision of any case. Many Serious Further Offences are committed by offenders originally assessed as tier 1 or 2. Some PSO’s do not have the experience necessary to manage an offender whose changing behaviour indicates an escalating risk of reoffending. Becoming “risk averse” by unnecessarily exaggerating levels of risk to ensure resources are allocated has become an unwelcome feature of front line and middle manager practice, incentivised by the centrally driven emphasis on inputs and process targets. Conversely, there is perceived pressure by staff that cases are down-tiered to enable management to allocate more cases to them. There are real tensions here between resourcing effectively and meeting need, which can probably never be completely matched.

13. The recent NOMS pilot project in the Surrey and Sussex Probation Trust area aimed at relaxing the rigorous approach required to National Standards (and tiering) demonstrates that staff can be enabled (freed!) to take the necessary decisions without the necessity for tick boxes, provided the appropriate help and encouragement is available. To move from the previous formulaic/bureaucratic approach to one where “professional judgement” is expected takes time and resources. Recent generations of new probation staff have been inducted into a service which has been measured against such rigid parameters and therefore not encouraged to make such judgements.

What were the intentions of the Offender Management Act 2007? How could it be used to meet the current Government’s aspirations?

(The response to this question is quoted from the PA evidence submitted to the MoJ “Breaking the Cycle” Green Paper)

14. Unfinished business—the Offender Management Act and the role of probation trusts boards: essential pre-conditions

The Offender Management Act was intended to create enterprising, innovative and results orientated probation trusts. Chairs and members of probation boards were selected for their experience and skills, e.g. at
senior levels in business, public or charitable sectors, which would enable them to lead arms’ length bodies in a competitive environment. Trusts were to be allowed freedoms and flexibilities to be successful as business-like entities delivery high-quality, low-cost public protection, offender rehabilitation and punishment.

15. In practice trusts have remained constrained within a line-management relationship with MoJ. Whilst there has been little incentive or enabling flexibility from the centre to think independently in pursuit of better outcomes, many proactive trusts have introduced innovative practices within local partnership arrangements and forged strong local alliances with both private and third sector organisations. They are nevertheless subject to a weighty regulatory framework that requires compliance with centrally-set standards, instructions, targets, reporting, inspection and audit. Trust contracts focus on inputs and process and there is virtually no differentiation between the 35 contracts: the intended role of trust boards leading the delivery of differentiated, locally relevant services has not materialised.

16. The Green Paper signals a clear opportunity for positive change and we welcome this Government’s approach to regulation, outcomes and innovation. In support, underpinning pre-conditions for delivery of the aspirations of the Green Paper are set out below and these inform our responses throughout this submission:

(i) The Secretary of State should contract with trusts to deliver all probation outcomes in order to retain a safe and cohesive system.

(ii) Trusts should competitively test all provision (other than court services) including core services in pursuit of value for money.

(iii) Trusts should be incentivised financially in order to achieve best outcomes at lowest cost.

(iv) Regulation should be as light as possible in order that trusts can be innovative and efficient.

(v) National requirements, including contracts between the Secretary of State and trusts, should reflect the converging and overlapping relationship between probation, local authorities and others at a local level.

(vi) All trusts, local authority and private and voluntary sector partners’ crime reduction performance should be measured against a flexible, outcome-focussed, national performance matrix, which reflects both national and local priorities.

What remedial action, if any, has NOMS taken regarding trusts’ negative experiences of existing national contracts, including for estates and facilities management?

17. NOMS inherited a legacy of centrally negotiated contracts from the era of the National Probation Directorate (2001—2004). Probation Boards (as they were then) had no involvement in this process. The experience of such contracts, from a Board/Trust perspective, has been overwhelmingly dismal.

18. Remedial action taken by NOMS to address failings of national contracts?

Facilities Management (FM) & Estates

Major improvement effort made in 2010:

— Home Office Procurement Group has become more accountable to MoJ/NOMS via the introduction of an SLA.
— Better visibility/tracking of works orders by Trusts.
— Improved estate management resulting from more accurate and comprehensive property data.

But:

— Arrangements remain flawed, with (still) little control for Trusts as customers (no SLA with the centre or suppliers).
— Recent experience in one Trust (Feb 2011) demonstrates continuing failings of current FM arrangements (risked the Trust’s ability to comply with statutory H&S requirements).

ICT:

Incremental change is happening:

— National data centres established with a programme of migration to these by Trusts.
— Slow implementation of new (better) national systems eg case management.

But:

— OMNI (Offender Management National Infrastructure) key local ICT platform contract remains until 2013 and again is flawed through rigidity, lack of transparency and lack of control for Trusts over performance of Steria as main OMNI supplier.

NB: NOMS ICT recently established a remedial work programme with PA and Trusts.
Please can you provide us with some examples of how governance issues and over-regulation impacts on local delivery?

19. By the MoJ’s own calculation*, only 24% of front line probation staff time is spent in front of offenders. A classic example of impact on front line staff:

— Probation staff can be at times be reluctant to spend time referring to a voluntary agency as a referral takes time, (form filling, accompanying offender to appointment, three way meetings etc), and although it may help the offender, Trusts are not measured on these criteria so is more important to complete the supervision plan document on time which does contribute to a target…

20. The document published by the Probation Association “Hitting the Target, Missing the Point” (link below) and originally submitted to the JSC provides the most comprehensive response to this question:


What difference will the removal of the regional tier of NOMS make to the work of trusts and to relationships with NOMS HQ?

21. Whilst the welcomed removal of the regional tier will have little impact on front line staff, the intended “added value” of the regional tier of NOMS has never been realised. Very costly in terms of time (Trust Chairs, CEO’s and managers) and regional staff numbers, buildings etc., an added level of (confused) accountability and bureaucracy, with little discernible benefit to Trusts or front line staff, the eventual removal of this tier will reflect these now accepted conclusions.

22. As NOMS centrally restructures, (work still in progress), the now direct relationship between Trusts and NOMS centre will theoretically become simpler in terms of contracted performance, national contracts and policy development and implementation, the unknown being the degree to which Trusts, as NDPB’s, will be given the necessary freedoms to manage their own affairs (see paragraphs 14–16 above) and the degree of de-regulation MoJ/NOMS will approve as recommended in “Hitting the Target, Missing the Point”.

23. The removal of the regional tier opens up significant opportunities for NOMS to facilitate the capacity of Trusts to deliver this Governments policy on rehabilitation, performance “outcomes”, Payment by Results and the “localism” agenda.

Has NOMS devoted any resources to enable trusts to develop as commissioners? What further training, skills and support do trusts require to enable them to develop as commissioners?

24. For a full response to this question, the Probation Association has just published a Position Statement which calls for investment in Trusts as commissioners (page 4). Link to "A Commissioning Model for Probation":


To what extent are MoJ/NOMS collaborating with PCA and PA in testing potential arrangements for payment by results?

25. Since its inception as a policy priority by the Minister, MoJ/NOMS has included PA in Payment by Results (PBR) scoping seminars and events for potential suppliers. It is gratifying to acknowledge the openness and inclusivity with which MoJ has approached what is for all concerned a new, untested, exciting and complex area. MoJ has taken the correct approach which is to include Trusts in the development of the model and trialling implementation in the number of pilots under consideration. The Probation Association welcomes the opportunities provided by PBR as long as a level playing field is guaranteed for commissioning and cherry picking of less problematical offender cohorts is prohibited.

What more can trusts realistically do to reduce levels of breach?

26. Relaxing the inflexibility of current national standards related to breach requirements (resulting in more professional discretion) and in future Trust contracts rewarding the efforts of staff to ensure more offenders comply with orders (thus increasing the number of order/licence completions), will reduce breach activities, Court time and the consequent use of custody. The introduction of performance criteria which positively reinforce efforts to ensure compliance, as opposed to the previous emphasis on “failure to comply” is recommended in the “Contract Outcomes” briefing referred to above.

To what extent is it, or should it be, the responsibility of trusts to ensure that reparation or restoration is made to victims, and what mechanisms would be required to make it, or enable it, to happen?

27. Reparation to victims covers a spectrum of services and mechanisms and can involve numerous organisations—ranging from a straightforward Compensation Order, Community Payback hours, “victim” modules in community punishment programmes to meetings between offenders and their victims. Thames Valley Probation Trust, for example, offers Courts a requirement in Community Orders which aims to facilitate such victim/offender meetings. In the latter case, Trusts clearly comply with such Orders.
28. The Probation Association fully supports greater integration of victim services into mainstream criminal justice processes, particularly the principles and practice of Restorative Justice (RJ). RJ principles and practices are now sufficiently validated to justify inclusion of RJ as a formal aim of sentencing. PA proposes the existing power in the 2003 Act (purposes of Sentencing) to “the making of reparation by offenders to persons affected by their offences” should in future become mandatory. Subject to the assessment in a Pre Sentence Report, Courts will sentence with this purpose in mind which would result in RJ activities becoming a necessary feature of sentence plans and community orders. In the event of RJ services becoming mandatory, Trusts will become legally responsible for ensuring compliance with such orders and a national guideline will be necessary clarifying minimum quality standards for all Trusts.

29. There are significant implications, not in terms of skills and experience, which probation staff already possess, but in the overall resourcing necessary to take RJ activities to scale. PA would urge the development of a business case to identify and cost the implications for probation and its partners of widening the scope of RJ activities.

June 2011

Written evidence from Napo (PB 05)

1. INTRODUCTION

1.1 The Probation Service, which was established in 1907, has a number of core aims which have the dual objectives of the rehabilitation and integration of offenders into the community. The service developed rapidly following legislative changes in 1948 and now has a number of core tasks. These core tasks are:

Court Reports

1.2 The Probation Service provides impartial, accurate, reliable, skilled and professional advice to assist the courts in making their decisions. Information is provided in writing and verbally and offers alternatives to custody wherever this is assessed as appropriate. As at 31 December 2009, the latest available figures show the Probation Service wrote 218,000 court reports, compared with 189,600 reports in 2005.

Supervision in the community

1.3 The Probation Service provides supervision in the community under the terms of the Criminal Justice Act 2003. As at 31 December 2009 the total probation caseload was 241,500 with 141,000 of these court orders and the remainder pre and post custody supervision. Of the court orders 50% had one requirement attached and 35% had two. The total caseload is just over double what it was in 1997.

Hostels/Approved premises

1.4 The Probation Service currently operates 104 hostels, or approved premises as they are now known, with about 2,500 places, primarily for people on parole. Over half are convicted sex offenders. The remainder will almost certainly pose some risk to the public, probably through violence. During the last 18 months 40 of 80 offenders convicted under the Terrorist Acts have been placed in hostels. It is essential that hostels are resourced by experienced and trained staff in order to minimise risk to the public.

Enforcement

1.5 The Probation Service is responsible for enforcing conditions for the 241,500 people it has on community orders or parole. This involves taking people back to court if they fail to comply with the conditions. Up to 30% of those on orders are taken back to court for resentencing or recalled to prison because of a breach.

1.6 Between 2000 and 2005 the number of recalls to prison increased fourfold from 2,457 to 9,696. The number of recalls to prison between 2005 and 2008–09 rose further to 14,669.

Unpaid Work

1.7 Unpaid Work, formerly known as community service, was established in 1976. It was originally intended to be demanding either physically or emotionally and intellectually tasking, of benefit to the community and if possible to be fulfilling for the offender. Now Unpaid Work is much more about visible punishment although it retains the ability to assist with rehabilitation. The most recent figures show that around 55,000 people per annum are sentenced to Unpaid Work and completed approximately 4.6 million hours of work.

Other core tasks

1.8 Assessment: to provide assessments of people who have committed offences. The assessments include: factors that are likely to contribute to the reduction of offending; their needs; the risk of harm to others; and the risk of re-offending. To produce detailed supervision plans which explain how the risk of re-offending will
be tackled. These assessments are provided for, amongst others, the courts, the Parole Board and the Prison Service. The assessments are based on the professional skills of staff.

1.9 **Work with Offenders (through the prison gates):** to work with the Prison Service to provide an end-to-end service for all prisoners; to ensure the implementation of legislative requirements affecting supervision on licence following release; to supervise those persons released from custody who are subject to statutory licence requiring supervision; to assist in the rehabilitation and resettlement into the community of prisoners sentenced to over 12 months following release from prison and all those released on licence, with the aim of reducing re-offending.

1.10 **Inter-agency work:** to work with other agencies, in particular the police, the Crown Prosecution Service, the Parole Board, prisons and the voluntary sector to develop strategies for community safety and rehabilitation, which reintegrate into the community people who have committed offences.

1.11 **Partnerships:** to “manage” orders and licences and broker arrangements for supplementary support arrangements with other agencies. To work in partnerships with agencies in the voluntary, not for profit and private sectors which complement and add value to the work of the Probation Service. Partnerships should recognise a variety of organisations engaged with statutory agencies relating to differing local needs.

1.12 **Victims:** to consult and notify victims about the release arrangements of all those serving imprisonment for a sexual or violent offence. Victims have a right to be consulted and to be involved in all key stages of a sentence including applications for parole, temporary release or a move to a lower security establishment. This work is integral to the Probation Service’s public protection work and has a vital impact on offence focussed work with a prisoner as well as providing protection, via additional licence conditions, where necessary for a victim.

1.13 **Public protection work:** to develop strategies with other government departments, particularly the prisons, police and mental health agencies, which contribute to enhanced public safety; to provide regular risk assessments in respect of those who pose the highest level of risk as part of the multi-agency public protection arrangements.

1.14 **Programme interventions:** to deliver and manage structured accredited group programmes within the context of community orders and for those released from prison. Currently approximately 23,000 people commence programmes each year.

2. **Sentencing**

2.1 Of offenders sentenced to community orders during 2009, 33% were for other summary offences, 20% were for theft and handling, 15% were for motoring offences, 11% were indictable offences, 9% were for violence against the person, and 5% were for fraud.

3. **Staffing Levels**

3.1 The Centre for Crime and Justice Studies published a report, *Prison and probation expenditure 1999–2009*, in spring 2010. It showed that the number of persons under probation supervision increased by 39% during the period. At the end of 1998 the number of persons recorded as employed by the Probation Service was 14,660. By 2008 this had increased to 21,140. The number of staff increased particularly between 2001 and 2006 but after that date there has been a fall in operational and frontline staff. As a result the number of operational frontline staff in 2008–09 was lower than it was in 2003. The number of probation officers grew by 19.6% during the period to 2006, whilst the number of support staff grew by 21.8% and the number of senior managers by 78.5%.

4. **Budgets**

4.1 The Labour administration has claimed that between 1997 and 2007 there was a 70% increase in probation expenditure. Napo does not contest this but argues that there is no evidence of any substantial increase in frontline expenditure. Indeed in the past 10 years the Probation Service has been restructured three times. The creation of the National Probation Service in 2001 and the introduction of NOMS three years later and its restructuring in 2008 have resulted in different models for delivering probation services.

4.2 The Centre for Crime and Justice Studies report concludes: “It is unsurprising that financial information given about the Probation Service over the past decade does not amount to a series where direct comparisons can be made between all the years”.

4.3 It added: “Despite the limitations in the financial information about probation during this period there is no doubt that probation expenditure significantly increased in the past decade”.

4.4 The CCJS estimates that the probation budget in 1998–99 was £431 million and had reached £897 million by 2008–09, an increase they believe of 60% in real terms. They note that the creation of NOMS, which merged prison and probation resources at the centre, means that from 2004 onwards it is not possible to accurately account for prison and probation expenditure independently.
4.5 The National Audit Office concluded, in 2008, that better data on capacity and costs would help the Probation Service demonstrate value for money in the management of community orders. It added two years later: “We have not been able to determine the full value of the waste and inefficiencies associated with the failure of the C-NOMIS project with certainty because of NOMS’ poor recording of costs”.

4.6 Despite the difficulties it is now clear that since 2008–09 the probation budget has decreased. In a letter from Crispin Blunt, Parliamentary Under Secretary of State, to Kerry McCarthy MP, dated 13 July 2001, he notes that the probation budget was reduced in 2009–10 by 2.2%. He says that in 2010–11 Probation Trusts had been asked to make savings of 4.9% and since the election in May 2010 the service has been asked to reduce its budget by a further £20 million.

4.7 A letter from Ann Beasley, Director of Finance at the Ministry of Justice, to departmental heads in August 2010 notes that the overall Ministry of Justice budget must be reduced from £9 billion to £7 billion over the next two financial years. This means a cut to the probation budget of at least 25% from its baseline of £894 million at 31 March 2009.

4.8 If implemented this would mean that the number of probation personnel would fall from the current 20,000 to 15,000. It would therefore in Napo’s view be impossible for the service to continue to perform its core tasks, outlined earlier in this report. It is highly likely in Napo’s view that the behaviour of court report writers will change and that this will have an impact on the behaviour of sentencees. Napo believes that there is bound therefore to be a reduction in the size of the probation caseload at the expense of short-term custodial sentences. For example, if at the end of the period 35,000 persons were displaced into custody, serving an average of two months each, this would result in an increase in the prison population of just under 6,000. The government would therefore need to consider building between five and four new jails.

5. Contact Time

5.1 During the past decade there has been a significant increase in the demands on probation staff’s time to complete bureaucratic and administrative tasks. These include OASys assessments and the filing of information about caseloads with the National Offender Management Service. Staff have complained for some time that the amount of contact time that they have with offenders has fallen dramatically. This was confirmed in a “restricted” management document entitled Objective II—Offender Management Direct Contact Survey of Probation Boards and Probation Trusts—December 2008 (Ministry of Justice). This report found that the amount of time probation staff spend in direct contact with offenders whether face to face or on the phone was just 24%. Of the remainder, 41% of time was spent engaged in computer activity and 35% in non-computer activity for example drafting correspondence and reports, meetings and other administration. The survey found that, increasingly, the main issue of bureaucracy and red tape refers to OASys and the amount of time spent on non computer work. One probation officer interviewed as part of the survey said “the impression I have is that for every 15 minutes I spend engaged in face to face contact with offenders I spend another 15–30 minutes recording it”. Another added “a lot of my time is spent on case administration due to lack of support staff” and a third interviewee said “I have been told to spend about 15 minutes with Tier 2 cases and no more than 30 minutes”.

5.2 Napo’s report Probation in Context—the murders of Gabriel Ferez and Laurent Bonomo, published in April 2009, found that the officer supervising Daniel Sonnex, who was in her first qualifying year, had 127 cases. She was spending on average 15 minutes each with the persons in her care. It was not uncommon for other staff who were dealing with medium and high risk cases in the London Borough of Lewisham to have in excess of 60 individuals each on supervision. If the 25% cut goes ahead as expected then the caseload of Sonnex’s supervisor could increase further. Clearly in Napo’s view it is impossible to give any meaningful supervision to anybody under those conditions.

6. Cutbacks So Far

6.1 Napo has obtained information from a number of probation areas about the likely impact of cuts on jobs during 2010–11. It is unlikely that the full extent will be known until after the publication of the Comprehensive Spending Review on 21 October 2010, however the information available so far is as follows:

6.2 Avon and Somerset—So far the Trust has approved voluntary redundancies from 19 people, most of whom have got substantial experience. There are now not many staff left over the age of 55 and therefore close to retirement. This will clearly have an impact on service delivery.

6.3 Cumbria—The service has lost 15 staff since April 2009. The Trust also has a policy of shutting offices and these will be reduced from seven to four across the county during 2010–11. It is hoped that this will avoid further redundancies during the current financial year.

6.4 Durham/Tees Valley—Staff have been asked to express an interest in voluntary redundancy, extended career breaks or reducing the number of hours they work. The Trust estimates that it needs to reduce its workforce from 516 to 454 by the beginning of the financial year 2012. So far 24 staff have been identified for voluntary redundancy or retirement.
6.5 **Humberside**—During the last round of redundancies 37 staff went. The Trust anticipates losing another five staff during the current financial year. The Trust has to make another £356,000 savings in 2010–11. Two-thirds of that will be made by a continued recruitment freeze the rest will come from decommissioning IT equipment and renegotiating contracts with partners.

6.6 **Lancashire**—Since April 2009, 26 staff have been made voluntarily redundant and a further 35 have retired or taken flexible retirement resulting in 46 job losses and 21 vacancies.

6.7 **Leicestershire & Rutlands**—There has been a recruitment freeze in operation since the start of this financial year and posts are only filled if thought essential and from existing staff numbers. The area is expecting to lose 44 frontline posts by the end of 2010–11 from a total workforce of around 550. It is hoped that 24 of these will go through natural wastage and 20 through voluntary redundancy. As yet, there are no plans for compulsory redundancies. In addition the area has over 20 staff on temporary contracts; all staff taken on in the past 18 months have been on temporary contracts and trainees qualifying this year are to be offered 6 month temporary contracts.

6.8 **London**—No concrete information is expected until mid-September, but the service is looking to reduce the number of senior probation officers by 17.5 through invitations for voluntary redundancy.

6.9 **Northumbria**—The number of posts left vacant as of March 2010 was 36. There have been 11 voluntary and one compulsory redundancies in 2009–10. Information for 2010–11 is not yet totally available.

6.10 **Merseyside**—The Trust anticipates losing 65 full-time equivalent posts during 2010–11. All staff have been written to asking them to consider voluntary redundancy or flexible retirement. So far 33 people have agreed to voluntary redundancy and 17 posts are vacant. It is thought that a further 40 job losses will occur during 2011–12.

6.11 **South Yorkshire**—Again the information is patchy. The figures for voluntary redundancies have not been given thus far to staff, although it is thought that around 30 vacancies have not been filled because of financial restraints. The Trust is however expected to have to make further savings of a minimum of 6% during 2011–12. Overall the unions in South Yorkshire believe the Trust has lost a hundred posts since the beginning of the financial year 2008–09 through voluntary redundancies, restructuring or holding vacancies.

6.12 **Wales**—The best estimate is that the number of job losses across Wales in 2009–10 was 55.8 full-time equivalents. The situation in Wales is more complicated because of the additional funding secured by the Director of Offender Management through devolution which will create some additional frontline posts.

6.13 **Warwickshire**—The Trust is currently leaving posts vacant and staff have recently been asked to consider flexible working such as reducing their hours if they are approaching retirement age or on return from maternity leave, changing working patterns and taking unpaid career breaks.

6.14 Clearly further information will become available during the coming months and this will be made available to the Justice Select Committee once the detail has been worked through.

7. **Particular Areas of Concern for the Committee**

**Are probation services commissioned in an appropriate way?**

7.1 Probation Trusts were created in April 2010. Their role is to provide and commission offender services. Napo believes a number of core services should remain statutory responsibilities. These would include all forms of supervision, court report writing, multi-agency public protection work and victim liaison. Probation areas have been providing those areas effectively, in Napo’s view, for the last hundred years.

7.2 Currently the Probation Service is supervising 241,500 persons either on community supervision or post or pre release from prison. Large scale cuts to budgets however would jeopardise service delivery in all functions outlined above. Indeed any large scale contraction in the Probation Service is likely to see a reciprocal rise in the prison population. Changes in the behaviour of sentencers and court report writers could involve an additional major expenditure for the prison service.

7.3 The Probation Service has a long tradition of working with the voluntary sector in the delivery of offender services. Historically that has been a fixed proportion of budget but this has been reduced or even abolished in harsher economic climates. Napo does believe it is appropriate for Trusts to commission certain non-core tasks from the voluntary and other sectors, including work on literacy and numeracy, employment opportunities, non-approved premises accommodation and drug and alcohol services. All these functions are complementary to the core work of supervision and clearly aid rehabilitation and the prevention of reoffending. Napo strongly believes that Trusts should not be forced by government to compete for their own work with the private and other sectors. Indeed the supervision of offenders does not lie easily with the ordinary laws of supply and demand. Both the Home Office and the Ministry of Justice have clearly experienced the difficulties in creating such markets, as the National Audit Office has pointed out Indeed on occasion they have created pseudo-markets, declaring themselves as a purchaser of services, although with little success.

