



House of Commons  
Justice Committee

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# The role of the Probation Service

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**Eighth Report of Session 2010–12**

***Volume III***

*Additional written evidence*

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## 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).

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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).

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# Written evidence

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## Written evidence from Jill Stuchfield JP, Mid North Essex (PB 01)

*Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

I am a magistrate sitting in Essex, last week an issue regarding unpaid work caused considerable concern to the bench. The bench decided that a defendant charged with driving with excess alcohol should complete a community order with an unpaid work requirement.

The bench was informed by probation that the defendant did not score highly enough on the “ogres” score to warrant this disposal. The bench requested an explanation from a senior member of staff who eventually accepted that this was a decision to be made by the bench and not probation. We were told that probation have targets and that this defendant did not reach the suitable score for a community order, despite the fact that according to our sentencing guidelines they passed the threshold for a community order.

The bench was left hoping that this order was not returned to court within a few weeks with the request that it be lifted.

The question has to be asked as to whether or not probation targets are conflicting with sentencing guidelines. Magistrates should be able to utilise unpaid work.

With regard to how effectively these requirements are delivered, we are told the success rates of the requirements, purely in terms of attendance and lack of reoffending during the order. Despite numerous requests we are not given reoffending rates for defendants completing the requirements. It would be very useful as a magistrate to know whether or not the requirements are successful in terms of preventing reoffending.

*September 2010*

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## Written evidence from C B McGown (PB 02)

### A BRIEF PEN PICTURE OF MYSELF

27 years in the Prison Service (retired), 13 years in the Probation Service (retired), 12 years as local Councillor including a term as Mayor.

From the above I am confident in my commenting on the Justice System, of which part will be the Probation Service.

1. Over the years I have witnessed the change of the prison service, then the gradual deterioration of probation. As a coal face worker, views such as mine and colleagues are not welcomed by management and only lip service paid to criticisms.
2. When the National Offenders Management System (NOMS) was created, it became apparent to many that this was a tier of management that there was no justification for.
3. Firstly, NOMS take a large slice of the cake leaving less for the real work with offenders to progress in a way to uphold the Core Practice of the service. The real reason for this creation was (as suspected) to gather statistics for the then Labour government.
4. The loading upon staff has become more onerous and targets are the sacred cow. An example of this is the rolling OASYS system which is constantly screened to check targets. Link that with a disastrous and costly I.T system that has to be continually tweaked it has become a burden for staff to bear. These systems are continually upgraded but other work has to suffer, eg face to face work with offenders (an integral work tool to reduce re offending).
5. There is little doubt on the shop floor that NOMS has caused more stress and fatigue than is normally imagined. In other words, NOMS has become a Behemoth. only concerned with it's own survival driven by the priority to perpetuate itself.
6. This in itself has created a serious problem with middle and higher management in the newly formed Trusts. It seems that these layers (some of them over staffed) tend to vie with each other to gain merit and be recognised for it by NOMS and eventually be welcomed into its' folds (some already have). The view of many is that what we have here is a vehicle of self gratification without much thought of what Probation was set up to do.
7. The new government has started well in its quest to curb the Quango's (NOMS is considered to be one) but, unless more note is taken on the viability of them they will continue to flourish, they know they are under scrutiny and will act accordingly to survive. With the new committee set up to review the M of J, to allow NOMS to take the lead in this review will not lead the committee to the correct decision as a top down scrutiny never works.
8. Staff in situ are now afraid to voice their opinion as they know it will result in them being targeted by management as non compliant. The result of this is that there is a danger of mistakes being made as more staff are becoming more insular to protect themselves (who can blame them, it's survival).

9. Putting staff at the sharp end with all this hanging over them is not only improper and immoral it is very dangerous. It seems that it is now less dangerous to deal with offenders than to take on management.
10. This is a brief outlay of what is a very deep and prolific problem within the service. There is a limit to what staff can achieve on the ground. There is not enough resources, management have lost their way and commitment to the profession is waning fast. Already results of this is shown by offenders not being supervised in the manner that enables the public to be protected and if not stopped will get worse.