7.4 So far there is no overwhelming evidence of success, whether defined in terms of efficiency, economy or effectiveness, when probation services have been contracted out.
Facilities management

7.5 Three years ago the Probation Service’s facilities management service was let to the private sector by the Home Office. The contract was for the maintenance, cleaning and refurbishment of the probation estate. On three occasions subsequently Napo has highlighted to the Ministry and the public serious concerns about and flaws in the contract. Broadly these concerns are that contractors have to travel huge distances to complete small jobs and for larger operations there are serious delays, which frustrate staff and often put them at risk. Despite raising these concerns on three occasions, so far no action has been taken. Some of the examples provided by Napo have bordered on the absurd. For example, two carpenters travelled from Birmingham to North Wales to look at a cupboard, only to confirm that it needed a new door and then go away without fixing it. A painter travelled from Manchester to South Wales to carry out work; he bought the paint at B&Q when he got there, discovered it was too late to start the job, stayed overnight and did the work the next morning. On another occasion a plumber traveled from Birmingham to Norwich to mend a toilet seat.

7.6 This is clearly inefficient and wasteful, however more detailed jobs such as fixing security alarms, lifts and leaks, have often gone months before being attended to. It appears the more expensive the job the longer the delay.

Bail beds—ClearSprings

7.7 In the spring of 2007 the prison population had reached another all time high. The government of the day decided to try and reduce the remand population by transferring prisoners thus held into relevant accommodation in the community. A tender operation was put in place. Although a number of voluntary sector organizations with the relevant experience tendered, their bids were deemed too high and the contract was awarded to a private company, ClearSprings. As far as Napo is aware this was a company based in Essex who ran caravan sites. It did not appear to have any direct experience of working with offenders. The company obtained rented property, mainly in the cities, and created four and five bed units. Napo understood at the time that this was to avoid lengthy planning applications. There did not appear to be any liaison with the police, probation or even the local authority. Soon the Ministry was inundated with complaints, many from Members of Parliament. The principal complaints were that the bailees were not supervised properly, that there was evidence of anti social behaviour, drinking and drug taking and threats to neighbours. Eventually in the spring of 2010 the contract was taken away from ClearSprings and given to Stonham Housing, who do have experience over a long period of time of working with offenders.

Electronic tagging

7.8 Although technologically tagging has vastly improved from the early days when there were numerous mistakes, there is still no evidence that it does anything to reduce reoffending. Freestanding tagging orders are now quite rare. If tagging is used in the community it is normally accompanied by some form of supervision. Tagging is also being used as part of the Home Detention Curfew which is a form of early release from prison to ease overcrowding. Napo argued at the time that rather than the additional expense of the tag, the Home Office could merely have extended the period of licence or parole.

Current situation

7.9 At the moment some Probation Trusts have been ordered by their Director of Offender Management (Regional Manager) to put out to tender Unpaid Work (Community Service as it was known) or approved premises (hostels as they used to be known). Napo believes that Unpaid Work does not lend itself easily to competition. Placements for offenders must not replace paid employment; the workforce, that is offenders, are not well motivated and often have problems with drugs, alcohol and lack of organisation and structure in their lives and, increasingly, staff who supervise placements have minimal or no training at all.

7.10 About a third of placements are for individuals, including working with disabled children and in charity shops. These are successful but, again, would not survive in an atmosphere of profit making and competition. It is likely under a privatised scheme that the groups would become larger and increasingly difficult to supervise.

7.11 There are a hundred hostels, or approved premises as they are now known, in England and Wales, housing about 2,500 people predominantly on licence. Fifteen years ago hostels were used for bailees but increasingly they have become used as accommodation for the most dangerous persons released from custody. Currently half the residents are sex offenders and the rest are a mix of people convicted of violent offences, and therefore known to MAPPA, and, increasingly, persons convicted under the Terrorist Acts. Napo believes it is essential that hostels are regularly monitored by the Probation Service and that supervision does not diminish. In any event, given the nature of the resident population, the commercial risks would be extraordinarily high.

How effectively are Probation Trusts operating in practice?

7.12 It is too early to determine whether Trusts are working effectively in practice as they have only been in existence for approximately four months. However what is crucial is that Trusts are left free from
bureaucracy to determine, within a national framework, what their priorities are locally. Napo does not believe they need layers of bureaucracy to line manage and control them.

7.13 Napo believes that the structure above Trusts, that is NOMS and DOMs, has failed to deliver effective offender management, or probation supervision as it used to be called, and that it has become overly bureaucratic, controlling and centralised. The decision to merge prisons and probation in 2008 was in Napo’s view a disaster. The relationship between prisons and prisoners and prisons management and staff is based on command control and instructions; in contrast the relationship between the Probation Service and offenders and probation management and staff is based on negotiation and problem resolution. The two approaches are quite distinct and in Napo’s view impossible to reconcile.

7.14 The NOMS set-up therefore was, in the union’s view, flawed from the beginning. In Napo’s opinion the last two years of the merged organisation have been disfunctional and probation’s identity and presence has been further eroded as each week has passed. This is hindering the ability of the Probation Service to achieve its fundamental aims and is therefore undermining the role of the Trusts. In Napo’s view there is an overwhelming case for the creation of separate operational arms for both the prisons and probation services, each with its own director and minimum bureaucracy. Napo is convinced that this would have two beneficial results; it would cost less and it would improve outcomes.

What is the role of the Probation Service in delivering offender management and how does it operate in practice?

7.15 Napo believes that the concept of end-to-end management of offenders is one that clearly commands support. However Napo would prefer the term supervision of offenders rather than management of them. The structures of NOMS and DOMs undermines the ability of the Probation Service to carry out its role properly. Napo argued in July 2010 that NOMS had failed to deliver its prime objective of a merged, effective, prison and probation service.

7.16 In a briefing for parliamentarians, Performance of NOMS; the case for restructuring, published on 12 July, Napo argues that NOMS undermines the ability of the Probation Service to achieve its aims. Senior managers in NOMS now create policy and strategy in relation to the Probation Service while their background and bias is exclusively in the Prison Service and they have little experience of working with offenders in the community. They are not therefore well placed to know how to introduce efficiencies and prioritise spending in the community without compromising public protection. Napo firmly believes that the NOMS’ structures must be reformed and dismantled to allow the Probation Service to become effective again. Staff in the Prison and Probation Services both perform demanding roles but these responsibilities, whilst complementary, are very different. At the moment the two services are wedded together in a coerced union created on the erroneous basis that the two organisations perform the same task.

7.17 The project was sold to probation as a merger: in fact it has become a hostile takeover. As a result the relationship is inefficient and it tends to be merely fortuitous if probation is able under imposed policy to deliver its statutory duties. At the moment Napo believes that there are less than a hundred seconded probation personnel working within the NOMS’ structure, they have limited influence and are on different terms and conditions to their prison and civil service counterparts. The Probation Service is therefore impeded in delivering its offender management duties because of the inequalities and discriminatory practices that exist within the National Offender Management Service.

Are magistrates and judges able to utilise fully the requirements that are attached to community sentences AND how effectively are these requirements being delivered?

7.18 Napo believes there has been strong evidence available since 2008 to suggest that magistrates and judges are unable to fully utilise requirements because of shortages and delay. A survey Napo conducted in 2008 found that 80% of the 42 Probation Areas were reporting problems in providing the supervisory service that the courts require, because of budgetary constraints.

7.19 The report, Restrictions on Sentencing, noted delays in starting programmes, particularly for alcohol, unpaid work and even for the community sex offender programme. The maximum wait for a start on the domestic violence programme in 2008–09 varied from 13 to 42 weeks. A number of areas reported in 2009–10 that Unpaid Work was no longer available instantly because of severe waiting lists. In 2008–09 there was evidence that the programme for internet downloaders was suspended because of lack of resources and five areas reported that it was taking months to get individuals on drink impaired driving programmes. In some cases the order finished before the programme started which meant those offenders were never treated.

7.20 Napo believes that this situation will get incrementally worse as more cuts are introduced. Indeed it is possible there will be a 25% reduction in programme availability over the next two years. This is bound to have a negative effect on reoffending rates and flies in the face of all empirical evidence. Probation programmes and requirements have been increasingly used since legislative changes in 2004 and the evidence so far suggests that they are effective in contributing to reductions in reoffending.

7.21 An internal Ministry of Justice Study, Offender Management Strategy: the evidence-base highlighting reducing reoffending, notes that the prison population increase over recent years is driven more by changes in
the criminal justice system than by changes in offender behaviour. The report also notes that despite big reductions in reoffending rates in the community the impact on prison spaces has been fairly small because of the greater use of custody for offenders.

7.22 The latest figures show that the reoffending rate for persons leaving prison is 66%; for a probation order without requirements it is 50%; but this falls significantly by a further 16% for those on offending behaviour courses in the community; by 13% for those on drug programmes and just over 12% for those on education, training and employment courses.

What role should the private and voluntary services play in the delivery of probation services?

7.23 Napo has already outlined in this evidence that the voluntary sector has a vital role to play in the delivery of offender services. Napo is concerned however that under a culture of national competition only the largest voluntary sector providers are likely to survive. The voluntary sector does find it difficult to operate under the short-term contract culture. Often contracts are only for two or three years which means that the voluntary organisation has to spend a disproportionate amount of resources on preparing and maintaining tenders and contracts. Until recently a fixed proportion of the probation budget was ringfenced for voluntary provision but, as Napo as outlined elsewhere, these provisions tend to be compromised in harsh economic climates.

7.24 Again, as argued earlier in this submission, the evidence so far is that private involvement has not proved to be effective or economic. Napo would also argue that tag use on its own is not effective but is more successful combined with supervision, particularly for sex offenders and other offenders supervised under multi-agency public protection arrangements. Napo has also stated elsewhere in this report that unpaid work and/or hostels may be subject to competitive tender and that this will lead to a deterioration in service provision.

7.25 Napo believes that the voluntary sector has a huge role to play in offering literacy and numeracy training to offenders. A study, *Literacy, Language and Speech Problems amongst individuals on probation or parole,* published by Napo in October 2009 of 2,306 individuals on probation or parole supervision revealed that 85% had either low educational attainment, learning difficulties or had problems expressing themselves or understanding what was being said to them. Despite that just one was having an input from a speech or language specialist. The report concluded that a failure to deal with communication needs of offenders was a major contributory factor to the likelihood of reoffending. Napo would like to see, therefore, far greater collaboration between literacy and language experts and probation staff for the benefit of those under supervision.

Does the Probation Service have the capacity to cope with a move away from short custodial sentences?

7.26 Napo believes there is merit in the comments made by the Secretary of State for Justice, Ken Clarke, in June to the effect that persons getting short custodial sentences receive no assistance with rehabilitation and ought more effectively to be dealt with under forms of supervision in the community.

7.27 However persons sentenced to 12 months or less do not receive any statutory supervision from the Probation Service. Those sentenced to a year or more on determinate sentences are released at the halfway point and supervised until the sentence expires. The Probation Service would not have the capacity at present to take on the supervision of those currently receiving short-term custodial sentences.

7.28 Figures for 2008, the latest date for which statistics are available, show that 55,333 individuals were jailed by the courts for six months or less. A further 9,602 received a custodial sentence of between six and 12 months. Costs of incarcerating an individual for a full year is currently estimated to be £45,000, however this figure does not include the cost of health care, education or other central expenditure. The real costs is likely therefore to be in the region of £55,000 to £60,000. The vast majority of those given six months or less served on average two months. The short-term prison population accounts for 7,000 of the daily jail population. The cost of incarcerating those individuals was at least £350 million per annum. None of this group are in prison long enough for any constructive rehabilitation work to be done. Unsurprisingly therefore 75% of the group reoffend within a short period of leaving custody.

7.29 In Napo’s view this group could be supervised in the community at less cost and with superior outcomes. An extra £50 million for the Probation Service would allow for a thousand additional staff to take on the supervision. Offenders would need to be supervised on short orders of no more than six months with a programme element, for example domestic violence, offending behaviour or drug treatment taking no more than three or four months. This would involve them participating in programmes several times a week, which Napo is assured would not cause any psychological harm. The transfer therefore of short-term prisoners on the probation caseload would make substantial savings.

7.30 Napo produced a report in June 2010 with over 170 case histories where court report writers had recommended non-custodial options but the person was jailed for less than 12 months. Clearly some of those sentenced to six months or less had already been breached whilst on probation but the Napo report indicates that there is substantial potential for alternative arrangements. It is ironic therefore that the government is proposing cutting the probation budget, which will certainly lead to more people being jailed for six months.
or less than at present. The cuts to probation therefore will vastly increase the expenditure on prisons yet both items of expenditure come for the same Ministry of Justice pot.

**Could Probation Trusts make more use of restorative justice?**

7.31 The Probation Service could become more involved in models of restorative justice. Evidence is starting to be published suggesting outcomes are much better in terms of reoffending rates than first believed. Hitherto evidence suggested that reoffending rates from restorative justice were no different from other forms of intervention. Napo has argued in the past that levels of victim satisfaction and community confidence were high for restorative justice and these criteria should be given greater weight when determining whether restorative justice was worthy of investment.

7.32 However over recent years reoffending rates were a paramount factor in determining whether programmes and interventions were deemed effective. Unpaid Work or community service as it used to be known, where the individual is engaged in assisting persons who have been victims of crime or are vulnerable in some other way have been highly successful. Work with charities, disabled children and the elderly have been particularly noteworthy. Where unpaid work involves repetitive or menial tasks the satisfaction levels and impact on self esteem of offenders have been particularly low and have involved much higher levels of breach, disobedience and general anti-social behaviour on site.

**Does the Probation Service handle different groups of offenders appropriately eg women, young adults, black and minority ethnic people, high and medium risk offenders?**

7.33 All the statutory services have been criticised for giving insufficient attention to the issues of gender, race and disability. Probation is no exception and there is clearly room to improve and expand resources. The Camden Women’s Centre, which has been in existence for some 20 years, is an excellent example of what can be achieved through supervision and support to women who have offended. There is clearly a need for the Probation Service to engage more thoroughly with individuals who are in young offender institutions.

7.34 Research conducted by Napo, referred to earlier, suggests there is much room for improvement in engaging with experts to aid with numeracy and literacy problems of all offenders. Work is being done in many areas in trying to achieve gang desistance and there is also room for expansion of this work. Napo is deeply concerned at the lack of mandatory provision and duties on local and central bodies to reduce inequality and therefore contribute to reducing the amount of gun, knife and gang related crime. Napo is currently working with the Society of Black Lawyers and the National Black Police Association to produce amendments to legislation to ensure more attention is given to excluded youth, particularly black people, in our communities.

**Is the provision of training adequate?**

7.35 The Probation Service has a chequered history with regard to training. There have been numerous reorganisations. In 1995 for example Michael Howard, the then Home Secretary, decided that a qualification in social work was not the appropriate course. In 1997 the Labour government introduced a new Diploma in Probation Studies.

7.36 In 2006 there was yet another review and work began to develop another qualification for practitioners to be implemented by April 2010. The new award is currently known as the Probation Qualification Award. New procedures are far more complicated that earlier arrangements. All new practitioners will be required to complete a “gateway to practice” before commencing duties unsupervised. Following this initial induction training, practitioners will move into the probation service officer role, where they will have 12 months to complete NVQ Level 3 in work with offending behaviour. Further qualifications will be available and the person, to reach honour status, will be required to train as a probation officer. Compared with 20 years ago the main changes are a move away from university to on the job training, that training is substantially cheaper and the structures are more complicated.

7.37 The Ministry of Justice has decreed that offenders be tiered from 1 to 4 according to risk they pose to the public of reoffending. It has been stated that those in tier 3 and 4 must be supervised by a trained probation officer with experience. Many areas struggle to fullfill this criteria. Under an atmosphere of austerity, training is one of the first departmental budgets to be affected. Current training arrangements are not ringfenced. There is no guarantee therefore that areas will be able to continue to train new people. As far as post qualification training is concerned, little if anything occurs and the situation is unlikely to improve in the foreseeable future.

8. **Executive Summary**

8.1 The Probation Service received significant increases in resources between 1997 and 2006. However research shows that the majority of the increase did not reach the frontline and was used to increase managerial posts, fund failed IT systems, employ consultants and expand other areas of bureaucracy. Budgets decreased from 2007 onwards and the number of qualified probation officers is now lower than it was in 2003. The Probation Service is expecting further cuts of 25% between 2010 and 2012–13. This will make it impossible for it to carry out its statutory duties. As a consequence, in Napo’s view, there is likely to be a significant rise in the short-term prison population.
8.2 The Probation Service has in Napo’s view been seriously hindered in carrying out its responsibilities by the creation of the National Offender Management Service. This together with the regional structures has become overtly bureaucratic and has led to probation staff spending inordinate amounts of time in front of computers and completing other requests for data. Napo believes that there should be a separate operational arm for the Probation Service with its own director and directorate.

8.3 All existing evidence suggest that reoffending rates for those on community supervision are significantly less than for those serving short periods in custody, especially if the individual participates in an accredited programme which addresses offending behaviour. All this progress faces being undermined if budgets are further constrained and there is a real risk that protection will be compromised.

September 2010

References
1 Prison and probation expenditure 1999–2009—Centre for Crime and Justice Studies (Spring 2010).
2 Crispin Blunt letter July 2010.
3 Memo from Director of Finance at the MoJ to senior staff 09–08–10.
5 Probation in Context—the murders of Gabriel Ferez and Laurent Bonomo—Napo (April 2009).
6 Performance of NOMS: the case for restructuring—Napo (July 2010).
7 Restrictions on Sentencing—Napo (March 2008).
8 Offender Management Strategy: the evidence-base highlighting reducing reoffending—MOJ.
9 Literacy, Language and Speech Problems amongst individuals on probation or parole—Napo (October 2009).
10 Short-term jail sentences—an effective alternative—Napo (June 2010).

Annex

Determining Pre Sentence Reports

I am writing to convey Napo’s dismay and concern both with regard to the content of this Probation Instruction as well as the manner in which our comments on the draft were received. As a central stakeholder, we welcome the opportunity to contribute, through consultation, to the development of PIs such as this. We appreciate that the drafting process can be complicated and time consuming and taking account of all comments can prove difficult. Nevertheless, we were most disappointed to discover that our detailed submission had been almost completely ignored. Moreover, there was no attempt made to either explore further the content of our submission, even where it highlighted perceived factual inaccuracies, or to explain why it was almost entirely discounted.

We are inclined to the conclusion that this exercise has been one where financial savings have been adjudged to be paramount at the expense of both public safety and good professional practice. I will return to our reasons for reaching this conclusion below. In our submission, we asked the question: "What evidence is provided to support any assertion that this (a greater focus on producing reports within 1–5 days and limiting the use of reports written within 15-days) will produce a better, safer and more effective outcome in terms of sentencing, compliance and reduced re-offending rates?" The question was not answered neither directly to us nor in the PI itself. We would still be interested in the evidence to support this assertion. Our view is that the opposite is likely to be true and that the erosion of thorough, professional and well argued reports will also ultimately cost more—though based on less readily quantifiable variables than the rather simplistic calculation of costs associated with how long it takes to write a report.

We highlighted in our submission that several attributions in the PI to the SBC specification for assessments and pre sentence reports were in fact inaccurate and thus misleading. No attempt was made to rectify this misinterpretation of the specification.

We then went on to contextualise the preparation and use of pre sentence reports. Without arguing with the primary purpose of these reports, they can quite properly have more extensive utility. Short reports (Oral/FDR) can be of benefit particularly in cases where rehabilitative intervention is limited but they can run counter to offender engagement where the development of a relationship between supervisor and supervisee is paramount.

Resource Impact

We do not accept the interpretation of timings for the different types of report and believe that this should have been a point of agreement with the unions prior to publication otherwise, in the long run, it will cause difficulties. We are also concerned by what we frankly see as a cynical attempt to re-cast a Standard Delivery Report into a written report prepared within 5 days. This is being done, in our view, because of the belief that
significant resource savings can thus be made. We are concerned that this will pressurise practitioners into preparing a thorough report more hastily. This will increase stress levels amongst staff as they attempt to do a professional job in insufficient time and without proper reflection and the ability to conduct full checks on information. It also thus increases the risk of mistakes being made.

Napo has never denied the place of both oral reports and fast delivery reports but both should be brief exercises undertaken at court “on the day”. We remain of the view that adjourned reports should be Standard Delivery Reports usually completed in 15 working days. We are also of the view that such reports are indeed “the standard” and as such we challenge the target percentages for the different types of report which again we see as nothing more than a cost cutting exercise.

Further, Napo would re-iterate its view that reports should be prepared by suitably trained and qualified staff. Evidence suggests that this is not happening universally and we believe that NOMS should assume greater responsibility in ensuring that it does.

Finally on the question of resources, we would comment on the frankly bizarre emphasis in section 1.16 on the AUDIT screening tool. What of all the other specialist assessment and screening work that has to be undertaken from time to time? What of MAPPA, drug, and psychiatric assessments? Whilst we accept that AUDIT is important, we do question the focus on it to the exclusion of all else.

The Encouragement of Poor, and Risky, Professional Practice

For many years, Napo has promoted the idea of a risk screening tool and this is therefore a welcome development. However we remain firm in our conviction that once a full risk assessment is indicated, this should in turn trigger a full Standard Delivery Report (I should perhaps also point out that in this letter at least we will not dive into the muddied waters created by changing nomenclature—PI 05/11 1.8 Trusts can continue to use the existing court report templates but must remove reference to “fast” delivery in the title.

All reports must be entitled Pre Sentence Reports (PSRs). As our submission indicated, we challenge the development of the concept of high-risk and low-risk domestic abuse, child protection, sexual/violent offending and mental health issues as a basis for deciding what sort of report to prepare.

With particular reference to domestic violence, research suggests victims have been subjected, on average, to 37 incidents before contacting the police. Essential to managing the risk is the assumption of a pattern of behaviour and a continuing risk of harm. This requires a full pre-sentence report and exchange of information with several agencies. Best practice is to conduct two interviews to make the right decision about intervention. It gives a poor message to the public and to victims that the Probation Service will only offer a limited assessment. If reports are completed on the day, there is a likelihood that assessments will have to be based primarily on the offender’s account. This could increase risk of harm and reoffending and Trusts will be failing to offer a proper service to victims.

Napo would have expected that NOMS to share these concerns so is disappointed that they have not been addressed. We believe it is necessary that this new approach to risk is brought to the attention of charities and others working in the field of domestic abuse, so that victims can be made aware of the potential ways in which their cases may be handled.

We are also opposed to the promotion of a practice whereby those who have failed to attend for their court report interview may be assessed on the day of the adjourned hearing. This is poor professional practice. Some defendants will use this facility to mask the full facts relating to their situation. That is to say, a practitioner, preparing a report under pressure at court, will not be able to be as rigorous in either their enquiries or their questioning and some defendants will take advantage of this fact—thus potentially hiding significant risk issues.

Finally here, whilst not necessarily wanting to promote OASys and pull-through reports, we would question how well these new instructions can be melded to these tools. We are not convinced that the relationship between risk screening, risk assessment and the preparation of either oral or fast delivery reports has been properly thought through and in addition we are concerned that this will add unnecessary work for the practitioner.

Two New Points

Not covered in our submission on the draft PI were the matters of Probation Trust Contract Managers and the Decision Process at Annex B.