September 2010

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### Written evidence from Mr Will Watson (PB 03)

#### PERSONAL INTRODUCTION

1. I am a retired Probation Officer with a wide experience of the Probation Service in all its forms. I worked as a trained, main grade Probation Officer in Central London from 1972 to 1995, when I took early retirement.

2. I returned as a part-time Probation Officer in 2001, and worked until the end of 2006 during the period of transition from Probation Service to Offender Management.

3. I submitted a note of evidence to the all-party House of Commons Committee on Home Affairs, chaired by Chris Mullin MP, about these same issues of probation and imprisonment, for a meeting of the Committee with the then Inspector of Probation Prof Rod Morgan on Tuesday 11 February 2003.

[Please see HC 437-i of session 2002–03, my note at Appendix 3].

4. Since retirement, I have kept in touch with most aspects of the penal system. I remain an associate member of Napo, and have kept myself informed of the work of Mr Harry Fletcher, Campaigning Assistant General Secretary. His paper on the Reform of the National Offender Management Service, [hereinafter “NOMS”] distributed to all Parliamentarians earlier this year, was particularly useful.

5. I am a member of the Howard League for Penal Reform, and actively support their current campaign for safer communities, more community penalties and less crime.

6. I am also a member of The Prison Reform Trust.

7. I keep up a befriending relationship with a long-term prisoner, and by visiting him regularly I am aware of present prison visiting conditions.

8. With Mr Chris Hignett, ex Senior Probation Officer, I founded “The Campaign for the Reinvigoration of the Probation Service” [hereinafter “CROPS”] in November 2008. We have about 50 supporters.

9. We sent many representations to the previous administration voicing our concern about the ever-rising prison population, and what we consider to be the wrong use of the Probation Service. We had no response from that administration.

10. Our submissions to the new Minister of Justice, Mr Ken Clarke, have however been acknowledged by Genevieve Mitchell an “official in the Ministry of Justice’s Justice Policy Group”. She has informed us that her department is issuing a “Green Paper” on sentencing in November, and she is interested to receive our views on that.

11. I note your comment on the present coalition government’s stated wish to introduce a “*Rehabilitation Revolution*”.

12. I attach a copy of our “CROPS” manifesto which we believe shows the best way to achieve such a revolution.

13. I would like to address in the main, two of the Questions you ask: Question 2 and Question 5. I make some comments also on Question 8 concerning Training.

#### EXECUTIVE SUMMARY

14. “Offender Management” is a disaster in all possible respects: it is particularly ill-suited to the delivery of sentences in the community, which is the traditional province of The Probation Service.

15. The concept of “Offender Management” should be rejected in its totality. The bureaucracy surrounding it should be abolished. The Probation and Prison Services should be returned to their previous position of totally separate, independent services. Prisons could then return to their previous realistic role of punishing offenders by simple humane containment.

16. Probation Officers could return to their role of rehabilitating offenders in the community.

17. Prison sentences should be changed back to the way they were managed before 1991, and the present notion of “Automatic Early Release” at the half way stage should be abolished.

18. This latter provision would mean that “Offender Managers” currently supervising offenders “Automatically Released Early” from prison would be able to return to being Probation Officers supervising Community Sentences.

19. Question 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?*

20. The concept of “Offender Management” is a deeply flawed and destructive one, particularly in the field of supervision of offenders in the community.

21. Offenders in the community, however closely supervised or managed, will always be able to commit offences against the public if they choose to: they are in a completely different category to offenders in prison, who cannot commit such offences.

22. This is one of several reasons why prison sentences have become more and more common, and the prison population has expanded: “Offender Managers” are bound to recommend prison, as the only safe place to “manage” an offender.

23. I do not think that the Probation Service should be operating “offender management” at all: that is a job for Prison Officers in prisons, or Police Officers in the community.

24. From a practical point of view, it is important to take a different approach to the supervision of offenders in the community, and to the gathering of information which may lead to a “Community Order”.

25. The Present system of “delivering Offender Management” depends entirely on the “Offender Assessment SYSTEM”, known as “OASYS”.

26. It is important to understand how this Questionnaire operates, in contrast to the previous Probation Officer [hereinafter “PO”] method of acquiring information about the offender.

27. The OASYS falls into three parts. The Offender Manager [hereinafter “OM”] at present has to first obtain the official Criminal record of the Offender, and tabulate this into the OASYS Computer Program.

28. From the offender’s previous convictions the OASYS will arrive at a figure as to the likelihood of the offender re-offending, and the level of harm likely to be caused.

29. The second part of OASYS is tabulated after the OM has asked the offender a series of as many as 160 questions about the offender’s perception and memory of their behaviour, feelings and attitudes.

30. These questions relate to the fields of literacy, employment, abuse of drugs and/or alcohol, aggressiveness and loss of temper, homelessness, mental health and happiness, reaction to childhood upbringing, physical health, attitudes to themselves and the world and other points.

31. Having got all this information, or as near as he/she can get it, the OM then “scores” the various sections according to the computer programme’s own “weighting” system. The idea at the end of both these parts is that the Computer Programme will come up with an exact measure [out of a maximum of 168 points] of the likelihood of re-offending, and the amount of harm likely to be done.

32. Coming a poor third in this process is the assessment of the areas of life of the offender which need to be worked on to prevent that re-offending.

33. I suggest, and others will argue I believe more cogently, that the ability of any such system to predict accurately future behaviour of the individual has been shown to be poor.

34. Obviously, PO’s like myself had to gather information about offenders for the court reports, but the secret of success here lies in the approach used.

35. OASYS is flawed for several reasons: Firstly, It is very long and complicated: a then highly regarded Senior Probation Officer, who shall be nameless but who has since moved to a high position in the NOMS bureaucracy, advised me in 2003 that two good sessions of about 45 minutes each were necessary to do a “good” “OASYS” assessment. It is probably unusual in practice to have more than 45 minutes allowed for the interview.

36. Secondly, The feeling that an offender often gets from an OASYS interview is that they are regarded from the beginning as some sort of malfunctioning “unit” which is being assessed for its dangerousness, like some piece of machinery that has gone wrong, not like a human being at all. As I remarked in my Note of Evidence of 2003, this approach may work with motor car engines, but is ill-suited to human beings.

37. I suggest that the PO’s way of asking questions of the offender about to be sentenced by the court was much more oriented to the needs and fears of the offender. It was sympathetic, and sought to begin the all-important “Casework Relationship” referred to below.

38. The intention of the PO was to show, from the outset, that he or she was concerned, above all, to help the offender. We believed that most offender's "offending behaviour" could be understood by us through our training in psychology, psychiatry, sociology, criminology and human growth and development.

39. We further believed that by working with the offender in this shared enterprise known as the "Probation Order" we could help them "address" this behaviour and so change it, and so achieve that much sought after goal of "reducing re-offending".

40. Many offenders and their anxious families today complain that having been diagnosed as of "medium risk" of re-offending, and therefore not sent to prison, they are quite unable to get any "help" to prevent re-offending. The whole "Offender Management" scheme seems quite uninterested in the notion of help.

41. Thirdly, nearly all offenders are very anxious at this interview, where information is gathered in order to write a report for a court as to the most suitable sentence to be passed. They are aware of the influence that the PO or OM can have on the court, and are anxious to get the help they need, and not go to prison if possible.

42. Offenders in this position usually have mental problems of some degree: they are often emotionally insecure and very frightened in general, and in particular of being sent to prison: they may have handicaps in the area of intelligence and literacy. Such people need to be handled sensitively, and sympathetically, not mechanically, and unfeelingly, if a worker is to have any chance of "working" with them after the sentence of the court.

43. To put it another way, the possible "treatment plan" for the offender under a community sentence needs to be worked on from the moment the offender walks in for the pre-sentence report interview.

44. These "treatment plans" can be very complicated and painful for the offender. They can involve one or more other agencies, and possibly long-term residential treatment for alcoholism or drug addiction. If no feeling of trust between offender and worker exists, these plans will never even get out of the starting blocks.