In the draft version of the PI, Chief Executives of Probation Trusts were charged with actions which now become the responsibility of contract managers. Whilst we may be able to fathom who these people are, we wonder what, if anything, these roles will mean to staff in the Probation Service?

We did not comment on the Decision Process at Annex B because, in the draft, it was completely different. Our own assessment of the final version at Annex B, and that of some practitioners with whom we have spoken, suggests that this process is considerably less than clear.
CLOSING REMARKS

It does appear that NOMS is re-discovering the merits of face to face work with service users and the development of a relationship based on trust (Offender Engagement Programme). It is profoundly disappointing, therefore, that the preparation of reports appears to be excluded from this awareness. In our view this PI fundamentally undermines the efficacy of one of the Probation Service’s core tasks and it will lead not to better and more efficient work but to poorer and more stressful practice with less attention being paid both to victims and to offenders.

The relationship between probation practitioners and the courts is also further eroded with Probation management being assigned a more central role in the decision making process—thus in our view usurping the authority of the court.

This PI appears to be based almost exclusively on the need for short term financial gain and a rather unsophisticated approach to cost/benefit analysis. I hope that, even at this belated stage, NOMS will engage in dialogue with us over this. Based on the information we are receiving from members it is clear that they are profoundly concerned about the impact of this instruction on the quality of their work. Napo will be providing guidance to members relating to PI 05/11 and highlighting the concerns raised in this letter with partners and stakeholders working in and with the court.

Jonathan Ledger
General Secretary
May 2011

Supplementary written evidence from UNISON (PB 75)

UNISON RESPONSE

1. Examples of how governance issues and over regulation has impacted on local delivery

UNISON would argue that the strong central influence of NOMS on the direction of probation work has led to an overly bureaucratic system of governance and regulation that has diverted resources from the front line delivery of probation services. This central control has also stifled local innovation and practice and has altered local priorities to meet a more standard national model. UNISON would recognise that additional money was invested into probation services but the need to account for this investment and at times direct its spending, led to overly complex monitoring systems and governance, including a wholly unnecessary regional tier costing millions that had previously not existed.

The conflict between seeking to create strong, local, business like, probation Trusts and needing to have control from the centre has not been resolved and now leaves the public sector Trusts in a very precarious position. Trusts neither enjoy the freedoms they once had, prior to the creation of the National Probation Directorate in 1999 and later NOMS (when they were linked closely to local government), nor do they have the benefits of being in technical terms part of the Civil Service machinery as the Prison Service is.

2. Impressions/lesson learnt about commissioning of probation services from the opening stages of competition for the provision of community payback and from previous attempts to contract out probation services

UNISON has a vast amount experience in the commissioning of public services both good and bad. It is our opinion that the commissioning of probation services, first by the NPD and than NOMS has been nothing short of disaster. A major weakness is that the commissioning is being managed by people who have little knowledge of what is being commissioned and little regard to the local impact that will result. The commissioning of services by the centre pays little regard to the individual needs of local Trusts and how best to maximise returns and efficiencies.

The opening stages of the competition for community payback have been little different with no understanding of how the competition will impact on local delivery. The splitting of England and Wales into 6 lots is designed simply to enable the private sector to win the contracts. No emphasis has been placed on how these contracts will operate with due regard to the needs of local communities nor how reparations could be better delivered. If we are developing local services why is the Centre seeking to divide the service up into 6 lots which are not linked to traditional regional areas in which services operate? Why not encourage local Trusts to further develop a cooperative relationships with other partners and to allow local commissioning of probation services?

We have no confidence in what is going on now with community payback nor can we take comfort from what has happened before.

The national commissioning of estates and facilities management contracts is a classic example of how poorly the commissioning of probation services has been managed. I would request that the Select Committee ask to see a report commissioned by NOMS during 2009 titled ‘Facilities Management and Help-desk Contract Retrieval Project, Report and Findings’.
In the past many local services would commission estates and FM services directly from their local government partner, thus ensuring statutory compliance and the economies of scale that such relationships provided. The local Trust would however be the commissioner and control the purse strings so if it was unhappy with services provided or the costs associated it could seek a firm and swift resolution. The control of estates and FM budgets also allowed local trusts to make local decisions on how resources were used and these decision could be taken with local knowledge. In terms of the overall monitoring of performance and ensuring value for money this again benefited from close oversight and effective monitoring.

Since the contracts became a nationally managed and outsourced service it is hard to point to any positive outcome. The supposed idea would be that estates and FM management would be standardised across England and Wales and probation Trusts would be free to focus on its core role of supervising offenders. In fact the opposite took place with areas having to put more resource in to ensure services were provided and to chase up outstanding issues. This has not changed and is still the case today. The costs associated with the contract were higher than the resources already being used in this area and yet the outcomes promised were never realised. Performance targets for the providers were never managed and often never set. Complaints from Trusts were often simply ignored and health and safety was compromised. Additional costs tied into the contract had to be met by Trusts even thought they had no control over the risk.

The centre has taken an almost arrogant view that local Trusts in combination with other local public service providers could not be allowed or trusted to own and manage estates. This has always been a ridiculous proposition but one that nevertheless is maintained still today.

3. What discussions, if any, have you had with the MoJ/NOMS about what you would like to see in the comprehensive competitions strategy?

We have had almost no discussion with the MoJ on any matter concerning the probation service. We do have a dialogue with NOMS officials including the Director General. Their has only been a very limited discussion on the competition strategy and UNISON has struggled to obtain documentary evidence despite requests. We have raised our general concerns on the way the community payback competition is being handled. We were promised regular dialogue on this competition but this has not happened. We have had meetings with the probation Minister Crispin Blunt but the Justice Secretary Kenneth Clarke has thus far declined to meet us and has not responded to letters sent regarding issues of pension provision.

4. Is the role of Trusts to protect the public at odds with the proposals to assess their performance against reductions in re-offending?

Although seeking to prioritise reductions in re-offending does help protect the public it will ultimately lead to some conflict with this requirement. The focus of recent debates around re-offending has largely been concerning the group of offenders who actually are not under the remit of the probation service, as they are short term custodial sentences and the risk of harm to the public of their offending is generally assessed as being low. The way that probation manages risk is to ensure that those who are likely to cause the most harm if they re-offend get a greater degree of supervision and oversight. A murderer who is released on licence will get more time and resources allocated to them on release from custody than someone who has committed a series of shop thefts. If the focus was solely on preventing re-offending the person who has committed the shop thefts may get additional resources devoted to them as they are likely to commit more crime however this will come at the expenses of the time spent with the murderer. This diversion of resources would ultimately undermine the public protection role.

5. Examples of how cuts in Trusts budgets have had an impact on sentencing outcomes

It is hard to give immediate examples of how cuts to Trust budgets have impacted on sentencing. The cumulative effect of year on year cuts will clearly lead to reductions in services offered to courts but we are only now beginning to see this being discussed. In terms of report writing we may already be starting to see less complete short format reports being chosen ahead of standard delivery reports as they are cheaper to produce.

6. What sort of training opportunities should be available to probation officers at middle and senior management level?

There has been an assumption that because an individual is a trained probation officer they can automatically step up and become a manager without much further investment. We believe this to be wrong and the competences and requirements of a good manager require additional investment to produce good leaders. This is an area that does need improvement and should be developed. Training exists in other public sector environments and these should be made available to probation management and time allowed for this development to take place. UNISON also believes that good managers can come from other probation and non probation roles.
7. Additional UNISON Comments

UNISON remains very concerned that staff working in the probation service will be disadvantaged by the introduction of competition and greater plurality of provision. Although TUPE protects staff transferring to new providers it does not protect pension rights and the vast majority of staff are members of the LGPS (local govt pension scheme) which is a defined benefit scheme. At present the provisions of 'Fair Deal' for public sector worker applies meaning that any new provider needs to ensure a broadly comparable scheme is in place following transfer. The 'Fair Deal' provisions are at present being consulted on by the Government and should the provision be scrapped the pension rights of probation workers will disappear overnight when new providers win contracts from the public sector. This would be a tragedy for hard working and committed workers and will result in numerous disputes up and down the country. It would also mean the public sector will be unable to compete for probation contracts as it currently provides a decent pension which any competitor will not. This will result in the ending of probation Trust as local public sector bodies.

Alongside Fair Deal for pensions, UNISON would also ask how will the professional development and training of staff be safeguarded in a multi provider environment. At present probation Trusts invests considerable time and resources into ensuring a highly skilled workforce is working with the offender population. They invest in staff knowing that they are likely to use those skills over a number of years working within the Trust. When new providers win contracts for 3 or 5 years how will this professional development and investment be secured. Indeed will the public sector faced with losing business on cost grounds want to carry on the levels of investment it currently does if this is not required of competitor providers.

June 2011

Written evidence from Clinks (PB 13)

INTRODUCTION

Clinks is a national voluntary sector infrastructure organisation supporting voluntary and community sector (VCS) agencies that work with offenders and their families. We are particularly focussed on the role of small and medium size organisations in criminal justice system. Our main activities include:

— Representation and voice.
— Partnership and collaboration.
— Capacity Building.
— Supporting volunteering and mentoring.

In our Manifesto (Spring 2010) we urged the incoming government to commit to a greater emphasis on rehabilitation of offenders, a more proportionate and rational use of imprisonment, a focus on local delivery, and a commitment to tackling inequality and racism in the criminal justice system.

We welcome the opportunity to contribute to the inquiry into the role of the probation service. We have consistently supported a distinct role for the probation service working effectively in partnership with the VCS (Voluntary and Community Sector) to help offenders change their lives.

EXECUTIVE SUMMARY

— The core business of the probation service should remain in the public sector to ensure accountability and transparency.
— The probation service has focussed on high risk offenders and reframed itself as a law enforcement agency. This has been generally successful but rehabilitation and provision of wider support for "desistance" has been sacrificed in the process.
— The probation service has consistently demonstrated its operational effectiveness as evidenced by the performance reports published over the past few years. However, these are primarily improvements in "process" rather than outcomes.
— Offender Management should remain within the remit of the probation service but improvements are needed in the skill and capacity of Offender Managers to work in partnership with VCS organisations in the delivery of services to offenders.
— The recent reconfiguration of probation trusts into Local Delivery Units has great potential for increasing the resources available to support offender rehabilitation.
— There is scope for greatly increasing the role of the VCS in delivering locally-responsive rehabilitation services to offenders.
— Restorative Justice has considerable potential at a number of stages of the criminal justice process and contributes to both diversion from the formal criminal justice process and to supporting offender rehabilitation.
— Engaging with specialist VCS organisations would improve the probation service’s ability to tackle diversity issues.
EMBRACES OFFENDERS WHO ARE NOT SUBJECT TO FORMAL SUPERVISION. WHAT HAS REMAINED CONSTANT THROUGHOUT IS THE MANAGEMENT OF DANGEROUS OFFENDERS, AND INITIATIVES SUCH AS INTEGRATED OFFENDER MANAGEMENT (IOM) WHICH FRAMEWORKS THAT GUIDE THE LEVEL OF INTERVENTION AND CONTROL OF OFFENDERS, INTER-AGENCY ARRANGEMENTS FOR THE POTENTIALLY BECOME MUCH GREATER.

AGENCIES AND ORGANISATIONS RESPOND TO OFFENDERS. THE RESOURCES AVAILABLE TO DELIVER OM COULD, THEREFORE, IN OFFENDING WILL MEAN THAT THE PROBATION SERVICE WILL HAVE GREATER INFLUENCE IN SHAPING THE WAY IN WHICH OTHER AGENCIES RESPOND TO OFFENDERS. THE NEW DUTY OF CSPS TO REDUCE RE- OFFENDING WILL MEAN THAT THE PROBATION SERVICE WILL HAVE GREATER INFLUENCE IN THE WAY IN WHICH OTHER AGENCIES RESPOND TO OFFENDERS. CSPS PROVIDES AN OPPORTUNITY FOR THE PROBATION SERVICE TO ENHANCE ITS ROLE IN OM AND NEGOTIATE NEW ARRANGEMENTS FOR THE MANAGEMENT OF OFFENDERS. THE NEW DUTY OF CSPS TO REDUCE RE-OFFENDING WILL MEAN THAT THE PROBATION SERVICE WILL HAVE GREATER INFLUENCE IN SHAPING THE WAY IN WHICH OTHER AGENCIES AND ORGANISATIONS RESPOND TO OFFENDERS.

THE PROBATION SERVICE IS OPERATING EFFECTIVELY IN TERMS OF MEETING A RANGE OF NATIONAL STANDARDS AND RELATED METRICS. THE TIMELINESS OF COURTS REPORTS, INCREASINGLY RIGOROUS ENFORCEMENT ACTION, AND THE DELIVERY OF ACCREDITED PROGRAMME COMPLETIONS HAVE BEEN CONSISTENT FEATURES OF PERFORMANCE. THE SERVICE HAS, IN SOME WAYS, “REINVENTED” ITSELF AS A “LAW ENFORCEMENT AGENCY” WITH PUBLIC PROTECTION AND PUNISHMENT IN THE COMMUNITY AS TWO OF ITS KEY OBJECTIVES. THERE ARE ONLY A VERY SMALL PROPORTION OF SERIOUS OFFENDERS WHO RE-OFFEND WHILE ON SUPERVISION AND IN THIS RESPECT THE SERVICE’S RECORD IS REASONABLY GOOD. THE SUCCESSFUL CHANGE TO TRUST STATUS OF ALL PROBATION AREAS (INCLUDING THOSE THAT HAVE MERGED) ALSO TENDS TO CONFIRM THAT THE PROBATION SERVICE IS OPERATING EFFECTIVELY IN TERMS OF GOVERNANCE, BUDGETARY CONTROL, AND DELIVERY. FINALLY, THE MEASUREMENT OF RE-OFFENDING RATES ALSO GENERALLY SHOWS AN INCREMENTAL REDUCTION IN THE VOLUME AND INCIDENCE OF RE-OFFENDING.

THE CHANGE IN THE FOCUS OF THE PROBATION SERVICE OVER THE PAST 10 YEARS HAS HAD CONSEQUENCES FOR ITS CAPACITY AND WILLINGNESS TO ENGAGE WITH LOCAL COMMUNITIES. MOST OF THE WORK OF THE SERVICE IS “OFFICE-BASED” AND THIS HAS BEEN REINFORCED BY AN ESTATE STRATEGY WHICH HAS LED TO THE CLOSURE OF SMALLER OFFICES IN LOCAL AREAS TO LARGE PROBATION CENTRES BASED IN TOWN/CITY CENTRES. WITH A FEW EXCEPTIONS, PROBATION AREAS ARE DRIVEN BY CENTRALLY IMPOSED TARGETS, AND THERE IS LITTLE SCOPE FOR INNOVATION AT THE LOCAL LEVEL.

FINALLY, THE GOAL OF REHABILITATION IN WORKING WITH OFFENDERS HAS HAD LESS EMPHASIS THAN PREVIOUSLY, AS WAS INEVITABLE WITH THE SHIFT TO A LAW ENFORCEMENT ETHOS. COMPLIANCE WITH THE REQUIREMENTS OF SUPERVISION IS NOW A KEY OBJECTIVE FOR THE SERVICE.

OFFENDER MANAGEMENT

THE OFFENDER MANAGEMENT MODEL (OMM) WAS DEVELOPED IN LINE WITH THE CREATION OF THE NATIONAL OFFENDER MANAGEMENT SERVICE (NOMS) AND IT IDENTIFIED THE OFFENDER MANAGER (OM) AS THE BROKER OF SERVICES AND INTERVENTIONS TO EFFECT A REDUCTION IN RE-OFFENDING BY OFFENDERS SUBJECT TO SUPERVISION. THIS MODEL WAS ORIGINALLY INTENDED TO EMBRACE THE OFFENDER’S EXPERIENCE IN CUSTODY AND IN THE COMMUNITY WITH THE OM BASED IN THE PROBATION SERVICE. THE PROBATION SERVICE WAS ALSO EXPECTED TO SPLIT ITS FUNCTIONS BETWEEN OM AND INTERVENTIONS (EG UNPAID WORK, ACCREDITED PROGRAMMES, ETC).


THE REQUIREMENT FOR PROBATION TRUSTS TO CONFIGURE THEMSELVES INTO LOCAL DELIVERY UNITS (LDUS) WITH BOUNDARIES COTERMINOUS WITH LOCAL AUTHORITY AREAS, COUPLED WITH THE NEW RESPONSIBILITIES FOR THE SERVICE WITHIN COMMUNITY SAFETY PARTNERSHIPS (CSPS) PROVIDES AN OPPORTUNITY FOR THE PROBATION SERVICE TO ENHANCE ITS ROLE IN OM AND NEGOTIATE NEW ARRANGEMENTS FOR THE MANAGEMENT OF OFFENDERS. THE NEW DUTY OF CSPS TO REDUCE RE-OFFENDING WILL MEAN THAT THE PROBATION SERVICE WILL HAVE GREATER INFLUENCE IN SHAPING THE WAY IN WHICH OTHER AGENCIES AND ORGANISATIONS RESPOND TO OFFENDERS. THE RESOURCES AVAILABLE TO DELIVER OM COULD, THEREFORE, POTENTIALLY BECOME MUCH GREATER.

THE OMM HAS EVOLVED INTO A COMPLEX PROCESS INVOLVING SOPHISTICATED RISK ASSESSMENTS, TIERING FRAMEWORKS THAT GUIDE THE LEVEL OF INTERVENTION AND CONTROL OF OFFENDERS, INTER-AGENCY ARRANGEMENTS FOR THE MANAGEMENT OF DANGEROUS OFFENDERS, AND INITIATIVES SUCH AS INTEGRATED OFFENDER MANAGEMENT (IOM) WHICH EMBRACES OFFENDERS WHO ARE NOT SUBJECT TO FORMAL SUPERVISION. WHAT HAS REMAINED CONSTANT THROUGHOUT IS THE FACT THAT THE PROBATION SERVICE SHOULD INCORPORATE THE RECENT INSIGHTS INTO THE FACTORS THAT CONTRIBUTE TO DESISTANCE.

1. Probation services are not really commissioned in the true sense of the word. At present, they are contracted by the Director of Offender Management to provide probation services both in relation to offender management and across a range of interventions. Opportunities to bid to deliver Unpaid Work, and accredited programmes, have been advertised in relation to some probation areas but even in these instances there hasn’t been a process for earlier discussions about the design of the service. In fact, where the tenders have been published, the specifications of the Unpaid Work programme appear to have been very tightly drawn.

2. Clinks would not be supportive of the outsourcing of probation core functions. Our view, which we expressed prior to the implementation of the Offender Management Act 2007, was that there was a proper place for the state to be responsible for the assessment of offenders and providing that information to the court to assist in sentencing. We are also of the view that the ultimate responsibility for the enforcement of court orders and post-release licenses should remain with the public sector probation service (Probation Trusts).

OPERATIONAL EFFECTIVENESS

3. The Probation Service is operating effectively in terms of meeting a range of National Standards and related metrics. The timeliness of courts reports, increasingly rigorous enforcement action, and the delivery of accredited programme completions have been consistent features of performance. The service has, in some ways, “reinvented” itself as a “law enforcement agency” with public protection and punishment in the community as two of its key objectives. There are only a very small proportion of serious offenders who re-offend while on supervision and in this respect the service’s record is reasonably good. The successful change to Trust status of all probation areas (including those that have merged) also tends to confirm that the Probation Service is operating effectively in terms of governance, budgetary control, and delivery. Finally, the measurement of re-offending rates also generally shows an incremental reduction in the volume and incidence of re-offending.

4. The change in the focus of the probation service over the past 10 years has had consequences for its capacity and willingness to engage with local communities. Most of the work of the service is “office-based” and this has been reinforced by an estate strategy which has led to the closure of smaller offices in local areas to large probation centres based in town/city centres. With a few exceptions, probation areas are driven by centrally imposed targets, and there is little scope for innovation at the local level.

5. Finally, the goal of rehabilitation in working with offenders has had less emphasis than previously, as was inevitable with the shift to a law enforcement ethos. Compliance with the requirements of supervision is now a key objective for the service.

OFFENDER MANAGEMENT

6. The Offender Management Model (OMM) was developed in line with the creation of the National Offender Management Service (NOMS) and it identified the Offender Manager (OM) as the broker of services and interventions to effect a reduction in re-offending by offenders subject to supervision. This model was originally intended to embrace the offender’s experience in custody and in the community with the OM based in the probation service. The probation service was also expected to split its functions between OM and Interventions (eg Unpaid Work, accredited programmes, etc).

7. The OMM underwent several iterations over the next few years but the core concept of a single OM being responsible for the implementation of the sentence of the court remains. The major barrier to its effective functioning has always been the degree of control and influence that the OM has in relation to the offender’s experience of custody. The prison service has, necessarily, retained the authority to move prisoners around the system in order to deal with the effects of overcrowding, and this has often resulted in disruption and delay in the implementation of the sentence plan.

8. The requirement for Probation Trusts to reconfigure themselves into Local Delivery Units (LDUs) with boundaries coterminous with local authority areas, coupled with the new responsibilities for the service within Community Safety Partnerships (CSPs) provides an opportunity for the probation service to enhance its role in OM and negotiate new arrangements for the management of offenders. The new duty of CSPs to reduce re-offending will mean that the probation service will have greater influence in shaping the way in which other agencies and organisations respond to offenders. The resources available to deliver OM could, therefore, potentially become much greater.

9. The OMM has evolved into a complex process involving sophisticated risk assessments, tiering frameworks that guide the level of intervention and control of offenders, inter-agency arrangements for the management of dangerous offenders, and initiatives such as Integrated Offender Management (IOM) which embraces offenders who are not subject to formal supervision. What has remained constant throughout is the measurement of re-offending rates also generally shows an incremental reduction in the volume and incidence of re-offending.

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pivotal role of the probation service in negotiating the relationship between offenders and the agencies that are recruited to support a reduction in re-offending.

**Requirements in Community Sentences**

10. The CJ Act 2003 created the generic community sentence which provided a “menu” of 12 requirements. These included punitive, controlling, and rehabilitative interventions and magistrates imposing community orders can choose one or more in accordance with risk and needs of the offender being sentenced. The availability of requirements depends largely on whether the probation service is funded to deliver “in-house” or is reliant on external funding sources (DAT, PCT, DWP, ESF, etc.). Even in the case of “in-house” delivery there have been problems with capacity for some accredited programmes. However, the greatest gap in supply is in relation to the Alcohol Treatment Requirement. Probation areas are often constrained by a lack of investment in this provision by local PCTs and in some instances are having to fund this intervention from core funding.

**Role of Voluntary and Private Sectors**

11. It has been estimated that there are over 600 VCS organisations providing services to offenders in the community, either contracted or in less formal arrangements. The Ministry of Justice published Working with the Third Sector to Reduce Re-offending 2008–11 which identified a range of strategic objectives and actions to enhance the role of the Voluntary Sector in delivering services to offenders and their families. It also sought to improve commissioning arrangements looking ahead to the freedoms and flexibilities afforded Probation Trusts.

12. The role of the VCS in delivering services to offenders and their families should be seen in the context of two key developments in the early 2000s. The first of these was the Supporting People programme which, inter alia, required the probation service to transfer to local authorities the funding allocated to offender accommodation, much of which was spent on voluntary sector provision. The second was the establishment of the Offender Learning and Skills Service, which again required probation areas to move funding for employment, training, and education provision to the Learning and Skills Service. This removed the contracting arrangements from the probation service and transferred them to the LSC.

13. The attempt in 2006–07 and 2007–08 to increase the proportion of probation budget expenditure on VCS and Private Sector services for offenders was largely unsuccessful, failing to reach the 10% target. The substitution of a Best Value framework in 2008 to try to achieve increased investment has yet to produce any significant opportunities for VCS delivery. This is unsurprising given the bureaucratic processes involved in Best Value reviews and the decision to limit the reviews to Unpaid Work and Victim Contact provision in the first instance.

14. These policy initiatives have generally been focussed on “transferring” probation services to the VCS (or private sector) rather than recruiting the VCS to “transform” the delivery of probation services. The unique value of the VCS is its ability to develop innovative ways of addressing a range of social problems and tackling social exclusion. The sector’s strength and experience lies in its provision of dedicated services across the “7 pathways”—accommodation, education and training, finance and debt, children and families, mental and physical health, alcohol and drugs, and attitudes and behaviour. Offenders experience deficits in these areas to a disproportionate degree relative to the general population and often experience a multiplicity of difficulties in these areas. Mainstream provision in this context is often less effective (because it is based on universal delivery) than the VCS which has the flexibility and user focus that engenders trust and engagement from vulnerable people. Offenders in particular view VCS services as less threatening than statutory intervention. The improvement in compliance rates of offenders under supervision by using volunteer mentors is one example of effective deployment of VCS resources.

15. The other key feature of VCS provision of services for offenders is that, for the most part, these organisations are based in local communities and are available for offenders after formal supervision has ceased. Their ability to continue working with an offender and sustaining supportive relationships over longer timescales than statutory supervision permits, means they are well placed to support reintegration into communities.

16. The probation service should provide effective mechanisms for engaging with the VCS on a regular basis, establishing robust channels of communication and developing opportunities for shared learning between the two sectors. An example of this close working relationship is the role of Circles of Support and Accountability in the supervision of high risk sex offenders where the probation service provides the overall management and enforcement of supervision and “Circles” provide the support and “monitoring” of offenders through its volunteers.

**Diversion of Short Sentence Prisoners to Probation Supervision**

17. The current workload of the probation service has already meant that many low risk offenders, or those that have completed their requirements are on a basic “signing on” regime, reporting to offices only to confirm...
that they are still at the same address. The priority of probation resources is high risk offenders on the caseload. Were the probation workload to increase significantly the content and style of supervision would inevitably change. There would therefore need to be a parallel strategy which sought to divert low level offenders away from probation supervision in order to create the capacity to supervise offenders now subject to short prison sentences. There is a role here for the VCS to undertake increased involvement with low level offenders.

**Restorative Justice (RJ)**

18. RJ is a concept that embraces a range of approaches including: Community Payback, victim contact; victim offender mediation; reparation in cash or kind.

19. Community Payback is a high profile programme delivered by the probation service and it clearly represents a concrete repayment to the community in general for the harm done by offending.

20. Victim contact (or apology) is usually undertaken in the form of a letter in which the offender expresses remorse for his/her actions. If genuinely expressed it is an indication of an awareness of the harm done and is evidence that the offender has taken some responsibility for his/her actions. There is scope for probation staff to facilitate this during the preparation of pre-sentence reports and, if successful, to be in a position to evidence a move away from further offending.

21. Victim offender mediation is a lengthier process and necessarily involves negotiation between the offender and the victim to arrange date, venue, guidelines and parameters for the meeting, etc. We feel there is considerable scope for this but that the probation service should contract this service to the voluntary sector where there are organisations that specialise in this work. It could form part of the supervision plan, although it probably isn’t “enforceable” given the need for agreement from the victim. There is, however, evidence to show that victims benefit from this opportunity to both express their feelings about the offence, learn that they were targeted entirely randomly and that there was nothing “personal” in the offender’s motivation. There are also examples of offenders being deeply affected after meeting the victim of the offence and learning about the harm and distress caused by them.

22. Direct practical reparation by the offender to the victim is less common and the logistical arrangements can be difficult to organise.

23. There is potential for greater use of RJ across the criminal justice system from arrest to sentence and Probation Trusts are well placed to facilitate its delivery through effective partnerships with specialist VCS organisations and other statutory agencies.

**Diversity**

**Young Offenders**

24. Clinks is a member of the Transition to Adulthood (T2A) Alliance, which comprises a number of organisations that seeks to improve the arrangements for 18–25 year olds in the criminal justice system. Specifically, it campaigns to remove the arbitrary change in regime and community provision that occurs when offenders reach the age of 18 and argues for arrangements that respond to young adults’ needs based on an assessment of maturity rather than chronological age. In particular, there is significant scope for the probation service to make unique provision for this group focusing on their education and employment needs, and deploying mentors to provide support and motivation.

**Women offenders**

25. Baroness Corston’s report on vulnerable women in the criminal justice system was published in 2007 and there has been encouraging progress in implementing the recommendations since then. The Probation Service has a key role to play in ensuring that women offenders are diverted, wherever possible, from custodial sentencing and provided with community-based alternatives that address their needs which are distinct from those of male offenders. The National Service Framework for Women Offenders identified a range of standards and policy expectations in relation to women offenders and Probation Trusts have adopted many of them. The National Framework is supported by practice guidance and it is important that Probation Trusts make every effort to ensure that women offenders are offered discrete services, including wherever possible, access to female probation officers. Most importantly, the probation service should support those community based services for vulnerable women that do exist in their local areas, and where there is no provision, to work together with other commissioners and funders to facilitate their creation.

**Black and Asian Minority Ethnic Offenders**

26. The over-representation of BAME offenders in the criminal justice system remains a complex and intractable issue. Clinks has facilitated a campaign which addresses the range of factors contributing to
disproportionate responses to BAME offenders and commissioned research\textsuperscript{26} that provided the background to the current situation. The probation service can contribute to the “more equal” treatment of BAME offenders in a number of ways, not least by rigorous monitoring of its court practice and recommendations in pre-sentence reports, as well as ensuring the management and enforcement of orders and licenses is free of bias and discrimination.

27. Just as important is the support that can be provided by the probation service, both financial and through strategic representation, of the BAME VCS which works with offenders and their families. This part of the VCS is typically fragile and under-funded and often fails to attract the support that other parts of the VCS enjoy. Community based BAME organisations are effective at engaging with black offenders who may find it difficult to trust and relate to predominantly white organisations.

Training

28. The probation training curriculum has moved away from social work and community development to focus on criminology and cognitive behavioural approaches to tackling offending. The recent review of desistance research published by McNeill and Weaver\textsuperscript{27} identifies some useful new strands that could be introduced into probation training, including recognising the social context of offending and the importance of building new networks and community support. This would also involve addressing skills in partnership working between probation staff and VCS organisations.

September 2010

Written evidence from Catch22 (PB 44)

Catch22 is a local charity with a national reach. We work with young people who find themselves in difficult situations. We believe every young person deserves the chance to get on in life—no matter what. Whatever the reason for their situation, we help them out. We work with their families and their communities wherever and whenever young people need us most. As young people become more positive, productive and independent, the whole community benefits. We work with over 37,000 young people in 120 projects across the UK.

Catch22 has a longstanding history of working on criminal justice issues—in both our previous charities Rainer and Crime Concern. In 1876 Frederick Rainer established the London Police Court Mission which later became the national Probation Service in 1938.

Catch22 is a founding member of the Transition to Adulthood (T2A) Alliance and has produced three policy reports on behalf of the Alliance, *Universities of Crime*, *A New Start* and the *Young Adult Manifesto*. For further information about the T2A Alliance please visit www.t2a.org.uk

Introduction

Catch22 welcomes this inquiry by the Justice Select Committee into the role of probation services. We particularly welcome the remit of the inquiry into the role of the probation service in handling different groups of offenders appropriately, particularly young adults. This response will focus on: commissioning of probation services, the role of the voluntary sector; the introduction of restorative justice and the needs of young adults.

As a member of the Transition to Adulthood Alliance (T2A), Catch22 endorses the views put forward in the T2A submission.

Commissioning of Probation Services

Catch22 would like to see greater opportunities for the voluntary sector in the delivery of probation services and other work with offenders. We recommend the following changes to commissioning practice:

— Involve the voluntary sector, and others with expertise in what is effective, from the start in the development of policy and practice,
— Commission across traditional age boundaries—in particular pulling together support and ensuring a smooth transition from the youth offending service to adult probation services,
— Implement Payment by Results in a way that is carefully designed and takes account of supply chain challenges, for example ensuring the voluntary sector can start working with people whilst they are in prison and can receive referrals from statutory agencies,
— Open up the market and level the playing field for voluntary sector providers, and
— Commission services in a way that ensures more holistic support for offenders across various services eg ensuring criminal justice agencies work with housing services, health and mental health services, job centre plus and other agencies that can help reduce reoffending. This is argued in our Catch22 Ready or Not campaign attached as supplementary evidence.

\textsuperscript{26} http://www.clinks.org/assets/files/PDFs/Race\%20for\%20Justice\%20-%20Less\%20Equal\%20Others\%202008.pdf

\textsuperscript{27} http://www.sccjr.ac.uk/pubs/Changing-Lives-Desistance-Research-and-Offender-Management/255
Primarily Catch22 would like to see a diverse provider market for probation services with a range of organisation sizes. This is most effective as it has the capacity to both manage high levels of contracts as well as deliver niche services at a local level.

Many of the benefits from diversity and contestability arise not simply from large-scale transfers from one sector to another but from opening up the possibility for the best provider, from across the different sectors, to deliver a service. There is some evidence that quasi-markets have had a positive impact across public service areas from education through drug and alcohol treatment and into criminal justice. It is often not just the services that are transferred to other providers that improve. The impact of competitive forces and the threat of transfer can spur improvements within existing service providers.

However, the voluntary sector’s relative lack of access to finance represents a significant barrier to market entry. Voluntary organizations historically lack amassed resources and traditionally have found it difficult to access capital from mainstream financial services (much more geared towards catering to the private sector). The Social Investment Bank, to which the government is committed, should help to overcome some of these barriers. Furthermore we recommend that the piloting of Social Impact Bonds in Peterborough be rolled out further to test this innovative approach to funding.

Catch22 welcomes plans to introduce payment by results into rehabilitation work with offenders. However, Catch22 believes the establishment of such schemes must to done in conjunction with the voluntary sector and others providing the services in order to focus on the right outcomes.

**What role should the private and voluntary sector play?**

Catch22 believe the voluntary sector can run probation trusts and would like to see these put out for competitive tender. Traditionally charities have been given small pieces of work with offenders on the outskirts of statutory provision. This does not give the opportunity for charities to make a real difference that is offered by running offender management services and designing services in a way that supports offenders.

The voluntary sector has a unique value in helping to identify individual and community needs and in finding innovative solutions. At the time of economic crisis, it is even more important that government works in conjunction with voluntary sector providers to ensure they are able to continue this vital role working with offenders and ex-offenders.

Voluntary sector providers are able to provide flexible services to those often missed by statutory service providers. Many people who have disengaged or do not respond well to other services are willing to engage with voluntary providers. This may be a reflection of distrust of statutory agencies, particularly amongst those who have previously been in trouble with the law who often feel more comfortable approaching a voluntary agency.

In addition, the passion of staff and volunteers, and the fact that many voluntary sector projects are started in response to a particular need means that there is often greater capacity for innovation within third sector organisations. Individuals or community groups working directly with service users can identify needs which are currently unmet by existing services, and have knowledge and experience of the types of solutions which often prove most effective. The voluntary sector can also enhance participation of ex-offenders and their families, and help provide volunteering opportunities for ex-offenders across the criminal justice system.

The voluntary sector is able to offer a more joined-up approach to meeting the needs of offenders and their communities across a broad range of issues. We know from our own work that integrated approaches across issue-areas are more effective. One of the key goals when trying to help vulnerable groups is in joining up existing services and providing integrated packages of care tailored to the needs of the individual. This is particularly important when working with ex-offenders who need to access mainstream support services in the community—outside the criminal justice agencies.

Finally, there is scope for innovative ways of working with the private sector. Catch22 is part of an Alliance with Serco and Turning Point which we believe will result in better resettlement services for young people in prison and lower reoffending rates as young people move on into productive lives.

**Serco, Catch22 and Turning Point**

Catch22 relationship with Serco and Turning Point dates back to 2006, when we formed an alliance with the shared aim of reducing offending. Partnerships between third sector and private sector organisations can be extremely effective because of the breadth and quality of experience and expertise the different partners bring to the table. In this case, Serco bring their experience in the custodial sector, change management and organisational skills. Turning Point their expertise in delivering drug and alcohol services and Catch22, our experience of dealing with young people in extremely difficult situations, as well as our community links.

Catch22 believes that effective and coordinated resettlement is the key to helping young offenders get their lives back on track. Those at risk of becoming lost in the prison system must be assessed at an earlier stage and receive planned support.

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Joyce Moseley, chief executive of Catch22 says “If we want to stop young people committing crime in our communities, we need to provide resettlement services that deliver meaningful interventions that start sooner, last longer and provide real opportunities for them to reintegrate with, and make a positive contribution to, their communities. This must include brokering relationships with housing and accommodation services, education, routes to employment and restoring links with family and other supportive networks, as well as giving something back to the community.”

**Could probation make more use of restorative justice?**

Catch22 fully supports the principles of restorative justice and supports the expansion of restorative justice schemes across the criminal justice system where appropriate.

Restorative Justice (RJ) has been shown to be beneficial for victims and is more successful at reducing reoffending than traditional criminal justice responses. The Prison Reform Trust’s recent research on restorative justice in Northern Ireland has shown that diverting young people into restorative solutions reduced reoffending.30 Research carried out by the Youth Justice Board has shown that 79% of victims involved in Restorative Justice felt able to put the offence behind them and 70% felt that young people understood better the effects of their offending. Restorative Justice projects can bring together victims, members of the community and young offenders to look at ways that young people can be held accountable for their actions and “repair” the harm they have done.

Research also indicates that RJ can be more cost-effective intervention than other interventions, and is certainly more cost-effective than custody.31 For example, the T2A Alliance commissioned Matrix Evidence to conduct cost benefit research into the cost benefit of diverting young adults from community sentences into pre-court restorative justice conference schemes. Matrix found that it is likely to produce a lifetime cost saving to society of almost £7,050 per offender. Over the course of 10 years implementation of such a scheme would be likely to lead to a total net benefit to society during this period of over £1 billion.32

Catch22 would like to see greater use of RJ within probation services than is currently available. The benefits of RJ that are currently being seen within the youth justice system could be extended to the adult system. However, in order to receive the benefit, projects must be properly funded and supported. Effective RJ involves time, genuine engagement with both offenders and victims, and skilled people who can steer RJ conferences towards solutions where appropriate.

**Does the probation service have the capacity to cope with a move away from short custodial sentences?**

Catch22 has argued we need to move away from short custodial sentences to more effective community sentences. Community sentences have lower reoffending rates and provide a range of positive outcomes in comparison with prison—primarily community sentences allow people to maintain the factors that support future desistance including family ties, relationships, a job, home life and any treatment or counselling programmes delivered in the community.

However, community sentences still need to work better particularly for offenders with chaotic lifestyles and high levels of need. Too many young adults do not complete their sentence and end up in prison through breach for non-compliance.

Community sentence should be accompanied by much higher levels of assertive “outreach” and support. Much of the evidence shows that relationships are key for helping young people move away from crime. Current high caseloads for probation officers mean that building the necessary relationships to facilitate behavioural change is in the majority of cases simply not feasible. This is where additional social capital should be realised by bringing in volunteers who can support with building relationships with offenders.

Where the evidence shows that intensive working with young adults on probation and the impact of relationships on desistance, the government should fund this appropriately. This will save the taxpayer money in the long-term through reduced reoffending, fewer victims and safer communities.

**Does the probation service handle different groups of offenders appropriately, eg women, young adults, black and minority ethnic people?**

There is a significant body of evidence and opinion that we need to take account of the maturity of offenders into account in their treatment in the criminal justice system, and that this should extend up until the mid-20s. While 18 marks the legal watershed between child and adult, childhood and, particularly, adolescence are contested concepts that change considerably over time and between societies.33
As a member of the T2A Alliance, Catch22 campaigns for the recognition of young adults as a distinct group in the criminal justice system on account of their developing maturity, distinct needs and social factors that impact upon them. This age group has specific needs and should be treated as a distinct group in the criminal justice system and we therefore fully endorse the principle of working with young adult offenders in an appropriate and tailored way.

We believe the probation service should give special consideration to those offenders aged between 18 and 25 years old. Please see the T2A submission for further evidence on young adults.

*September 2010*

**Written evidence from the Howard League for Penal Reform (PB 56)**

**Executive Summary**

The Howard League for Penal Reform is the oldest penal reform charity in the world. It was established in 1866, is independent of government and is funded by donations. The core objective of the Howard League for Penal Reform is to work for less crime, safer communities and fewer people in prison.

This submission is intended for use by the justice affairs select committee in its investigation of the role of the probation service. This briefing is only meant to give an outline of the Howard League approach to this complex issue. We would welcome the opportunity to present the committee with further oral evidence on this issue.

This submission underscores the fact that the introduction of the National Offender Management Service (NOMS) has led to major changes and a large-scale restructuring in the way criminal justice is administered. The changes exacted by NOMS on the probation service have led to the systematic fragmentation and demoralisation of a probation service, whose purpose has been altered beyond all recognition. Instead of being allowed to engage with vulnerable men and women in the community, the probation service and its functions have been warped by NOMS’ framework of mechanistic targets. A bureaucratic managerial model averse to risk and devoid of ambition has replaced the frontline services probation formerly provided to the multi-faceted problems faced by individuals in the community.

This paper calls for a radical overhaul of the probation service. It calls for a shift away from offender management and a shift towards a localised “resolution service” that the public can both see and understand. It also calls for probation service that works based on a desistance model (McNeill and Weaver 2010), whereby local probation/resolution officers serve as an individualised gateway to offer individuals access to support on problems such as housing and health care. These are key indicators that lead to crime and it is the view of the Howard League that the probation service, which is located in almost every community in England and Wales, should be the body to coordinate services and deliver them alongside the private and voluntary sectors. It is only with a re-energised resolution service, whose goal is to support and not to detain individuals at risk of offending that the government’s rehabilitation revolution can become a reality.

The Howard League wants to see the new resolution service filling the justice gap that currently exists in society. The new service must individualise those they work with, engage with the wider population to create dialogue and diversify their attempts to make the service a truly national one.

As well as challenging the mission of the probation service, we have also expressed the view that the probation service and the community sentence have been damaged by years of neglect and misrepresentation. It is for this reason that we propose the rebranding of probation and the community sentence. For probation to work in the future it needs the support of the wider community. We have made suggestions as to how resolution can go beyond probation and reach out to facilitate dialogue across society.

1. **Introduction**

1.1 The Howard League for Penal Reform welcomes this review into the functioning of the probation service. We believe probation plays an essential role in the modern criminal justice system. This is particularly the case in a system with a renewed objective of cutting crime in the long-term through the rehabilitation revolution.

1.2 In July 2010 prisons minister Crispin Blunt MP stated that the current prison and probation arrangement, which has been managed by NOMS and dominated by the prison service, had failed. He stated: “85,000 offenders in prison and the prediction of 96,000 places required by 2014 represent failure. A failure to deal with crime and a failure to tackle re-offending. It is a national embarrassment that we have failed so dramatically that we have been reduced simply to locking people up in prison, and doing so proportionately more than almost any country in Western Europe. We need a fundamental change to the focus of our system towards rehabilitation” (Ministry of Justice 2010).

1.3 A new approach to criminal justice requires a renewed commitment to probation. The past 20 years of government failure have resulted in the probation service being neglected and prevented from working with

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34 The Transition to Adulthood Alliance, *A New Start: Young Adults in the Criminal Justice System*, 2009.
individuals to cut crime and make communities safer. McNeill and Weaver describe complaints of probation officers who state that “a combination of rising workloads and increasing paperwork (often linked to performance targets) militates against spending “quality time” with offenders working for change” (Weaver and McNeill 2010, p 12). Their desistance model focuses on the idea that “spending time with offenders (and where appropriate significant others in offenders’ lives) is seen by workers as being key to developing engaging relationships that support change”. This technique is the true nature of probation, local and individualised support, and it is this approach that a modern resolution service should target. Probation has been treated like the Cinderella of the criminal justice system; it has been repeatedly mistreated and neglected despite having a great deal to recommend it to the outside world, while other arms of the system have been promoted ahead of it.

The context at time of writing

1.5 This submission is written within a very specific criminal justice context, a prison system in crisis. With the prison system at 85,000 the English and Welsh criminal justice system is overcrowded. It costs over £45,000 to incarcerate a prisoner for a year and the ministry of justice must cut its budget to meet the current efforts in deficit reduction (Hansard 2010b).

1.6 There is also mounting evidence that prison, while overserved is underachieving. 53,333 people were jailed in 2008 for six months or less, of this number 74% were re-convicted within a short time of release. The National Audit Office estimates that reoffending by all recent ex-prisoners costs the taxpayer up to £13 billion a year (National Audit Office 2010). Prison is being overserved and failing with deleterious side effects for individuals in the system, victims outside the system and society in general.

1.7 Before the general election the Howard League launched its Take Action 2010 campaign reading politicians of all parties for the future in which the goal for criminal justice must be less crime, safer communities and fewer people in prison. We need alternatives to costly and ineffective prison bars and we need better community options for those at risk of committing crime. The probation service will play a role in this regard.

1.8 In terms of public perception, local communities are the core arena in which to fight a public perceptions battle. When people are polled nationally about crime their fears tend to be raised beyond the likely threat of crime. However when people consider their local area in relation to crime their fears of gang crime, knife crime and violent crime drop to match the actual fall in crime that has occurred over the past 15 years. (Ipsos MORI 2009) If the government is interested in emphasising to people the reality of the criminal justice system in England and Wales it must happen on a local level and probation will be a core agent in this regard.

2. THE CURRENT PRISON/PROBATION CORRELATION

2.1 In 2004 the government created the National Offender Management Service, NOMS. This was an amalgamation of prisons and probation. Along with this, the government carried out a programme of reform, converting probation boards into probation trusts, which are contracted to deliver local probation services. This was followed by the introduction of competition for some aspects of delivery. In addition, the former government pushed the notion of “offender management” which has evolved considerably since the Offender Management Act 2007 was passed.

2.2 It is no secret that the current arrangement has placed predominance on the use of prison and a culture of risk aversion. Not only is the probation service not represented at the top level of NOMS but probation itself has become laced with the language of control and monitoring. Probation’s former slogan of “assist, advise and befriend” has been turned into the terminology of “risk of reoffending” and “offender management”. Probation has in effect been divorced from its roots in working alongside individuals and has become punitive rather than supportive in nature.

2.3 In a recent survey by Channel 4 news probation managers underscored the problems faced by the current system (Channel 4 2010):

- 50% of probation chiefs describe their current capacity to manage offenders effectively in the community as either “average” or “poor”.
- Asked whether their services were being commissioned in the most appropriate way, all 20 respondents said no.
- 65% say their caseloads of offenders has increased in the last five years.
- 80% state resources for community-based interventions are now spread too thinly and nearly half of all those surveyed (45%) admit that they aren not able to offer the full 12 requirements of community sentences.
- Only three out of 20 probation chiefs believe the service currently has the capacity to cope effectively with a move away from short custodial sentences to more community-based sentences (a key goal of the coalition government).
- Just 15% of respondents say they are currently able to offer the required levels of public protection “all of the time” (the rest say they can do “most of the time”).

Ev 204 Justice Committee: Evidence
2.4 While many dedicated probation officers still value the social work element of the job and comprehend that lasting solutions to crime require offering support to those at risk of further offending; government policy has required them to approach people in need more as a set of statistics rather than individuals.

2.5 The government’s view has been short-sighted. To reallocate the role of the probation officer from assistance with rehabilitation to assessment of risk is to suggest that a former prisoner should have been rehabilitated within prison or at some stage in the court process. However, statistics show this is not the case.