45. Fourthly, the "OM" need not feel under any pressure to make a "non-custodial" recommendation to the court, as that is not a priority under the NOMS: the priority under the NOMS is to get the OASYS Questionnaire completed, and tabulated onto computer, and checked and "signed off" by another staff member [and regularly revised and updated].

46. The managers of NOMS will only want to know "Have you done your OASYS?", and will not concern themselves with the question of whether a non-custodial recommendation has been made or not.

47. PO's on the other hand would be expected to make a non-custodial recommendation wherever possible, and to work out a comprehensive treatment plan, or at least the outline of one.

48. Fifthly, the NOMS pressure, and that for the courts, is to get all cases "processed" as quickly as possible. This is highly undesirable in cases where further reports on offenders are required, as they often are.

49. This could happen where a specific requirement for treatment for drug or alcohol addiction is needed or a requirement to see a psychiatrist, or to reside in a rehabilitative hostel. These agencies need time to make their own assessment of the offender's suitability for their particular treatment, and to report to court on them. Sometimes, indeed, a case needs to be adjourned more than once, for example until a place in a rehabilitative hostel becomes available. Any kind of adjournment of this sort will be resisted by the NOMS authorities.

50. The sixth reason why OASYS-run "Offender Management" works badly is that it is operated as though the Community Order was a punishment. Thus, an offender is instructed to report to the OM office in a very strict, inflexible, disciplinarian kind of way. Any deviation from the instructions to report, even being a few minutes late, is punished by a warning of the imminence of Breach proceedings and a return to court and a likely prison sentence in place of the community order. Often, the offender is so frightened by the OM's attitude that he or she hears the "warning of Breach" as though it were an actual breach already, and return to court being inevitable. The offender promptly gives up hope and surrenders themselves to the worst.

51. The Probation Officer, per contra, would want to talk to the offender as to why he or she was late, and enquire what was the matter. A PO might well go in search of a client who failed to attend, rather than issue dire warnings. It was not a matter of our leaving the matter be, but of getting back into relationship with the offender and reminding them in a friendly way that they had committed themselves to this Probation Order, and must talk to us about any concerns they had. It was a "Two-way Street". Part of our job was to maintain hope: without hope you have nothing.

52. On the subject of talking to the PO, there are countless instances of the offender's saying how important it was to them "to have someone to talk to", "to receive advice and guidance", and to "discuss their needs and problems". (See particularly the chapter by T. McCulloch and F. McNeill in "Addressing Offender Behaviour" [Willan Publishing 2008], pp 154 to 171).

53. I suggest therefore a return to the Probation Officer's way of working, and a return to the Probation Order.



54. Question 5: *Does the Probation Service have the capacity to cope with a move away from short custodial sentences?*

55. In brief, at present the short answer to this question is “No”. We [that is “CROPS”] estimate, however, from sources within or recently within, the probation service that between 20 and 33% of an “Offender Manager’s” time is presently spent on the supervision of offenders who have been Automatically Released Early from prison.

56. We suggest this practice is a false economy and based on the dangerous confusion of prison and non-prison, and should be abolished.

57. Instead, we suggest a return to the system that existed before 1991. Under this a prisoner simply serves two-thirds of the prison sentence they are given at court, all within the prison walls. Breaches of discipline in prison may lengthen the sentence a little, but generally all parties—the offender, the public, the court, the prison know from the outset what the likely date of release will be.

58. This would return the sentence of imprisonment to being a simple punishment for a serious crime. It would mean a return to the notion that when a sentence has been served the offender is returned to society, a free person, with as many rights and entitlements as any other person.

59. A return to this system would be much safer than the present half-way release system, and would return the prison sentence to its former integrity and comprehensibility.

60. OM’s now supervising these “Half-Way Released” prisoners in the community would be liberated to be PO’s supervising Probation Orders.

61. Question 8 asks *whether “the provision of training” is “adequate”*

Again the short answer is, often, “No”. In its desperation to obtain more staff, the NOMS has recruited large numbers of barely trained staff called “Probation Service Officers”. This title is remarkably similar to the real, properly trained over two years “Probation Officers”, but PSO’s are often given merely a few weeks training.