2.6 Prison does not rehabilitate and it does not cut the chances of future offending. This must be done in the community by probation and will require a good deal more than simply monitoring requirements and assessing risk.

2.7 Prison is not the community and the community is not prison. Prisons are closed institutions which are managed in a top down, rigid manner. By contrast, working in the community requires a localised and flexible approach which the probation service has long specialised in. Therefore, it is worrying that NOMS has seen a what the probation union Napo has characterised as a “hostile takeover” of the probation service, with senior prison managers with no experience of working in the community now leading the service. Prison and probation provide distinct services and while both are important we suggest that probation should be the majority partner, with a focus on community welfare, support for the individual and the prevention of crime in the long-term.

2.8 The coalition government has announced that it wishes to introduce a “rehabilitation revolution”. Prison cannot deliver this agenda. The reoffending rate for a short prison sentence is 61% (Ministry of Justice 2010b); in contrast community sentences have been shown to cut reoffending rates by up to 20% (Hansard 2010a). If any revolution is going to take place, it will take place in the community where the pressures which lead to offending occur. It therefore follows that probation will be an important agent of change.

3. Examples of the Conflicted Role of Probation

3.1 The Howard League for Penal Reform’s legal team works with children and young adults in custody. The legal team has been working with vulnerable prisoners since 2002 and has seen the transition of probation to the NOMS governed notion of offender management. Below are a few limited examples of the damaging effect this decision has had in practice. It demonstrates the impossible situation in which probation officers find themselves and the need for probation officers to err on the side of caution rather than supporting an individual who is often in need.

(a) J was a 19 year old woman who had been raped at 14. Her index offence occurred when another girl was spreading rumours about her rape and she was convicted of using violence against her to stop her talking about her trauma.

She was a model prisoner, released on parole in order to attend college and had support of local authority leaving care team. She was 100% compliant in every way and was doing well at college, working towards her ambition of attending London School of Fashion.

One day she was abducted by a group of young men in a car and did not return to her accommodation that night. She reported having been driven around all night and that the men had taken her bag and phone so she could not call for help or contact anyone. In the morning she managed to escape and went straight to her accommodation and explained what had happened and made a comment to the effect that given the background to her index offence (ie she was raped as a child) she was likely to be “up to no good with boys”. We made strong representations setting out how unfair these comments were. They were not based on evidence and these comments were especially shocking from a senior probation officer dealing with a young woman who had been raped.

In the parole board’s decision to release her immediately following recall, it was stated that the probation officer’s comments were to be dismissed and that it was not their job nor the job of probation to draw inferences of any kind which were no more than opinion, without any factual basis.

(b) Another young man, B, came from a supportive family where both parents lived together and worked in professional jobs. B was refused permission to return home to the support of his family on release because the senior probation officer stated that he was “too dangerous” and wanted him in a hostel on the other side of London.

The parents had moved out of the area of the offence, and he had had a good custodial record with no reported violent incidents. The Howard League was refused any disclosure from probation and was simply told that this decision was due to security information received from the prison. No explanation was offered to the young man as to why he couldn’t return home.
The client was released to a hostel but luckily for him had only a very short time left to serve on licence so did not wish to pursue this further. He could then return home after a long sentence.

(c) F was a young girl recalled to adult prison on a whim. She was recalled because the police had asked probation if they knew of a young woman who might have committed a knife-based offence and she fitted the bill based on an offence committed two years earlier. By the time she was recalled to adult jail the police had CCTV evidence of her eating fish and chips with her mum on the other side of town at the time she was supposed to be committing the crime.

3.2 All three of these examples illustrate a probation service gone wrong. They paint a picture of a probation officer prejudiced against the interests of the individual with whom they are working and such a relationship makes garnering an ethos of trust and honesty almost impossible. The shift to offender management has resulted in probation officers being unable to support their client because their largest responsibility has been reassigned to law enforcement and not to the interests of their vulnerable individual. While probation officers will always have to assume responsibility for public protection the punitive regime of risk assessment created by the legacy of the last government is not effective. It involves too many immediate recalls and too little support to prevent long-term reoffending. To spark a rehabilitation revolution probation officers have to offer support to their client for reintegration into the community. NOMS has created the notion that probation is an extension of a punitive prison system but this shift undermines the purpose of probation.

3.3 Many dedicated probation officers we have worked with have expressed a desire to return to a more supportive role but have been constrained by the culture of total risk management. However, to make probation entirely about the management of individuals as offenders is to lose sight of probation’s greatest asset, their ability to work with individuals in the community. To improve in the future more needs to be done to allow the true nature of the probation service to express itself. This new government should let probation be probation.

4. What Should the Role of Probation Be?

As stated above the Howard League supports the idea of probation being transformed into a modern and effective “resolution service”. Any future remodeling of the probation service must focus on preventing crime in the long-term. However treating all those at risk of offending as criminal statistics has been proven to be the wrong approach. NOMS former approach exhibited too much haste to control crime and often lead to “neglect of questions of justice, due process and legitimacy; ultimately it can compromise the pursuit of justice—social as well as criminal” (McNeil and Weaver 2010).

Rehabilitation revolution

4.1 A resolution service, like all other elements of the criminal justice system, must meet the requirements of the government. The current government’s objective, of cutting the prison population and cutting long-term costs suggests a probation service focused upon rehabilitation. This suggests a need for a resolution service that focuses on the needs of the individual within the community.

4.2 At the current time the probation service is not built for this purpose. Instead it is focused on risk assessment, security and containment of vulnerable adults. The Howard League believes that the emphasis needs to be shifted from a risk assessment to an individualised needs assessment, with a more proactive model of resolution addressing those needs.

A new values model

4.3 We believe that a criminal justice system that aspires to cut crime long-term must rely on probation not prison as its frontline. We believe that for a new resolution service to be effective the supportive element of the job must be incorporated. People at risk of committing crime must feel they can turn to their probation/resolution officer for support and the probation officer should feel able to help the individual without being pressured to comply with meaningless targets or without risk of censure and vilification in the media.

4.4 The values shift prescribed by the Howard League is demonstrated below:

<table>
<thead>
<tr>
<th>Former probation model values</th>
<th>NOMS probation model values</th>
</tr>
</thead>
<tbody>
<tr>
<td>assist</td>
<td>risk avoidance</td>
</tr>
<tr>
<td>befriend</td>
<td>public protection</td>
</tr>
<tr>
<td>advise</td>
<td>target-culture</td>
</tr>
</tbody>
</table>
4.5 Neither of these models has got the balance right for a modern resolution service. The Howard League is not prescribing a shift back to the old model of probation. However lessons can be learned from what probation was supposed to be before its inception. For such a service that meets the needs of preventing crime long-term, a values chart should borrow from both of these models:

```
         | assist | advise
---|-------|-------
neighbourhood safety              |
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4.6 The resolution service prescribed above will endeavour to work with at risk individuals and those serving community sentences. The probation/resolution officer will be a point of contact for the former prisoner or person serving a community sentence, but they will serve as a gateway to encourage the individual to use services within the local community that will assist them in the local community and a person that can be turned to in a time of difficulty. Consequently, the public protection of the old model has now been transferred to the idea of neighbourhood safety. Probation/resolution officers will offer assistance to those at risk in the community, their aim will be a dual objective, firstly in the event the resolution service realises an individual poses a high risk of reoffending they will be compelled to work with law enforcement. However, such a scenario should be rare and should not encompass situations akin to the situation for F described above. The main element of neighbourhood protection will come by working fully with troubled individuals who constantly commit low level crime; only through individualised local support can crime be prevented in the long-term.

4.7 The idea of the new resolution service as a gateway for local services is an essential element of this proposal. The Howard League believes the proliferation of “offender services” has only served to separate and isolate the most vulnerable in society. Probation/resolution officers should spend time with the individual to understand their needs and should then refer this individual to local services. This will work to better integrate the individual back into the community but also work to make the role of the new resolution service visible to the public in a way that probation failed to be.

**The Big Society**

4.8 Last year’s report from the justice select committee on justice reinvestment, a process whereby funds are switched from prisons to local communities, advocated that a localised approach based in communities would be more effective in tackling crime than a centralised and prison-based approach (House of Commons 2010).

4.9 The Howard League believes that the probation/resolution service is well placed to deliver a system of localised justice. Probation trusts are located in almost every local community and they have strong links with local programmes and schemes that work. The probation service has its roots in the voluntary sector and, despite the distortions of recent years, retains a bedrock of good practice. If appropriately incentivised, probation trusts could play a key role in commissioning services from the voluntary and private sectors, close to the point of delivery.

4.10 Probation/resolution officers must work with local individuals themselves and build up a personal rapport with them but they must also work to collate data on schemes within the local areas that work. Resolution can work as a filter and quality assurance mechanism recommending individuals to successful schemes and monitoring what works. They should accurately assess the needs of the individual and recommend appropriate support within the community.

4.11 The Howard League is currently considering the implications of the Big Society agenda on criminal justice, and the impact of payment by results and other reforms on the interface between the public, private and voluntary sectors. Once the Ministry of Justice green paper is published in November we would be well placed to respond to this in detail and would welcome the opportunity to give further oral evidence to the select committee.

4.12 However the Howard League for Penal Reform does believe that a modern resolution service would be in a better position to engage with all members of the public and serve as an ambassador for the Big Society. For example, an instance of minor neighbourly dispute that currently involves the police and the civil courts could better be handled by a proliferation of the future resolution service, working in conjunction with local authorities. They would work to refer individuals to any relevant local services and help engage the individuals in conflict resolution. The Howard League believes that if the new resolution service was used correctly there could be scope for it to fulfil the role of all community conflict resolution, creating a dialogue not just between “offender” and “community” but between all people in the community. This would involve many more people in the idea of resolution and consequently would serve to better mainstream the idea of, what is currently seen as, probation, in mainstream society.
4.13 The Howard League envisages a model where the new resolution service will encompass the current role of probation, looking after those at risk in the community. It will work to individualise people and help them access their diverse needs on a local basis. The resolution service, with support from rerolled local authority and police budgets would also tackle other community discord. The services’ roles and staff resources would consequently need expansion through volunteerism. However this process would involve engaging many more people in the concept of resolution. This would function to cut crime by strengthening community cohesion and local ties.

**Modifying behaviour**

4.14 In recent months the idea of “nudging” within public policy has become increasingly prevalent among political thinkers. The philosophy has been utilised by the Obama administration and its rhetoric is implicit within the Prime Minister’s Big Society. The theory encompasses the notion of paternalistic liberalism as an appropriate role for the state that optimises choice while at the same time helping individuals to make better choices.

4.15 Given the importance of this theory in modern political thought the Howard League for Penal Reform believes it is important to attempt to contextualise the criminal justice debate in terms of nudging. According to the academics Thaler and Sunstein, there are three accepted models of modifying behaviour; disincentives, incentives and nudges (Thaler and Sunstein 2008). This model can be easily be applied to the criminal justice system. The past decade has demonstrated that disincentives do not work within the criminal justice sphere.

4.16 The increased use of prison under the past government has proved an expensive way of securing minimal to non-existent reductions in reoffending. Such a model should be discontinued.

4.17 Nudges, an idea developed by Thaler and Sunstein, are a method of modifying behaviour within a liberal framework. Their theory involves making small changes to encourage positive outcomes. One of the most well established ideas with regard to nudges is acceptance of an occurrence as the status quo. Nudges are positive as changes made through nudges can be cheap but effective. Nudges also maximise personal choice while modifying behaviour.

4.18 It is possible to put nudge theory into the language of criminal justice. Resolution is the element of the criminal justice system best placed to effect a nudge as changes implemented through a probationary regime can become part of someone’s everyday life, for example regular drug rehabilitation meetings. Unlike prison, where a vulnerable individual is separated from society and placed in an alien environment, before being reintroduced with a loud crash, the use of community programmes to improve the life of an individual is subtle but their effect is likely to be much greater as they will be implemented within the daily life of the individual in question.

4.19 To use a parallel from Thaler and Sunstein, a shop keeper is unable to forcibly persuade a customer to buy apples from their store based on their belief that the customer will be healthier if they buy an apple rather than a chocolate bar. In a liberal society such constraint is illegal and does not fit with our individual conception of liberty that urges the individual to strain against a force of compulsion. If the customer wants to buy chocolate they will do so anyway. However placing the apples in a prime location within the store can trigger the automatic part of the mind to choose the healthy food option assuming the individual is at least partially open to the notion in the first place. In the same way a localised resolution service that offers drug and alcohol recovery programmes within the community are more likely to be successful than prison as the individual is more likely to subconsciously accept the help on offer and to benefit from it.

**Probation and health**

4.20 One element that the Howard League would like to see improved in the modern probation service is health support. Health is an essential issue for allowing probation officers to build trust and establish a supportive relationship with individuals. Further, resolving health issues in the community will also hold the key to solving further reoffending.

4.21 83% of people in prison are smokers compared to just 22% of the general population. 44% of former offenders are at risk of alcohol abuse and 39% are at risk of substance abuse. 12 to 15% of the prison population have four or five co-existing mental disorders (Brooker, Fox and Callinan 2009). These poor health conditions are not currently being handled properly in the community.

4.22 For example, a recent study found that probation caseloads have high levels of alcohol-related need but 40% of alcohol-related interventions had not commenced four to six months after supervision had begun (Brooker and Mitchell 2010). During 2007–08 only 8% of dependent drinkers received an alcohol treatment requirement and only one in four alcohol treatment requirements was delivered in line with existing guidance.

4.23 Health needs to play a more integral role in the day to day functioning of a modern resolution service. Many at risk individuals access local GP services of their own accord but few of their problems are properly
identified due to their overwhelming need. The Howard League supports the idea, put forward by academics from the University of Lincoln, that health assessments would work best within the context of a resolution meeting (Lincoln 2010). If these assessments were conducted face-to-face with the individual concerned, their success rate would improve and they would potentially work to garner a greater atmosphere of trust between the individual and resolution officer. The resolution service should still utilise local medical professionals and services in order to achieve this shift.

4.24 The Howard League believes that a modern and more supportive resolution service must put a greater premium on health support of people in the community. A rehabilitation revolution will rely upon probation and the probation service must be given the tools to succeed. To paraphrase a famous NFL coach, “If they want you to cook the dinner, at least they ought to let you shop for some of the groceries.” At present, probation is being asked to cook and they should be allowed to bring the right ingredients to the table.

4.25 The Howard League believes that one of the core ingredients is better training regarding health issues. The Bradley Review highlighted that probation officers need better training as regards mental health awareness (Bradley 2009). This will help them to make better recommendations and deal more fully with a problem within the community. The University of Lincoln, in association with the national probation service have conducted pilot probation training and have concluded that such training could be relatively simple and cost-effective while providing an invaluable service.

Example of successful probation

4.26 The Howard League for Penal Reform runs a community programmes award in England and Wales and in the course of running this programme we have come across many strong examples of how to prevent reoffending through individualised support. These programmes provide some of the individualised support that is encouraged by McNeil and Weaver (McNeil and Weaver 2010). Some of our current award winners already involve current probation services getting it right. We see these programmes when probation is being true to itself and its own true nature; providing individualised assistance in the community in the aim of cutting offending and the social indicators of criminal behaviour. Below is just one example of what the Howard League considers to be good practice consistent with the principles enumerated above:

4.27 Kent probation area’s Northfleet Lunch Club helps to combat social exclusion of elderly people and reduce re-offending in Kent. Established 18 years ago, Kent Probation approached Northfleet Age Concern with a proposal to run a lunch club that would reach out to elderly users and help change offenders’ lives. Approximately 3,325 hours of unpaid work were performed at the lunch club last year. Those on the programme learn new skills, gain qualifications and a certificate in food hygiene and 15 offenders have achieved the Certificate in Skills at Work (CeSAW)—a pre-NVQ entry level qualification which can help them gain employment—through their work at the club.

4.28 Annexed to this report is a list of community schemes from this year’s Howard League community programmes awards. It details the name of the scheme and its location; we believe these each exhibit examples of good practice that through a modern resolution service could be used more widely.

5. Community Sentences

5.1 Community sentences are now an integral part of the criminal justice system; they are more than just an alternative to custody. Between 1998 and 2008 the number of people receiving a custodial sentence increased by 2% from 131,000 to 134,000. The use of community sentences has also gone up; the total number of community sentences at all courts was 196,400 in 2007, 2.9% higher than in 2006, and 40.3% higher than 1997 (Ministry of Justice 2010a).

5.2 The Criminal Justice Act 2003 brought into force the “generic community sentence”, also known as the community order. This allows judges and magistrates to combine what previously would have been different orders and tailor the sentence to fit the needs of an individual. The requirements that can be placed on an individual are:

(a) Supervision—by the probation service.
(b) Compulsory unpaid work—up to a maximum of 300 hours (increased from 240). This would involve constructive community work, such as conservation or cleaning up graffiti.
(c) Participation in specified activities—this may include improving basic skills (such as literacy) or making reparation to the people affected by the crime.
(d) Prohibition from undertaking specific activities.
(e) Undertaking accredited programmes—aim to change the individual’s behaviour.
(f) Curfew—where an individual can be ordered to stay at a particular location for certain hours of the day.
(g) Exclusion—where an individual can be excluded from specified areas.
(h) Residence requirement—where an individual may be required to live in a specified place, such as an approved hostel.
(i) Mental health treatment—which can only be required with the consent of the individual.
(j) Drug rehabilitation—which includes both testing and treatment, and can last for between six months and three years; again this can only be imposed with the consent of the individual.

(k) Alcohol treatment—the individual must agree to this treatment and it must last for at least six months.

(l) Attendance centre—individuals under the age of 25 may be required to attend a particular centre at a specified time for between 12 and 36 hours, over the course of their sentence.

5.3 Sentencers can select up to 12 different requirements on community orders, and advice to them suggests that there should be more requirements for individuals who committed more serious offences, and that individuals who committed minor offences should only have one or two requirements.

5.4 85% of community orders comprise one or two of the above requirements. The two most frequently used are supervision (37%) and unpaid work (31%) (Seymour and Rutherford 2008).

5.5 Community sentences also seem to work more effectively than prison in terms of rehabilitation. The one year reoffending rate for community orders was 37% in December 2007. This compares to a rate of 47% for adults released from prison and 75% for children (Howard League 2008). The reoffending rate for those who commenced a community order with an unpaid work requirement between 1 January and 31 March 2008 was 25.3%, while the reoffending rate for those who commenced a suspended sentence order with an unpaid work requirement over the same period was 17.5% (Hansard 2010).

5.6 Community sentences are also more cost effective than prison. Probation boards and trusts spent £614 million in 2007–08 supervising around 244,000 individuals. The ministry of justice has stated it is not possible to separate out these costs for individual forms of community sentence. In March 2005–06 the average annual cost per case for a community sentence was estimated as £3,265. This gives a simple average figure of £9 per day (Howard League 2005).

5.7 In a female context, a report by the New Economics Foundation (NEF) stated the cost of a prisoner place in female local prisons for 2006–2007 was £41,084 (NEF 2008). This compares with community sentence cost that ranges from £3,000 to £10,000 depending on type eg whether the facility is residential. There are many segments of society for which community sentencing represents a better investment than prison (Howard League 2006).

5.8 While community sentences work, they do face a problem in the public eye in terms of their immediacy. The Howard League would stress that in the future use of community sentences must be immediate—where possible a community programme should commence in the week after sentencing. For more specialist programmes, we believe there should be no more than four weeks between appearing in court and beginning the sentence. Delays do not help people complete their sentence and damage public confidence in community sentencing.

6. REBRANDING PROBATION AND THE COMMUNITY SENTENCE

6.1 Both probation and the community sentence have received a great deal of negative press coverage over recent years. Indeed the media seem to have targeted both as weak links in the justice armory. Below are just two examples, presented by an academic, of headlines aimed at the probation service (Maruna 2007):

“Probation service “failed” over murdered taxi driver” (Independent)

“Community sentences are a national joke. They are in place only to keep yobs out of the jails that Labour filled up without thinking to build any more.” (The Sun)

6.2 If a new effective resolution service is to work on the frontline of crime prevention, then it must have the confidence of the public. Dr Shadd Maruna has come up with a cogent explanation as to why probation seems to have been so frequently attacked in the media and he suggests that probation requires a new underlying ethos or narrative.

6.3 In this regard the offender management model of probation was partially responsible for digging its own grave. The narrative of this probation system was simply to protect the public from imminent risk. The problem with such a narrative is the inevitability of failure and the certainty that such failures will be high-profile. As Dr Maruna aptly puts it “…all it takes…was a scandal or two to blow the lid off the narrative. If your job is to end risk and to assure safety, you’ve set yourself up to fail” (Maruna 2007, p 117). The offender management approach set itself an impossible task of eliminating risk from an inherently risky process, working with vulnerable individuals and former prisoners.

6.4 A resolution service with the renewed objective of working with high risk individuals in the community for neighbourhood safety would by its nature have more pluralistic objectives. While it would strive to keep the public safe it would also strive to treat or assist those at high risk of reoffending as individuals. Within this dual message of social work and public safety is a patent acceptance of the complexity of the task at hand and the implicit comprehension that with the task comes the risk of failure.

6.5 While changing the narrative is now essential, this alone will not be enough, under NOMS the probation service and the notion of community sentences has been allowed to atrophy to such a great extent in the public consciousness that neither command the respect and public support they deserve. The Howard League has
previously recommended that the probation service requires a change of name. In the past we have recommended redubbing the service a “resolution service”. This is a recommendation we continue to support as it would better fit the changed objectives and ethos of the revitalised probation service outlined above. A resolution service implies that it is a service for all the community, working in the local area. It implies that it is working with individuals as prescribed by McNeill and Weaver’s notion of desistance and that in the future there will be scope to get public volunteers to take part in the provision of its services. Local people need to feel as though they are a part of a resolution service, this knowledge and familiarity with the service will breed confidence that will mainstream rehabilitation of individuals back into society.

6.6 The Howard League also reiterates that probation is suffering from the lack of a high profile representative, a face that would be equated with the complex argument that it is not always prudent to just lock an individual in prison. If a re-energised resolution service is to emerge, it must include a champion who will be the public face of community sentences—something that has never been achieved. What is required is a wholesale shift around the confused and failing message of previous years; this is both a policy and a PR exercise. The role of both of these elements cannot be overstated as for probation to succeed two boxes require ticking; resolution must be effective and the public must have confidence in it. These two do not always necessarily go together (Howard League 2007).

7. CONCLUSIONS

7.1 The Howard League for Penal Reform believes in the probation service. The last government tested the notion that prison works to destruction and it is a theory that has been repeatedly disproved. For the many people in this country who commit repeated but minor crimes, effective probation is more likely to present a cost and outcome effective solution.

7.2 However the legacy of NOMS has been to pollute the role of the probation service and turn it into something it was never designed to be, a persecuting and monitoring force on those people the state would rather lock up. This notion of probation is unambitious and ineffective. Instead it is our submission that this new government should let probation be probation.

7.3 As well as being overly prison-centric the past government also focussed too much on the virtues of new public management. While the benefits of NPM are evident in the holistic approach in the offender management pathway, which is fundamentally correct in looking at the entire route of a prisoner through the system, the principles of risk that have become synonymous with frontline probation services are principles that would have been better reserved for management itself and not the individual probation officers. The effect of the removal of the social welfare element from the probation service is to undermine the very nature of probation; it is an element that must be restored if a rehabilitation revolution is to become a reality.

7.4 The Howard League supports the rebranding and restructuring of probation to a modern resolution service. A modern resolution service must carefully balance the needs of the individual concerned with some element of risk management. They must aim to cut crime through engagement with the individual. Resolution officers must be allowed to work freely with individuals and with the local community. They should be capable of working with at risk individuals but also capable of pulling together all the supportive strands of the local community to make the most of the big society in which we live. A new resolution service would create the scope to undertake a much bigger social project engaging with multiple matters of local and community injustice, within a context of personal responsibility and community service.

7.5 Saving probation is not an easy battle. Following years of neglect there is no certainty that the system can be saved. However it is a locally-based agency that when it is true to itself works to assist vulnerable individuals. If probation is to survive, its best chance of survival is for it to be allowed to be true to the founding ideals of probation once again.

8. REFERENCES

The following sources and materials were used in the compilation of this report:

Bradley (2009) Lord Bradley’s review of people with mental health problems or learning disabilities in the criminal justice system.

Brooker and Mitchell (2010) Assessment of alcohol strategies in prisons extracted in All not equal in the eyes of the law, University of Lincoln.


Hansard (2010a) Citation: HC Deb, 13 September 2010, c863W.

Hansard (2010b) Citation: HC Deb, 3 March 2010, c1251W.

University of Lincoln (2010) All not equal in the eyes of the law, University of Lincoln.
16 September 2010

Annex A

COMMUNITY PROGRAMMES RECOMMENDED BY THE HOWARD LEAGUE FOR PENAL REFORM

Below is a description of the winners of the Howard League for Penal Reform’s community programmes awards 2010. For each winner of each category there is a description of the work the project undertakes. The categories demonstrate the plurality of options for engaging with at risk individuals in the community, as individuals. Following the descriptions of this year’s winners there is a list of the other outstanding projects that were shortlisted by the Howard League in this year’s competition.

Unpaid Work Category
The Rugmer Project—Kent Probation

Winner 2010

Set up in 2009, the project provides a facility for service users on Community Payback to gain qualifications whilst undertaking their sentence. Service users work to keep a collection of war machines in top condition in exchange for basic skills qualifications. The exhibits restored contribute to the Heritage collections displayed in museums in the UK and abroad. Visibility of Community Payback is achieved through the display and labelling of the work done on each artefact.

Offenders have the opportunity to spend 20% of their Community Payback hours gaining engineering skills, level 2 qualifications in numeracy and literacy and NVQ in Engineering Operations. 80% of service user hours are spent providing the labour to clean and maintain exhibits, which include a number of rare military tanks.

Adult Category
Restorative Justice Service—Thames Valley Probation

Winner 2010

The programme involves restorative justice being delivered as a Specified Activity Requirement of Community or Suspended Sentence Order of the CJ Act 2003. Eligible and suitable offenders are required to undertake up to four days of activity. The programme works with adults “on the cusp” of custody who are being sentenced for violent offences, offences of household burglary, or other offences where direct personal harm is caused, including offences of causing death by careless driving.
The four days/sessions are Introduction, Preparation (for RJ Conference), RJ Conference and Review. An RJ Conference involves the victim and offender, their families, friends and supporters, meeting together to talk about:

- what happened (in relation to a violent offence, an offence of household burglary, or an offence where direct personal harm has been caused);
- who was affected by the incident of harm and how; and
- what can be done to repair the harm (which leads to the preparation of an outcome agreement signed by all parties).

Where the victim does not wish to take part in a face-to-face meeting, other restorative activities take place. These may include the preparation of a letter of apology.

**Intensive Supervision & Control project (ISAC)—Wales Probation Trust**

**Runner Up 2010**

ISAC project is part of the national Intensive Alternatives to Custody project (IAC). The project has been working in selected courts and probation offices across South Wales and Dyfed Powys since September 2008. Primary aim of the project is to provide sentencers a robust alternative community sentence in order to divert adult offenders away from short term custody of less than 12 months. This is provided through an Intensive Supervision Control Community Order (ISACC) which provides a combination of punishment and control in addition to rehabilitation in a community setting. A common example of an ISAC Community Order would include intensive supervision, an electronically monitored curfew, unpaid work hours and an Alcohol Activity Requirement. A priority service is also provided for female offenders as there is no female prison in Wales and in recognition of the diverse needs of women a partnership between the project and the Women’s Turnaround Project has been set up.

**Education, Training & Employment Category**

**New Skills, New Lives Project—Kent Probation**

**Winner 2010**

New Skills, New Lives is the result of a creative partnership between criminal justice agencies; further education colleges; training providers; and employers.

The scheme improves the skills and employment prospects of offenders on community sentences, through a comprehensive package of education, training, employment and support for offenders.

Delivered in three parts, the project focuses on employability and training; personal development; literacy and numeracy skills. Skills for Life education is provided by a team of dedicated tutors all of whom are ex-offenders employed by Just One Step and recruited from Kent’s resettlement prisons and probation offices.

The initiative works with private and public sector employers to provide work placements for offenders. Each of these placements is attached to a fully funded vocational qualification delivered by a Kent based training provider. Topics include money management, retailing, IT, book keeping and food hygiene.

Support for offenders is provided by mentoring and peer advisors from St Giles Trust. Participating employers also receive on-going guidance and support, with account management from an education provider and relevant criminal justice agency.

**Children & Young People Category**

**Programmes Team—Leeds Youth Offending Service (YOS)**

**Winner 2010**

In late 2009 the Council’s Comprehensive Area Assessment identified burglary as a Red Flag Offence in Leeds due to the high rates of burglary offences in the city compared to other areas of the country.

Leeds YOS took on the task of creating a substantial community intervention, to work with young people convicted of burglary offences, which would work on preventing re-offending and be available as a sentencing option to the courts providing an alternative to a custodial sentence.

3 burglary programmes have been developed which are available as sentencing option at court, with awareness training having been delivered to court magistrates, case workers and pre sentence report writers. Packages to reduce offending behaviour in relation to burglary are:

- Impact—six session individual programme, helping young people aged 10–13 to reduce their offending by developing victim empathy, addressing peer pressure and sign posting positive routes forward.
- Breakin’ Out—Eight session individual programme to help young people aged 14+ address decision making and understanding victim empathy.
— Short Break—a programme two 1½ hour group work sessions to help young people aged 14+ to understand their thought process, developing victim empathy and planning for the future.

**Pre-Reprimand Disposal (PRD)—County Durham Children & Young People's Services**

**Runner Up 2010**

With commitment of colleagues in County Durham Youth Offending Service and Durham Constabulary, a creative solution to improve outcomes for young people and reduce the number of first time entrants to the youth justice system has been developed and implemented—PRD. Young people who enter the criminal justice system for low level offences risk limiting their employment opportunities due to a criminal record. PRD was developed to improve young people’s chances by ensuring their needs are identified and met and thus avoid being criminalised. The programme is voluntary and offered to young people who commit their first offence and who otherwise would receive a police reprimand. PRD ensures interventions are based on assessment via the Common Assessment Framework (CAF) and Onset, are effectively aimed at preventing further offences being committed by providing early intervention to address identified needs. Interventions include; offending behaviour, welfare need; family support; and restorative justice.

The unique elements of PRD include: the use of CAF to assess needs; the use of police bail until PRD is completed; the integrated approach of assessment and delivery of intervention with partners; restorative justice; and robust leadership and monitoring arrangements.

**WOMEN’S CATEGORY**

**West Yorkshire Probation and Together Women Programme Plus—Together Women Project (TWP) Yorkshire and Humberside**

**Winner 2010**

TWP supports female offenders and women at risk of offending. Previously a successful government demonstration project, TWP is now an independent charity with centres in Leeds, Bradford, Doncaster, and an outreach centre in Keighley and New Hall prisons. TWP centres are gender specific “one-stop-shop” which supports vulnerable hard to reach women to tackle multiple and complex issues which trigger offending. TWP Plus is a gender specific offender management model—using NOMS offender management model principles and is the first area to invest in a women’s centre to deliver offender management to women at a one-stop-shop centre.

The scheme aims to deliver intensive interventions to high risk offenders and those women with the highest levels of criminogenic needs. TWP key workers and offender managers work together to provide holistic end to end offender management. They work together with the woman to identify what community support needs, services from one stop centres and one to one support from both key workers and offender managers are required. Specialist offender managers are able to learn from best practice from TWP and TWP is able to learn from West Yorkshire Probation how to manage women offenders on a statutory basis.

TWP plus provides:

— fully integrated support to women on probation caseloads;
— reduce re-offending;
— divert women from custody;
— develop strong partnerships with other providers; and
— access to services to address criminogenic needs.

**Adelaide House Women’s Approved Premise & Outreach Project—Liverpool Diocesan Council for Social Aid**

**Runner Up 2010**

Liverpool Diocesan Council for Social Aid Adelaide House has a long history of working with disadvantaged, socially excluded women who often have a range of complex needs including but not exclusively, historic/current substance misuse; victim of sexual and/or physical violence, mental/physical health issues; family and/or relation problems; offending behaviour; street working. A key element of the programme includes assisting women to build confidence and self esteem. A personal development programme is put in place to help individuals to develop interpersonal, analytical and organisational skills.

The Community Order which is supervised by an offender manger will contain a Condition of Residence to reside at Adelaide House Approved Premises for a period of between six months to two years. Prior to the court making the order Adelaide House requests a three to four week Bail Assessment period to assess the women’s situation and put in place a support and risk assessment measures which will give the court confidence in making the order.

Adelaide House works in partnership with the Lucy Faithful Foundation in respect of working with women who have sexually offended against children. It also works with Merseyside Probation Trust to deliver The
North West Achieve Women’s ETE Project—women undertake basic skills assessment and subsequent tutoring, working towards level 1 and 2 literacy and numeracy.

**ALL SHORTLISTED PROJECTS – 2010**

*Education, training & employment category*
- New Skills, New Lives Project—Kent Probation—*Winner.*
- The Rugmer Project—Kent Probation.

*Children & young people category*
- Programmes Team—Leeds YOS—*Winner.*
- Pre-Reprimand Disposal—County Durham Children & Young People’s Services—*Runner Up.*
- Dance United, London.

*Women’s category*
- Adelaide House Women’s Approved Premise & Outreach Project—Liverpool Diocesan Council for Social Aid—*Runner Up.*
- Women Outside Walls (WoW!) Project—Cyrenians Women’s Services.
- Dawn Project—Peterborough Women’s Centre.

*Unpaid Work category*
- The Rugmer Project—Kent Probation—*Winner.*
- Community Service Reparation Service, Sacro.
- Community Justice Interventions Wales.

*Adult category*
- Thames Valley Probation RJ Service—*Winner.*
- Intensive Supervision & Control project—Wales Probation Trust—*Runner Up.*
- Intensive Alternative to Custody Project—Humberside Probation Trust.
- Integrated Offender Management project—Humberside Probation Trust.
- Community Integrated Domestic Abuse Programme (CDAP)—St Giles Trust.
- Developing Initiatives Supporting Communities (DISC)—Co Durham.
- Intensive Alternative to Custody Project (IAC)—West Yorkshire Probation Trust.
- Intensive Alternative to Custody—Derbyshire Probation Trust.

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**Written evidence from the Surrey and Sussex Probation Trust (PB 38)**

1. **EXECUTIVE SUMMARY**

1.1 The current commissioning model is confused and probably does not represent value for money. The restrictive nature of the Trust Contract and the focus on process and input targets rather than outcomes, inhibits innovation, excludes other key local stakeholders in the design or commissioning of services and sometimes makes it hard for us to be as responsive to our local partners.

1.2 The Surrey and Sussex Probation Trust was formed on 1 April 2010 following the merger of two successful probation areas—Surrey and Sussex. it is operating effectively and meeting the targets set by NOMS. The recent HMIP Report found that there was no reduction in the quality of delivery despite the merger demonstrating that Probation Trusts can operate effectively.

1.3 The Trust would welcome a review of the Offender Management model to establish clarity between the process of administration and rehabilitation. SSPT is hosting a national pilot (referred to as the Professional Judgement Project) to allow probation staff professional freedoms to decide, within the ambit of the sentence imposed, how an order or licence should be constructed and supervised. The project has begun to identify benefits in providing probation staff with the freedom to make decisions about how best to allocate resources to address offending behaviour eg levels of contact and interventions. We are firmly of the view that this new approach should be adopted nationally. It would provide all Trusts with the scope to focus on meaningful rehabilitation as opposed to a process driven administration of the sentence.

1.4 It is recognised that existing resources make delivery of the full range of interventions to meet offender need to effectively reduce re-offending eg accommodation, health, family support, unachievable within the
current framework. The Trust believes this situation would be eased if Trusts were provided with the freedom to commission services based on local offender need instead of having to meet centrally imposed targets to deliver specified interventions.

1.5 The Trust has actively pursued collaboration with the voluntary sector to enhance service provision. It believes that the private sector has much to offer in respect to support services and actively engaging with the employment and training of offenders.

1.6 The recent HMIP Inspection of the Trust concluded that it had the resources to deliver the service required but little, if any, spare capacity. To move away from short term custodial sentences and replace them with community sentences would be difficult to absorb.

1.7 The Trust would welcome a Restorative Justice component in any new Sentencing Framework.

1.8 The Trust welcomed the introduction of the Professional Qualifying Framework. The lack of post qualification arrangements has led the Trust to introduce local arrangements. There is no consistent development programme for Chief Executives and senior managers.

2. THE EVIDENCE

2.1 Are probation services currently commissioned in the most appropriate way?

2.1.1 The current commissioning model is confused and probably does not represent value for money.

2.1.2 The primary mechanism is the contract between the Secretary of State and individual Probation Trusts for the delivery of probation services in their area. This is highly bureaucratric, process driven and designed to allow Trusts little freedom for local innovation. The contract is controlled by NOMS HQ but managed through the Regional Directors of Offender Management whose local commissioning role is limited.

2.1.3 SSPT has organised service delivery around our four Local Delivery Units (LDUs) which are coterminous with the Tier 1 and Unitary Authorities located within the Trust. The SSPT LDU Directors are operational managers with a primary role to jointly commission offender services in collaboration with partners to ensure that offenders can access mainstream services and other support to make the lifestyle changes that are often a prerequisite to reducing reoffending. This locality based commissioning is becoming increasingly effective and it is possible to commission niche providers who know the area and its problems but would be unable to operate at a Trust or regional level.

2.1.4 That said, the restrictive nature of the Trust contract and the focus on process and input targets rather than outcomes, inhibits innovation, excludes other key local stakeholders in the design or commissioning of services, and sometimes makes it hard for us to be as responsive to our local partners as we would wish (see comments regarding Accredited Programmes in the Response to Question 3 post).

2.1.5 SSPT has fully engaged with the West Sussex Total Place project and we believe that this approach could provide a model for future local commissioning and accountability.

2.2 How effective are probation Trusts operating in practice? What is the role of the probation service in delivering “offender management” and how does this operate in practice?

2.2.1 Probation Trusts

2.2.1.1 The Surrey and Sussex Probation Trust was formed on 1 April 2010 following the merger of two successful probation areas—Surrey and Sussex—it is operating effectively and meeting the targets set by NOMS.

2.2.1.2 Operationally, the Trust is keen to press ahead with plans to reduce costs, devolve more responsibility to local managers to enable them to cooperate more closely with local partner agencies and improve outcomes. Regrettably, the promised freedoms for Probation Trusts have, to date, failed to materialise and some of our most significant cost drivers including IT and estates delivered centrally by the MoJ are both expensive, inflexible and unresponsive to local needs. The requirement to operate within one year budgets with no capability to hold or manage reserves significantly inhibits effective medium and long term planning which in turn has an impact on cost effectiveness.

2.2.1.3 Despite these constraints the Trust has achieved the initial planned benefits of merger including realising economies of scale and the Probation Inspectorate recently gave the following judgement:

“The planning for the merger was substantial and had led to some disruption. It was gratifying, therefore, to find that this upheaval had not led to a reduction in the quality of service delivery”.

(HMIP 2010)

2.2.1.4 On the basis of that assessment we believe that the Trust has the potential to be effective but could achieve so much more if it was provided with greater freedom to innovate and collaborate with a wide range of partners.
2.2.2 Offender Management

2.2.2.1 The Trust would welcome a review of the Offender Management model to establish clarity between the process of administration and rehabilitation.

2.2.2.2 The term offender management is used variously at times to refer to systems, processes and outcomes and as such can be an impediment to understanding.

2.2.2.3 At its heart was the concept of an offender journey, from sentencing, through punishment and rehabilitation to reintegration into the community, with probation staff actively involved both in providing assessment and advice to sentencers and then actively managing each stage of the delivery of the sentence.

2.2.2.4 This is a valid model but inevitably and rightly many other agencies and individuals are involved, and every offender is unique. It is therefore helpful to clarify the three areas in which the skills and expertise of probation staff add particular value to the process. The first is assessment of offenders including the risk they pose to others; the likelihood of their reoffending; their attitudes to their offending, their victims and their inclination to change; and the obstacles to their successful rehabilitation (such as literacy and numeracy deficits, substance misuse, mental health problems). Assessment is a continuous process without which progress or regression cannot be measured and managed. Probation Officers are specifically trained in this work and by and large it is done well in a challenging environment.

2.2.2.5 Second is the understanding and motivation of offenders. Probation Officer training provides the necessary academic understanding and practical skills to enable them to work effectively with offenders to challenge their inappropriate attitudes and lifestyles and motivate them to change. This includes signposting offenders to other services which is the third main area of work. It is probation’s close cooperation with local services, including co-commissioning, which provides both the knowledge and availability of the services which offenders need to access to become fully functioning citizens and productive members of society.

2.2.2.6 This is the ideal model. In practice resources will never be sufficient to do everything with every offender, nor would it be sensible. NOMS approach to performance management has been over prescriptive with too great an emphasis on process and one size fits all through the requirements of the National Standards prescriptions. This needs to change to a focus on outcomes—reduction in reoffending and public safety. SSPT is therefore pleased to be hosting a national pilot (referred to as the Professional Judgement Project) to allow probation staff professional freedoms to decide, within the ambit of the sentence imposed, how an order or licence should be constructed and supervised. The project has begun to identify benefits in providing probation staff with the freedom to make decisions about how best to allocate resources to address offending behaviour eg levels of contact and interventions.

2.2.2.7 We are firmly of the view that this new approach should be adopted nationally. It would provide all Trusts with the scope to focus on meaningful rehabilitation as opposed to a process driven administration of the sentence.

2.2.2.8 The third area is the management of offenders who pose serious risk to the public is undertaken through the Multi Agency Public Protection Arrangements. Senior probation staff and police officers co-chair case review panels which oversee the preparation and execution of individual offender management plans. Within Surrey and Sussex these arrangements work well.

2.3 Are magistrates and judges able to fully utilise the requirements that can be attached to community sentences? How effectively are these requirements being delivered?

2.3.1 SSPT has a good track record in the enforcement and compliance of sentence requirements as demonstrated by our recent Offender Management Inspection (Implementation of Interventions = 80%). On that basis we believe we have the confidence of our sentencers that when orders are imposed that they will be delivered as required.

2.3.2 However, it is recognised that existing resources make delivery of the full range of interventions to meet offender need to effectively reduce re-offending eg accommodation, health, family support, unachievable within the current framework.

2.3.3 We believe this situation would be eased if Trusts were provided with the freedom to commission services based on local offender need instead of having to meet centrally imposed targets to deliver specified interventions eg accredited programmes. These programmes are expensive and need to be carefully targeted at offenders with specific characteristics. For some offenders—such as sex offenders—accredited programmes are the right solution but for many others a less prescriptive approach would allow greater participation and similar efficacy at lower cost.

2.3.4 SSPT has been developing Specified Activity Requirements to address a broader range of offender need. Sentencers have found this approach helpful. This strategy could be accelerated if the Trust was allowed the opportunity to release resources from accredited interventions.
2.4 What role should the private and voluntary sector play in the delivery of probation services?

2.4.1 The SSPT Board has recently reviewed our core business and concluded that our staff’s key skills are the assessment and supervision of offenders in the community for the benefit of the courts, public and other service providers.

2.4.2 Whilst we believe that assessment and statutory supervision are core roles for a public sector probation service we consider that the private and voluntary sector have much to offer in the provision of rehabilitation services.

2.4.3 Within SSPT we have actively pursued collaboration with the voluntary sector to enhance service provision. The best example of this approach has been the INSPIRE project, this is a collaboration between SSPT and the women’s voluntary sector. The model combines our skills of assessment and oversight with the specialist knowledge from the voluntary sector who deliver rehabilitation services for offenders.

2.4.4 We believe that the private sector has much to offer in respect of support services eg ICT. However, the constraints imposed by national contracts has prohibited the development of local arrangements.

2.4.5 A further area where the private sector could be more actively engaged is within employment and training of offenders. SSPT welcomes the proposal of payments by results by results and believes this holds the potential to provide the private sector with the incentive to open up such training and employment opportunities.

2.4.6 There is also scope for partnerships between the public and private sectors in the delivery of services which could harness the private sector’s logistic skills and communications infrastructure.

2.5 Does the probation service have the capacity to cope with a move away from short term custodial sentences?

2.5.1 SSPT has launched a new scheme in July 2010 for prisoners serving less than 12 months custody. The project has been designed to accommodate a group of offenders who previously would not have received contact from SSPT. By diverting resources into this group we believe we can make a direct impact in reducing re-offending.

2.5.2 Whilst this scheme for short term prisoners is valuable it only covers a small number of those to whom it could apply. SSPT as currently funded has limited capacity to accommodate significant new work. The recent Offender Management Inspection supports our assessment “the Trust (SSPT) has the resources to deliver the service required, but there is little, if any spare capacity”. HMIP 2010.

2.5.3 Less use of short prison sentences, if sustained, would allow prisons to be closed and the funding transferred to community provision but there would need to be an injection of additional funding at the start. The relaxation of National Standards and increased freedom for probation staff to make decisions about the allocation of their resources (as is being piloted in the Professional Judgement Project described above) would in our view be a significant help in ensuring that the available funding is used to best effect.

2.6 Could probation trusts make more use of restorative justice (RJ)

2.6.1 SSPT is already working alongside Surrey & Sussex police to develop our approach to RJ and exploring how we might exploit the methods that have been deployed with youth offenders. We believe that there is scope to increase the application of this approach and would welcome an RJ component within any new sentencing framework.

2.7 Does the probation service handle different groups of offenders appropriately, eg women, young adults, black and minority ethnic people, and high medium offenders?

2.7.1 SSPT has worked hard to accommodate the needs of women offenders to divert them from receiving short term prison sentences. The INSPIRE project (see above) has utilised the skills of probation staff and the voluntary sector to identify the complex needs presented by women.

2.7.2 SSPT has hosted a national project to develop the Mental Health Court in collaboration with our CJS partners in Sussex. The project provides early intervention at the first court hearing for all offenders who have been identified with potential mental health problems. The unique role of probation staff in courts pre and post sentence has been critical to success in developing the Mental Health Court located at Brighton. This project has been subject to a full evaluation by the MOJ and has demonstrated how probation staff can be trained to work in collaboration with mental health nurses to divert this vulnerable group from custody.

2.7.3 SSPT has invested in dedicated public protection teams. We select our most experienced staff to supervise those offenders who pose the highest risk of harm to the community. The staff are provided with additional training to equip them with the skills to manage this difficult group of offenders. The Offender Management Inspection made the following assessment about staff skills “Of the staff we interviewed, 84% judged that training and skills were sufficient to do there current job” HMIP 2010. On the basis of that assessment and our commitment to invest in our staff we believe that probation staff in SSPT have the skills to manage the medium and high risk offenders.
2.8 Is the provision of training adequate?

2.8.1 Qualifying Training

2.8.1.1 SSPT has welcomed the introduction of the Probation Qualifying Framework (PQF) introduced in April 2010. The new framework should provide us with more direct control over the number of new recruits we require to meet local demand. The training also has the advantage of enabling staff from a wide range of roles to progress through the system to become a qualified probation officer.

2.8.2 Post Qualifying and In-house training

2.8.2.1 There are no formal post qualifying arrangements for Probation practitioners, however within SSPT we have taken the opportunity of creating a professional development programme supported by Quality Development Officers (QDO). Each of our operational teams have the support of experienced Probation Officers who, in their QDO role, provide advice, peer review, mentoring and coaching to colleagues to enhance professional practice whilst still maintaining a reduced caseload themselves.

2.9 Leadership and Management Development

2.9.1 NOMS has failed to provide a consistent development programme for Chief Executives and senior managers. SSPT has instead invested its own resources to ensure that its Executive Team and senior leaders are equipped with skills to manage a complex environment.

2.9.2 Looking to the future we believe that senior probation leaders should be granted the same access to the senior leadership training that is provided to other senior government officials eg SCS grades.

September 2010

Written evidence from the Magistrates’ Association Judicial Policy and Practice (PB 19)

Introduction

Since its beginnings over 100 years ago, the role of probation has changed—and perhaps the first question that the Justice Select Committee should address is—what is the fundamental purpose of the service? The purposes of sentencing are clear—they are set out in legislation, but do the aims of probation match this?

— The punishment of offenders.
— The reduction of crime (including the reduction by deterrence).
— The reform and rehabilitation of offenders.
— The protection of the public.
— The making of reparation by offenders to persons affected by their offences.

Magistrates have a high degree of confidence in community sentences—witnessed by the large number of such sentences imposed and by the high level of agreement with community order proposals put forward in pre-sentence reports by the Probation Service. This has coincided with a 15% reduction in the number of offenders sent to prison by magistrates for non-summary offences from 2007–09 (MoJ Sentencing Statistics Brief).

Community Orders represent almost 40% of magistrates’ courts disposals for non-summary offences and are therefore a critical component of magistrates’ sentencing options. They are acknowledged to be the most effective disposal to achieve a reduction in reoffending.

There are three stages at which the probation service interacts directly with sentencers:

1. Pre-Sentence Reports

Information given on the offender by the probation service through pre-sentence reports is information that a sentencing bench would not otherwise have. More importantly, information is given with an in-depth knowledge of the programmes that are available locally, and these vary across the country. PSRs are invaluable to sentencers because they enable a bench to sentence with the full knowledge of local requirements that they may then deem necessary to accommodate the five key elements of any sentence:

— Punishment;
— Rehabilitation;
— Reparation;
— Protecting the public; and
— Reduction in crime.

In the past, long periods elapsed between the court request for pre-sentence information and its delivery by the probation services. This situation had improved with the introduction of “standard” and “fast” delivery reports—and, in some courts this led to a high probability that a report could be delivered on the first sentencing
hearing date. However, because of the decreasing availability of probation staff at courthouses, this is beginning to drift back towards delays in many areas of the country. Reports are now rarely provided on the day, but within a few days. This is preferable to the original three week delays that were the norm not many years ago but experience around the country would suggest that the momentum for speedy delivery of justice is being lost because of financial imperatives. “Fast delivery reports” as originally envisaged are not working and it is feared that the time to produce fast delivery reports may lengthen even further due to the numbers being requested and as probation is forced by budgetary cuts to reduce its staff numbers.

2. **In court**

   The presence in court of probation is important in four respects:
   
   (a) Probation staff can hear the reasons for the PSR which may not always be apparent in the documentation.
   
   (b) Probation staff can be questioned about offenders’ previous response to community orders; something that is not always demonstrated on an offenders’ record, which itself is often not up to date.
   
   (c) Probation staff can give an update on the effectiveness and/or progress of a current order.
   
   (d) Programme content and options can be discussed prior to sentence with complete knowledge.
   
   (e) The offender is party to these discussions in court which assists the concept of engagement and the involvement of the offender.

   Although some of this information forms part of the magistrate’s sentencing form, these forms are not universally used in the magistrates’ courts. All justices use them—but some other members of the judiciary do not which often leads to the need for duplicated communication in court prior to a final sentence being passed. The sentencing bench must have all relevant information available.

3. **Post court**

   Management of offenders either on community orders or on licence following custodial sentences is vital for many reasons:

   (a) To co-ordinate a sentence.
   
   (b) To monitor progress.
   
   (c) To ensure compliance.
   
   (d) To monitor and report breaches.

   Magistrates and probation staff will often work together in the final stages of a community based order with the Magistrate joining the closing session to issue certificates or to commend the offender for completing the sentence.

   It is important that a single agency is responsible for the management of offenders. We believe that the current arrangement is difficult enough to control without adding in different pressures that may come from different organisations and different types of organisation.

   We would also like to see more co-operation within NOMS leading to more programmes being coordinated during spells in custody and their seamless transition to the community licensing period.

   Financial pressures particularly from private organisations brought into the CJS could change the focus from service delivery to profitability. The Criminal Justice System is of such importance to public confidence that a focus on profit would move the CJS away from its core aims.

**Responses to the Particular Questions Posed**

(a) **Are probation services currently commissioned in the most appropriate way?**

   Sentencers require a single body from whom to gain information and through whom to co-ordinate community sentences. We have that at the moment in the Probation Service.

   Currently probation services are commissioned from the Ministry of Justice (MoJ) via National Offender Management Service (NOMS) then regional Directors of Offender Management Services (DOMS), acting for NOMS, then via Probation Trusts. We see no reason why a department of the Ministry of Justice cannot commission services directly. There seems little need for NOMS and therefore DOMS. Allowing Probation Trusts to commission would ensure that all types of contract are possible with all sorts of providers, rather than moving towards specific national organisations taking most of the contracts. There is merit in small providers supplying services, particularly on a local basis.

   Probation Trusts are probably best at providing close working (including one to one work) with offenders. Of course, other organisations could do this but whether they would have the same dedication and genuine desire to reduce reoffending through this kind of work is questionable.
Magistrates’ experiences of Clear Springs, the previous national provider for bail accommodation, have not been altogether positive. We wait to see how the new provider operates.

(b) How effectively are probation trusts operating in practice? What is the role of the probation service in delivering “offender management” and how does it operate in practice?

The effective operation of probation trusts varies from trust to trust. The last reorganisation has led to quite a few mergers and more are likely in the future. The removal of DOMS and the regional structure could increase possible mergers (eg Cheshire and North Wales have close links). We regret the fact that serving magistrates are no longer eligible to sit on trusts and look for improved methods of liaison in the future.

Offender Management means working with an offender throughout the duration of his/her sentence and licence. This seems to work reasonably well and involves, amongst other things, the use of analytical computer tools such as OASys which is currently being made less complicated, for greater ease of completion.

Currently, models around Integrated Offender Management are being trialled. These involve very close working with other agencies such as police and local authorities. Partnership work is the key here and one wonders if non Probation Service organisations would manage this in such an acceptable manner.

The Probation Service as a whole has an extremely dedicated workforce which is clearly an asset in terms of performance. As magistrates we know that “managing offenders” requires a balance of enforcement and encouragement to ensure that the court’s wishes are complied with and that sentences are completed. We know that offenders in the community can only be managed to the extent they are willing and capable of being managed. Using enforcement too readily can make it more difficult to get the sentence completed.

Magistrates are also aware that there is a gulf between the post release supervision provided to those on sentences of 12 months and more and the total lack of supervision of those released after short sentences. It is sometimes argued that more public protection is provided by a community order involving two years’ supervision than by a prison sentence of two months followed by nothing at all.

Magistrates would like to see more co-operation between the custodial and community divisions of NOMS.

(c) Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?

Services are provided professionally, but their provision is piecemeal at best—which means that good practice does not necessarily roll out from area to area and region to region. Specialist programmes for drug-users, alcohol abusers and the mentally disordered are particularly patchy. This is potentially causing injustice because some offenders who are not getting the programmes that they require.

There are many examples on a local basis which demonstrate that not all requirements are available in each local area. For example there are no attendance centres in Thames Valley so an attendance centre requirement is impossible. Expanded, this must means that not all offenders have the same opportunities for reform across the country, which in turn would indicate that there is a postcode effect operating. Much of this, locally, is said to be due to lack of appropriate funding, so that the probation trust has to cut its cloth for best effect. For example, probation will seek to have supervision requirements restricted to the highest risk offenders because they do not have the staff to supervise every offender on a community order. Resource shortages can also mean that offenders have to wait before they can start a programme because there is more demand than there are places available. The community domestic violence programme is one where there are often long waits after sentencing before a place can be made available. The mental health treatment requirement is very little used because it requires assessment. Moreover, some parts of the country report that curfew is not recommended as often as it might be because report writers are not familiar with it, as it is not administered by probation.

Additionally, feedback on the success or otherwise of types of combinations of requirements does not happen as much as we would like. We do not require a “tick box” combination approach, but we would benefit from better knowledge of how effective particular combinations of programmes are in certain circumstances.

(d) What role should the private and voluntary sectors play in the delivery of probation services?

Both sectors have much to offer—that is not at issue. What is at issue is whether they should be commissioned and directed by probation trusts or whether they should tender directly to DOMS, NOMS, MoJ in direct competition with probation trusts.

Commissioning ought to be done by the probation trusts. We are concerned that a profit motive would adversely affect private sector delivery if not commissioned through probation trusts. Small, but very effective, local service providers could find themselves too small to compete on a level playing field.

We would be concerned if offender management were to be outsourced, partly because this is the core probation activity and partly because we doubt that there are qualified probation officers already available to do the work in the private sector. Outsourcing offender management would probably therefore just mean changing the employment status of the existing workforce.
(c) Does the probation service have the capacity to cope with a move away from short custodial sentences?

Almost certainly not because it struggles to cope with its present workload. The logical approach would be to reinvest some of the savings from reducing short custodial sentences into probation services. This might take five years to implement properly. We would be very concerned if a reduction in short custodial sentences meant an increase in the already very high workloads of probation officers and deterioration in their effectiveness.

Offenders who serve short prison sentences are likely to be persistent offenders who have not engaged well with probation in the past. They are likely to be very resource intensive if they are given community orders and probation will not be able to cope with them. There are schemes in Greater Manchester, Derbyshire and elsewhere piloting “Intensive Alternatives to Custody” which are proving very successful, but which are only available on a piecemeal basis, because of funding.

If the savings released from not sending someone to expensive custody could be directed towards probation then these options would become more viable. Perhaps a system of funding following the offender could be considered?

One of the problems is that the institutions to which offenders are sent for a short term are geared up for long term offenders. This does not mean that a short term custodial sentence is not appropriate but that the operation of the sentence cannot treat the cause of offending behaviour. An extremely high proportion of the offenders given a short custodial sentence have already served a number of community sentences with a variety of requirements that have failed to address their offending behaviour. So there is a continuing need for short custodial sentences available to the judiciary for this type of repeat and sometimes prolific offender.

(f) Could probation trusts make more use of restorative justice?

Restorative Justice is quite clearly an ethos with which probation is comfortable. Most sentencers have no difficulties with the concept, either. It operates reasonably well within the youth justice system because it has been their focus for some time.

We are not so certain that private sector organisations take the same view. We believe that they might struggle with it.

We do have concerns in the way that restorative justice is currently administered by the police. We believe that this would be better delivered through the courts and the probation service.

Public opinion would also need to be prepared for more restorative justice so there was no backlash from those who would argue that it was “too soft”, as some already do in respect of community sentences.

(g) Does the probation service handle different groups of offenders appropriately, eg women, young adults, black and minority ethnic people, and high and medium risk offenders?

There is little evidence that the probation service operate inappropriately with different groups. The Race Discrimination Delivery Board continues to be told of “counter-intuitive” (ie negative) evidence of discrimination in this regard across the main tiers of the criminal justice system. This is almost certainly because there is none. However, it has to be recognised that it is often more expensive to provide programmes for minority groups and so they are often run less frequently than for other groups. For example, there can often be a delay in placing a female offender on a woman-only programme which works against the need to get offenders started on programmes as soon as possible.

(h) Is the provision of training adequate?

Probation staff are well trained and magistrates have high respect for their professionalism. However, current budgetary constraints mean that training is under severe pressure. However, those with whom we interact seem to be good. It has to be remembered that the kind of person who is attracted to probation generally tends to be good at working with people, having good listening skills, etc. This is definitely not a job for everyone, especially the faint hearted!

September 2010
Written evidence from Blue Bay Support Services (PB 35)

BACKGROUND

We are the directors of Blue Bay Support Services (BBSS), a small company formed out of two existing companies, which had been offering technical support to the Probation Service and the Prison Service since 2003. These companies had developed an expertise in providing high quality written assessments and delivering rehabilitative interventions. Having operated a successful private company within what is now the National Offender Management Service, we consider ourselves well placed to offer some observations around the issue of cost efficiency in this setting.

Our fundamental premise would be that as a small (and uniquely innovative) company, we have encountered something of a glass ceiling when we have attempted to work with the Services operating in the Criminal Justice Sector. We consider that there are structural barriers in place within this sector that actually prohibit the promotion of cost-effectiveness.

We have seen Regional Offender Managers replaced by Directors of Offender Management without discernible change in how we have been approached as a small company. We have been offering to deliver cost efficiency savings (of at least 25%) for the last five years. Over this period, we have made written submissions annually to all Chief Officers of Probation and all Prison governors.

This has not been without accomplishment and we have enjoyed various successful engagements. However, our business model has been to offer an incremental approach to working with the Probation and Prison Services. Our assumption was that if quality, reliability and increased cost-effectiveness were demonstrated, then the business model would succeed, as greater levels of engagement would deliver greater cost-effectiveness. However, this is where the glass ceiling has been encountered. While we have continuously been bolstered by encouraging rhetoric, the Probation Services and Prison Services appear to have no interest in actually exposing themselves to competition.

If, for example, we are engaged by a Probation Trust to deliver Pre-Sentence Reports to Courts and that Trust is not delivering that service (due to workload management issues), who are we to contact, if we believe we could offer a better service? Our experience has been that despite a wealth of positive talk, there has never been an adequate forum in which business arguments could be advanced. Whether we have encountered a form of protectionism, or simple “closed shop” practice, the impression offered is that the Criminal Justice Sector, as it stands, is institutionally anti-competitive.

Our view is that the pursuit of the macro management of these big public organisations has diverted the necessary attention that should have been given to their micro management. It is a simple maxim in commercial practice that if an organisation minds the pennies, the pounds will mind themselves. However, this argument appears to have had little weight when we have attempted to promote the service our company offers. The impression we have gained (from making various representations to senior managers in the Probation and Prison Services) has been of an enforced ignorance (or disregard) of tangible financial benefit; or a dismissal of the potential value of a small company’s services.

EXAMPLE 1:

The provision of Pre-Sentence Reports (PSRs):

The average cost of a PSR (Standard Delivery) nationally is £224 as disclosed in Probation Circular PC06 2009. Our experience; however, suggests that a full-time salaried member of staff (PSR writer) will prepare five reports a week for 40 weeks a year. This represents 200 reports at a cost of £250 per report.

Again based on our experience we have collated the following information:

— A salaried member of staff (Probation Officer grade) costs the Probation Trust (with add on costs) around £50,000 a year.
— An Employment Agency contracted staff member will cost a Probation Trust (at very least) £1,200 per week.
— Using Agency staff to prepare PSRs costs £240 per report.
— BBSS offer a significant saving (37.5%) on agency staff.
— BBSS offer PSRs at £150 per report—a 40% saving on the costs incurred by Probation Trusts to complete this task.

EXAMPLE 2:

The provision of Parole Assessment Reports (PARs):

PARs and IPP reviews is a similar costing exercise as PSRs. There is no nationally agreed figure for this, but experience informs us that such a report takes a similar time as a PSR to prepare.

— Salaried staff seconded to prisons will prepare, therefore, a Parole Report at a cost of £300.
— BBSS will and have prepared these reports at a cost of £200 (a saving of 33%).
Example 3:

The provision of Structured Assessment of Risk and Need (SARN) reports:

The SARN report format was developed in the prison service to act as an evidence-based assessment of both progress in treatment and future treatment needs. The final SARN Report contains information that is gathered throughout the treatment programme. It provides a summary of progress in treatment followed by an indication of remaining treatment needs to be addressed by offender managers.

This is a massive area of need. Prisons which have a high proportion of sex offenders and therefore offer treatment programmes, are struggling to prepare these reports within the timescales set.

BBSS have a contract at a prison where we deliver these reports at a cost of £1,350 per unit. Information received from the commissioner is that this has offered a saving of 25% on the service provided by the original supplier (a freelance Psychologist).

Example 4:

The provision of Offender Management Programmes:

Costings of such Offending Behaviour Programmes vary according to the specific type of intervention.

On average it costs both prisons and probation trusts £2,000 per completion.

BBSS are able to offer this intervention at a cost of £1,500 per completion, a saving of 25%.

September 2010

Written evidence from G4S Care and Justice Services (UK) Limited (PB 49)

G4S have worked closely with Probation in England and Wales for over a decade both within our Prisons and within the Community. We welcome the opportunity to provide input to the Justice Select Committee inquiry into Probation Services.

1. Are probation services currently commissioned in the most appropriate way?

G4S Response:

— In reality there is very little commissioning of probation services outside Probation Trusts. The latter appear to have a monopoly on Offender Management and most interventions are still delivered exclusively “in-house” with limited sub-contracting, primarily to the Third Sector.

— Some significant services that are currently commissioned externally have never been delivered by Probation eg electronic monitoring. Many professional treatment services and interventions undertaken exclusively by Probation Trusts could now be effectively contracted out to the market which should lead to better services, increased innovation and ultimately better value.

— The private sector in general and G4S in particular would welcome the establishment of a true mixed economy within probation services and would hope that any moves toward this goal will not be a limited exercise.

— Working in partnership with the public and voluntary sectors we believe that we can deliver high quality, innovative and efficient services to NOMS targeted at reducing re-offending and delivering best value.

— There is lack of clarity (and possibly some conflicts) in the current purchaser/ provider model with regard to probation services. DOMs “commission” virtually all work (via SLAs) with Probation Trusts. In turn, Probation Trusts have no incentive to commission services from external organisations and will generally be in competition with potential new providers in any future contests established by NOMS. There is a risk that this will undermine initiatives to foster greater collaboration and joint working between agencies and the independent sector.

— In order to foster innovation and more radical thinking in the provision of services in this area it is important that NOMS avoids commissioning/ contesting “what is” rather than “what could be”. NOMS/DOMs need to be bold in the way in which they offer work for tender to encourage new approaches, and to do so in ways which over time will inform the “what works” knowledge base.

— There are possibly lessons to be learned from the experience of the DWP (for example New Deal to Flexible New Deal). NOMS should look to commission on the basis of outcomes and not just inputs such as programme starts etc. And then not be too prescriptive on how they should be achieved. We need a “black box” approach to allow innovation to work.
— It has been unclear over recent years as to what is the core task of Probation in relation to Offender Management and what aspects of offender supervision and offender intervention are more effectively delivered by the “independent sector”

— We also believe that if there is a requirement to achieve a “step-change” in the culture of the Probation Service it is essential that NOMS should not limit their approach to just contesting “interventions” but should at an early stage provide opportunities for the market to undertake the core task of “offender management”. Our viewpoint is that this is an area of work in which the private sector/ third sector could bring its management expertise, fresh thinking and new techniques, and it need not be viewed as a high risk route.

— In the past NOMS has articulated that establishing “end-to-end” offender management is a key goal operating across Prison and Probation services. As Offender Managers aim to be accountable for consistent case management across both services, due regard needs to be given to commissioning services that span both custody and community sentences in a “joined up” or vertically integrated way. More radical “end to end” commissioning could also be considered which involves crossover within several Government departments. For example, commission across not only prisons and probation services but also involve Welfare to Work streams for offenders.

— Some interventions/ services appear to have evolved and have not necessarily been developed to meet the needs of offenders or the community. For example: during 2008–09 several Probation Areas put Unpaid Work Transport out to tender. To our knowledge most of these were kept in house leading the private sector to believe it was purely a “comparative cost exercise”. Indeed one metropolitan Probation Area undertook the exercise on this basis.

— The introduction of a Best Value framework for the Probation Service has had no noticeable impact on how services are commissioned. This is unsurprising since the Best Value framework placed significant influence on whether or not services were subject to real competition, with teams within Probation Trusts. This seemed to contrast markedly with how Best Value principles were introduced into local government where the Audit Commission was responsible for ensuring effective outcomes in driving up levels of economy and efficiency.

— It is questionable whether commissioning services through more than 40 separate probation trusts can deliver the most efficient delivery model for those services which could realise economies of scale if commissioned on a national or regional basis. For example, if Bail Accommodation Support Service or Electronic Monitoring were commissioned on the basis of more than a handful of areas, with more than a handful of providers, they would be significantly more expensive to deliver than at present. The introduction of standard specifications should be used as a basis to consider commissioning of services on a region wide or national basis.

2. How effectively are probation trusts operating in practice? What is the role of the probation service in delivering “offender management” and how does it operate in practice?

G4S Response:

— Probation Trusts provide a solid framework via a professional Offender Management model. They are at the centre of risk management for offenders within the community and the principles are sound.

— The Probation Service may be seen as the “authority” or the enforcer by offenders which could inhibit the service’s ability to engage in rehabilitation initiatives. By commissioning external specialist partners that are not seen as the establishment, better outcomes can be achieved.

— We find that levels of engagement with Offender Managers and Offender Supervisors vary across England and Wales. Generally it is positive in our prisons but can be dependent on the distances involved in undertaking individual offender management interactions.

— We believe that relationships between Probation Trusts and G4S Care & Justice Services Limited are generally positive. For example within the Electronic Monitoring contract there are high levels of interagency working.

— Communications between agencies can sometimes be a problem eg feedback on risk or enforcement action is sometimes limited. Also, access to OMs can be impacted due to their often heavy workloads and changes in personnel.

— The system of annual budget allocation within Probation may currently reduce the incentive and ability to invest on major change projects. As a result innovation probably suffers. ITC is possibly the most obvious area where constraints are evident. The focus on targets which are input based may also stifle innovation or even, in some circumstances, lead to dysfunctional behaviours within the Probation Service. For example, breach action against an offender may be held back with the objective of increasing completion rates.
Similarly, the market as a whole will also be less inclined to engage if the business risks are seen to be excessive and the scope for driving real efficiencies do not exist. Contracts spanning a number of years would provide a more stable environment within which service providers can make the changes necessary to effect the required outcomes in an appropriately measured manner.

3. Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?

G4S Response:

— The provision of requirements is not always consistent across all Probation areas. For example, in some areas the full set of Accredited Programmes is not available to all sentencers. In addition, where they are available their effectiveness can be undermined by lower completion rates and the offender’s level of risk being lower than the course requirements.

— Demand management can be an issue. We pick up feedback that some Probation Trusts have difficulty in meeting the demand and lead-times for certain interventions. For example: Domestic Violence programmes (IDAP). In some cases, Magistrates and Judges are frustrated that elements of a Community Sentence (eg Community Payback Programmes and Specified Activities) cannot start for several weeks following sentence.

— Exclusion requirements have significant potential in contributing to public protection. However, we are not aware of any robust means of monitoring compliance with this requirement being made available to magistrates and judges. This is likely to explain the very low use of this requirement.

— It is worth noting that the Probation Service is not responsible for the provision or delivery of a number of requirements, eg Curfew, Exclusion, Attendance centre. However, it is critical for the probation service to ensure that where these requirements are used by magistrates and judges, that they are carefully integrated into the sentence plan by offender managers and form part of a coherent approach to case management. We believe that where, for example, a Curfew requirement is used in conjunction with other requirements, delivered by the probation service, some Probation Trusts do not sufficiently integrate the Curfew requirement into the overall sentence plan. More on this issue can be seen in the Criminal Justice Joint Inspection report into Electronically Monitored Curfews, published in 2008.

4. What role should the private and voluntary sectors play in the delivery of probation services?

G4S Response:

— The private and voluntary sectors are capable of playing a much larger and involved role in providing probation services.

— It is our belief that the private sector can provide excellent service delivery on a much wider scale and at various levels: from individual interventions such as Community Payback or Approved Premises through to Offender Management.

— In fact we see no reason why the private and voluntary sectors should not be able to run a complete Probation Trust area.

— Specifically the private and third sectors as part of a mixed economy are able to bring significant benefits to areas such as: management of the shorter custodial sentences, unpaid work programmes, delivery of accredited programmes, drug testing, IOMs, bail support, mentoring, risk management of high risk offenders, voice recognition, satellite tracking, management of Approved Premises, compliance and breach enforcement proceedings.

— As well as delivery models which have private and/ or voluntary organisations as a prime contractor to NOMS for the provision of offender management services, we believe there is also scope for delivery models based on more extensive collaboration between existing Probation Trusts and the private and third sectors. For example, this could include where a Probation Trust acts as a sub-contractor to a Private or Voluntary prime contractor. It could also include joint ventures between Probation Trusts and private or voluntary organisations.

— G4S, as a private provider, believes it is necessary to effectively harness the huge amounts of specialist expertise on offer through voluntary sector organisations in the Criminal Justice arena. For example, we have worked closely with Nacro for several years, including joint working on developing solutions and proposals to NOMS.

— The area of Welfare to Work offers a potentially useful comparison for how the private and voluntary sector could be harnessed to develop and deliver innovative, outcome focused services. Key learning points on what has worked in this area should be considered in developing thinking on what roles might be played by private and voluntary organisations.
5. Does the probation service have the capacity to cope with a move away from short custodial sentences?

G4S Response:

— As the likely outcome from reducing short custodial sentences will be an increase in Community Sentences the view must be that the majority of Probation Trusts will have insufficient capacity to cope.

— As referred to in response to an earlier question, Probation already face challenges in meeting existing demands and lead-times placed upon them by Courts. Many interventions are not quickly scalable and as a monopoly supplier of some services (and qualified practitioners) Probation will be ill-equipped to respond without a combination of significant productivity improvements and further investment in additional capacity.

— Assuming a reasonable pick up in demand for the services currently provided by Probation Trusts, supply may well lag demand for services in the absence of a thriving mixed economy/ market forces being in place.

6. Could probation trusts make more use of restorative justice?

G4S Response:

— Overall, anything that recognises and supports the needs of victims must be viewed as positive. However our view is that any such interventions should be victim led and be shown to have proven benefits/ outcomes.

— We are unable to express a full view on whether Probation Trusts should use RJ more without greater evidence of “what works” in terms of meeting the goals of Communities and Government.

— Restorative justice may provide benefits in terms of conflict resolution and reparation to the community but any victim/offender mediation it is dependent on the wishes of the victims or their families and needs.

7. Does the probation service handle different groups of offenders appropriately, eg women, young adults, black and minority ethnic people, and high and medium risk offenders?

G4S Response:

— The Probation Service places a great deal of emphasis on diversity and inclusion in its work practices and policies.

— Our experience within Prisons and in the Community indicates that most Probation Areas respond appropriately to the diversity of offenders.

8. Is the provision of training adequate?

G4S Response:

— It is assumed that your question refers to the training of Probation staff rather than offenders. If so, we have little evidence on this topic but recognise that practitioners have to gain specific professional qualifications.

— However we are conscious that in certain situations where the Probation does not deliver the intervention (eg electronic monitoring) the level of detailed knowledge can sometimes be lacking. As a result, providers such as G4S proactively engage in local training/ advising Offender Managers & Pre-Sentence Report Writers so that they are suitably equipped when dealing with sentencers and offenders.

September 2010

Supplementary evidence from Professor Hazel Kemshall following the evidence session on 8 June 2011 (PB 78)

1. The government says that what works should be the touchstone for practice. Will payment by results work to achieve this aspiration?

In principle yes—it should incentivise the best practice to achieve the most desirable outcomes, in this case offence reduction. However, there are some caveats, in brief:

— The danger of “cherry picking” easy, and low risk cases especially by third sector providers—an issue that has been much discussed recently and about which you no doubt have other evidence.
The variation and inconsistency across Probation Trusts—there is not actually a national probation service in that sense. The best performing areas on work works have had strong management commitment to it and strong quality assurance, guidance and training initiatives. It is imperative that the recent national standards and the recent performance measures reinforce what works—and the concentration on the four domains should achieve this. However, any discretion must be exercised within a “what works” framework not outside of it. In addition, should poorly performing Probation Trusts on effective practice be penalised—for example following poor HMIP thematic reports on effective practice?

PbR has a number of metric/measurement difficulties. I have found a recent paper by Collins 2010 (appended) helpful in reviewing these quickly in an accessible way. I think although the paper has a “stance”, the issues are well reviewed and speak to a number of the committee’s concerns.

2. How should practice be measured or evaluated? Can you think of any consequences to the Government’s proposals that may not have been sufficiently foreseen or any unwanted consequences that have not been adequately guarded against?

Professors Pease and Hedderman are likely to assist you rather better here. I can only add:

— Would comparisons of the best performing Probation Trusts on re-offending and effective practice measures to the poorest assist with identifying the environmental, organisational, cultural, management and practice differences that may subtly influence practice performance?

— This may also assist with the complex difficulties in identifying the causal links between inputs, outputs and outcomes that have proved so challenging.

— Interventions are often complex and multi-factorial and delivered in partnership, thus identifying what has made the difference can be difficult, perhaps case comparisons over a two to five year time line would be beneficial. The Collins paper may assist with the second half of the question.

— Finally, the potential to “park” high risk offenders, (both risk of harm and risk of reconviction), in addition to stop start provision and lack of continuity or sustainability in provision for this difficult group.

— How can third sector providers be adequately incentivised to provide the range of services and respond to the range of offender risks presented? What will be an acceptable level of risk transfer from government to the Third sector? Will providers wish to stay within a comfort zone of well known and easy to deliver services to responsive and low risk offenders, rather than innovate and develop and services for more challenging and risky offenders? (see for example Dicker 2011 on this point pp: 18–20, appended).

3. What difficulties could commissioners and providers encounter in demonstrating the effectiveness of complex partnership arrangements on reductions in reoffending?

In brief:

— Identifying and sufficiently evidencing the causal chain of impact- who did what that made the difference?

— The cumulative or holistic impact of the “package” of interventions is likely to prove difficult to trace and evidence over time, and may need time consuming and costly data collection, and prove burdensome to suppliers.

— The potential to over-rely on proxy and intermediate measures (eg accommodation, employment, skill development), rather than long term reconviction rates.

— What has been learnt from the IOM pilots on data collection and evidencing impact that is transferable?

June 2011

Supplementary evidence from Professor Hazel Kemshall and Dr Brian Stout following the evidence session on 8 June 2011 (PB 80)

1. Why is there attrition from both training, and from probation employment?

See for example:


Attrition rates from the DipPS were not high and mostly related to poor academic/NVQ progress rather than realising the job was not for them, until the last two cohorts 10 and 11 when people left early because the Trust could not offer them a job upon qualification.

2. Any views on how to improve recruitment, type of persons we should be recruiting

Again, it is not absolutely clear that there is a problem with recruitment. There were always many applicants per place on the DipPS and the rigorous selection process meant that we had cohorts of high calibre students. The DipPS recruitment process has influenced recruitment into other roles, including onto the new PQF. Is there evidence to say that there is a demonstrable need to improve recruitment? Have any comparisons been made into how staff are recruited and trained by private and voluntary providers?

The nature of the job has clearly changed and has become far more prescriptive and bureaucratic. Arguably it is this that needs to change and not recruitment processes. Clearly having officers who believe in a capacity for change, realise the importance of balancing rehabilitation with more immediate public protection measures remains key. They also require emotional literacy, relationship skills and reflective skills including risk assessment.

The NOMs offender engagement project itself recognises the importance of officer/offender relationships and arguably emphasises the need for shift towards seeing this as a priority for effective practice, rather than the copious amounts of managerial processes. The report by McNeill and Weaver (2010) makes very strong arguments for the people skills, motivational strategies etc that practitioners require.


The DipPS had a centrally run recruitment and selection process—which was viewed positively. This is in complete contrast to the recruitment for the Foundation Degree and Graduate Diploma parts of the PQF which is done on a Trust by Trust basis. It's being done in a whole variety of ways (from the very structured to the fairly informal). There is some anecdotal evidence that some PSOs have not fully understood what they have been recruited to do (there have been a couple of early withdrawals from the programme from people who clearly did not want to do a high pressure distance learning degree in three hectic years)—but absolutely no evidence of this yet.

The probation service continues to attract more women than men, and people continue to see it as predominately a helping profession:


See also:


3. Additional statements on quality & importance of PQF, and early observations on how well it is working

— It is really early days for this. Only a tiny number of people have qualified as Pos through this route (maybe some Grad Dip people in London who started as soon as PQF was implemented). Many more will have qualified as PSOs. It is important to remember that the FD and Grad Dip are only part of the PQF (and not the biggest part in terms of numbers). We are not aware of any figures, research or reports about attrition from the PQF.

— We have not seen significant attrition in the early stages of the DMU running of the PQF.

— Attrition from the DipPS was never particularly high, figures on this (from DMU) could be made available but it would take some work and time to aggregate.

— Attrition from the Certificate may be more relevant to the PQF—as the structure of the Cert has more in common with the PQF than with the DipPS.

The rationale for the change from the DipPS to the PQF, including the importance Higher Education provision for all grades of staff is set out in this article:


Brian Stout and Hazel Kemshall
De Montfort University
17 June 2011
**Response to Supplementary Questions from the Inquiry into the Probation Service**

1. The government says that what works should be the touchstone for practice. Will payment by results work to achieve this aspiration?

Currently Probation Services might not adhere to the targeting principle because of other pressures (eg they might send a sex offender who does not fit the targeting criteria to the only programme for sex offenders available because the court has made attendance at a programme part of the order). This has the effect of making a programme look less effective, as results will include its impact on those it was always unlikely to benefit.

If a provider is only paid if they reach a certain threshold of impact, this could encourage better targeting. However, this carries two risks. First, a PbR provider will only work with those who are most certain to benefit (thus some of those who might benefit will be left out and go on to reoffend). Second, the margin between a profitable outcome and an unprofitable outcome will be narrow. The current approach could lead to the delivery of interventions being curtailed when it becomes obvious that the target for payment is going to be missed. There is public benefit in reducing reoffending by 8%, but if there is no financial payment before 10%, a sensible investor might stop delivery and start doing something else with the money. So if a project is on track to deliver a 6% impact and, with effort, expects to raise this to 8% in the payment period but has a target of 10%, it would make financial sense to stop delivery and put their resources into something else. This risk could be minimised by having a graduated relationship of payment to impact so, for example, achieving 80% of target results in 80% of the payment. This has other problems of course (eg if the payment for 80% is enough the provider might just decide to aim for that), but it seems worth considering.

There are a number of other inter-related risks to What Works:

- Investors will only enter the market if rewards were certain enough and great enough. Effective interventions do not usually bring huge changes. This is a potential disincentive for investors looking for a decent return, and for commissioners and evaluators who want to be sure any change which is observed is the result of the intervention.

- The evidence base for what is effective is quite weak which makes it hard to make carefully calculated investment decisions. PbR might stifle innovation for this reason as investors would probably find it safer to invest in refining the tried and tested things and doing those as well as they can.

- It would be sensible investment strategy to avoid supporting offenders at high risk of offending unless the rewards are very high. An alternative strategy would be to pay according to a target set for each high risk individual, but there is no reliable way to calculate a suitable individual target (as predictors only work at the group level).

- Small outcomes would require large samples to be significant so again the small difficult to place people who are known to have severe problems sustaining employment. Second, the fact that they are under supervision or on licence also brings risks in a PbR context. Employment might not be sustained for programme look less effective, as results will include its impact on those it was always unlikely to benefit.

2. How should practice be measured or evaluated? Can you think of any consequences to the Government’s proposals that may not have been sufficiently foreseen or any unwanted consequences that have not been adequately guarded against?

Some of the points above are relevant to this. Also, as I mentioned at the Committee meeting, the impact of sentences is usually measured comparatively (probation vs prison) not absolutely (probation vs nothing). The Peterborough experiment is unusual because short sentence prisoners get no statutory support on release, so the impact is being measured in absolute terms. As it is assessing “help” vs “no help”, this should mean there is quite a big impact. If PbR becomes more common the measurement will either be (i) actual vs expected or (ii) actual for those receiving X vs actual for those receiving Y. These comparative rather than absolute differences are likely to be narrower and both approaches have some serious measurement issues associated with them.

3. What difficulties could commissioners and providers encounter in demonstrating the effectiveness of complex partnership arrangements on reductions in re-offending?

I have jointly authored a paper (attached) on what happens when “what works” in probation comes up again “what works” in getting people into employment. Under PbR there is a possibility that employment specialists will be reluctant to support those on community supervision or those on licence. First, they are likely to be difficult to place people who are known to have severe problems sustaining employment. Second, the fact that they are under supervision or on licence also brings risks in a PbR context. Employment might not be sustained because of enforcement action leading the employment service provider to miss their target. Alternatively, the employment scheme might not report risky behaviour on the part of the offender because of the potential consequences to their target of enforcement action.
4. The MoJ’s stance on the reoffending data published last week which they state shows that prolific offending has been getting worse over the last 10 years

I think a lot of the explanation for this lies in the commentary and figures in the publication.

The figures show convictions have increased (which is presented in the press release as though it is offending). In my view this is mainly a consequence of the offences brought to justice targets (it is easier to achieve these by rounding up the usual suspects than detecting new ones, consequently the ones you already know about get longer and longer records). This probably explains why this target was first changed to serious offences and then abandoned (see page 3). Also (page 6) the increases in indictable offence convictions are mainly in shoplifting and cannabis (again easy offences to shift into convictions from warnings/NFA). Finally, isn’t it odd that offenders are getting more prolific as crime is going down? In my view, the most likely explanation is that the increase in prolific offenders is an artefact of processing decisions.

June 2011

**Supplementary evidence from Robin Wilkinson, Director HR, NOMS (PB 81)**

**ORAL EVIDENCE ON TUESDAY 2 NOVEMBER 2010**

Q159 Mr Llwyd: I think my question is directed to Mr Wilkinson initially, although that does not prevent Mr Woods from chipping in, of course. The inquiries into the management of Daniel Sonnex identified problems with the recruitment and retention of qualified probation staff from London. Is this a broader issue? In other words, we know that that is a London issue, but is there a problem throughout the UK?

*Answer*

Please see Annex for answer.

Q160 Anna Soubry: I was just going to ask—forgive me, I don’t know if it is in the papers—what percentage of the training as you move to the higher level is actually academic training and what part of it is practical? What is the percentage?

*Answer*

Theory and practice are fully integrated throughout the Probation Qualifications Framework, including the higher level. Upon completion of a Probation Officer qualification, the learner must have demonstrated an equal balance of academic and practical ability in the five core areas of:

— managing risk of harm;
— communication;
— responding to diverse need;
— supporting change; and
— tactical skills;

There are two pathways to become eligible for a Probation Officer post, which reflect the different starting points of learners. The first of these pathways, comprises a three-part Honours Degree in Community Justice together with a further Vocational Diploma in Probation Practice at level 5. This pathway is open to Probation Services Officers (PSOs), who have already demonstrated vocational competence to level 3. The second pathway, the Graduate Diploma pathway, covers the academic curriculum of the third part of the Honours Degree and the vocational diploma at level 5. It is open to PSOs who have already achieved a relevant honours degree. The end result of the pathways is the same: academic ability is demonstrated to honours degree level and practical skills to vocational diploma level 5.

Continuous integration of academic and practice on both pathways is facilitated by both the delivery methods and integrated assessment methods. Learning is delivered to employees who carry a workload. Rather than distinct periods of practice, followed by academic study they are integrated by key practice tutoring tasks of:

— explanation of theory;
— demonstration of practice;
— use of new skills by the learner;
— checking out and
— advice;
— review; and
— evaluation.

Assessment integrates theoretical understanding and practical ability by awarding academic credits for achievement of the vocational qualification and requiring underpinning (academic) knowledge to be demonstrated to achieve the vocational qualification. Both the honours degree and the level 5 vocational diploma must be gained prior to eligibility for appointment at Probation Officer grade.
Q203 Mr Buckland: *But how much time does it take to put together the OASys matrix—the graphs that those of us that have seen PSRs know about? How long does it take?*

**Answer**

Following the introduction of a standard assessment layer and a fast review capability in August 2009, OASys timings were collected for approximately 400 probation assessments. Based upon these findings, average timings for the whole assessment process have been calculated as set out below. These timings cover creation of the record, reading collateral information, the face to face interview with the offender, completing the assessment and countersigning.

— Initial assessment timings ranging from 185 minutes for Offender Management Tier 2 offenders to 260 minutes for Tier 4 offenders. For Tier 4 offenders, 60 minutes are spent interviewing the offender and 110 minutes completing the assessment.

— Review assessment timings ranging from 105 minutes for Tier 2 offenders to 150 minutes for Tier 4 offenders. For Tier 4 offenders, 30 minutes are spent interviewing the offender and 70 minutes completing the assessment.

— Termination assessment timings ranging from 90 minutes for Tier 2 offenders to 130 minutes for Tier 4 offenders. For Tier 4 offenders, 25 minutes are spent interviewing the offender and 60 minutes completing the assessment.

These timings have been published as part of the NOMS service specification “Manage the sentence for a community order/suspended sentence order” (http://www.justice.gov.uk/about/completed-service-specs.htm).

*December 2010*
### PROBATION SERVICE ATTRITION FY 2009–10—PROBATION OFFICERS 1, 2, 3, 6

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of Leavers</th>
<th>Average Staff in Post FY 2009–10</th>
<th>Attrition Rate</th>
<th>Change in Staff in Post FY 2009–10</th>
<th>% Change in Staff in Post FY2009–10</th>
</tr>
</thead>
<tbody>
<tr>
<td>North West</td>
<td>19.69</td>
<td>559.89</td>
<td>3.52%</td>
<td>7.87</td>
<td>1.42</td>
</tr>
<tr>
<td>North East</td>
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<td>5.27%</td>
<td>-7.99</td>
<td>-1.59</td>
</tr>
<tr>
<td>Yorkshire &amp; Humberside</td>
<td>25.78</td>
<td>434.23</td>
<td>5.94%</td>
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<td>-4.96</td>
</tr>
<tr>
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<td>4.63%</td>
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<td>-0.06</td>
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<td>Wales</td>
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<td>5,777.33</td>
<td>5.94%</td>
<td>-82.68</td>
<td>-1.40</td>
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</table>

1 The attrition rate figures provided are based on the total number of staff in Probation Officer roles that left the Probation Service in FY 2009–10, divided by the average staff in post in Probation Officer roles over the period. Probation Officer roles are Senior Probation Officer, Probation Officer, Practice Development Assessor and Senior Practitioner.

2 Internal transfers are not included in the attrition rate calculations as they do not represent attrition from the Probation Service.

3 Leaver and staff in post figures are Full Time Equivalent (FTE) and were submitted by the Probation Areas/Trusts via the HR Data Warehouse. The Trusts have the ability to resubmit historical data which may result in occasional variations in subsequent reports.

4 Cheshire were unable to submit data to the HR Data Warehouse in 2009–10 due to technical issues with their HR System. Leaver and staff in post figures have therefore not been included for Cheshire within the regional or national calculations.

5 Leaver and staff in post figures have not been included for Derbyshire, Greater Manchester, Staffordshire and West Yorkshire within their regions or in the national calculations, due to leaver information not being correctly extracted from their HR systems.

6 Figures on the number of leavers in 2010/11 are not currently unavailable.
Supplementary evidence from Professor Ken Pease, Professor of Criminology, Manchester Business School (PB 83)

1. The government says that what works should be the touchstone for practice. Will payment by results work to achieve this aspiration?

Payment by results is a defensible way of incentivising performance. The devil is in the detail (see below).

2. How should practice be measured or evaluated? Can you think of any consequences to the Government’s proposals that may not have been sufficiently foreseen or any unwanted consequences that have not been adequately guarded against?

There is a general and a specific point. I will be brief but could develop the points if asked. The general point has three elements. Official statistics of crime and justice in general distort the picture in three ways. They do so first by reducing the amount of crime massively by the adoption of particular counting conventions. Second, they overstate the efficacy of the criminal justice system by the counting of multiple events as single events (amongst other means). Some of these points have been hinted at in the ONS review of crime statistics published on June 6th, and may be redressed to a limited extent by adoption of the proposals therein. Nonetheless, in times of financial stringency, the systematic understatement of the problems of crime and justice is likely to have disastrous resourcing consequences.

The specific point concerns ways of subverting the process. The road to a conviction is long and winding and has many byways leading off it. My direct experience of this came with the introduction of community service orders in 1972. I headed the Home Office evaluation team (and am still ashamed of the anodyne published reports). There were many ways in which a reconviction during the course of an order could be avoided (for example by delaying the process to the subsequent conviction, by giving maximum hours swiftly, by generous discounting of hours). Police targeting of those on community sanctions works in the opposite way. The role of the Crown Prosecution Service is equivocal and unclear from published statistics. Offending during or after a sentence is the only defensible criterion of criminal justice success, in my view. However, ensuring that such success is justifiably and consistently recorded is a tall order. Where payment by results motivates agencies to put a favourable gloss on the data, the problems are particularly acute. As I noted in my oral evidence, I think the experience of California’s Probation Subsidy scheme (1965–70) should certainly be reviewed.

The short answers to the precise questions therefore are:

How should practice be measured or evaluated?

By reoffending data.

Can you think of any consequences to the Government’s proposals that may not have been sufficiently foreseen or any unwanted consequences that have not been adequately guarded against?

The current lack of a statistical framework which fully records crime victimization, victimization inequality and cjs success means the starting point is not good. The Byzantine nature of cjs process, allied with the motivation to exaggerate success, means that an unprecedentedly thorough and sceptical evaluation approach is necessary.

What difficulties could commissioners and providers encounter in demonstrating the effectiveness of complex partnership arrangements on reductions in re-offending?

Although partnerships are often situations where one agency does the work, three give permission and five take the credit, I would see the first task to be to find something that works, and only subsequently unpack the likely contribution of the elements. Often the “signature” of the effect suggests what has happened, ie the pattern of change. This has been the approach recently used by Prof Andromachi Tseloni and others to understand the crime drop in Western countries.

I’d also be grateful for your views on the MoJ’s stance on the reoffending data published last week which they state shows that prolific offending has been getting worse over the last 10 years. My initial reaction is that this is likely to have more to do with prolific offender schemes and policing initiatives resulting in increased levels of detection than any trend in the absolute recidivism rates of these offenders.

Actually, do the data show anything about prolific offending? I don’t think you can infer that from any MoJ statistics which show processed people. I guess you’re referring to the tables towards the end of the document which show the increased percentage of those with lots of convictions. You could interpret that in lots of ways (eg those you suggest and diminished deterrence of the cjs) but it will take me some time to look at the data to think this through. By the way, my conversations with police officers of all ranks has suggested an increase in serious property offending by young people. I expect you will have to take this next observation out, but Romanian sub-cultures in the cities are mentioned by them as a particular problem.

May 2011