62. The Committee might like to ask the NOMS how many of each category it employs.

63. “PSO’s” will need anything up to two years further training, and indeed may not want to be Probation Officers at all, having been recruited to be NOMS employed “Offender Managers” . Some are employed in roles not compatible with the Probation Officer role, such as Court Breach Legal Prosecution Officers.

64. The break-up of NOMS will mean that staff presently employed will have to be closely interviewed as to whether they wish to work in the rehabilitational Probation Service, or the custodial services, or leave altogether. Those who remain will have to be trained according to their needs.

65. CONCLUSION

The need for drastic reform is borne out, I believe, by the statistics concerning the prison population of this country. In 1981 it was 43,000, in the next 10 years, when the Probation Service was operating in the way I recommend to happen again [with Parole], it rose by just 2,000 to 45,000.

After the Criminal Justice Act of 1991 it rose by a staggering 23,000 in six years to 68,000. Since the Labour government’s arrival in 1997 it has continued to rise to its present figure of around 85,000: the last administration forecast a continued rise to about 96,000 by 2014. This country spends a larger percentage of its GDP on the Criminal Justice System than any country in the world, including America.

August 2010

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### Written evidence from the Staffordshire and West Midlands Probation Trust (PB 04)

#### EXECUTIVE SUMMARY

This evidence suggests that the current arrangements for commissioning probation services needs to be reviewed with a view to improving their links to local communities.

However, not all offending is local and the perspective that is provided by current MAPPA processes must not be lost. Crime that is trans-local needs to be managed at that level.

It is argued that the probation trusts are the best placed to achieve this provided that they are large enough to provide high quality management of dangerous offenders and have robust local delivery arrangements to link to communities and neighbourhoods.

Probation trusts perform well against national targets but it is argued that these targets are too input and process driven and should be reviewed better to articulate the outcomes being sought. Consideration of desistance research suggests that the relationship with the offender has to be seen as a central feature of reducing reoffending.

Probation Trusts are not free to make the best use of available resources. The administrative burdens of bureaucratic processes, monitoring and auditing distract from front line delivery disproportionately. Probation Trusts play an active and effective role in local partnerships and punch above their weight.

Not all possible requirements are available to the courts. Those that are directly provided tend to be demanded and generally available but those dependent on external providers are limited by supply. Once in place requirements are robustly managed and there is evidence of effectiveness.

The private and voluntary sectors play an important role in provision of probation services. This is often geared to provision to hard to reach groups. The key issue is to ensure that the offender management role is properly coordinated and not dissipated across disconnected providers.

The Probation Service is not currently resourced to take responsibility for short term prisoners. Cuts to budgets will make current targets difficult to achieve.

Restorative approaches should be supported provided that proper consideration is given to the feelings and views of victims.

Minority groups of offenders are handled well as resources allow. This is easier to achieve in the larger Trusts where greater numbers can be brought together. High risk offenders are handled robustly through the MAPPA process which must be protected in any future reorganisation.

Probation training is in flux and it is too early to say whether the new arrangements are adequate.

#### RESPONSE TO TERMS OF REFERENCE

*Are probation services currently commissioned in the most appropriate way?*

1. The commissioning of probation services should be seen on two levels. The majority of provision makes sense at the local level, linked clearly to local experience and perceptions of crime. The crime that is most often perceived by people as creating a problem is contained within local communities being perpetrated by local people. Consequently local solutions are the most likely to address the perceptions. The current arrangements distance commissioning from this local level and it is through the organisation of probation trusts that the local connections are made. SWMT operates through nine "Local Delivery Units" (LDUs) covering the Local Authorities within the area. These LDUs are led by a Head of Probation and provide local connection to communities and a basis for local commissioning.

2. However, not all offending has this primarily local flavour and the management of some categories of high risk and/or highly organised offenders, including terrorists, has to be delivered across the span that is appropriate to their offending. MAPPA arrangements that exist at Police Constabulary level are vital as are cross border arrangements in the management of sex offenders within the Approved Premises estate. Probation Trusts need to be large enough to commission and manage such relationships.

3. SWMT is of sufficient size to contain commissioning expertise and to facilitate commissioning at the right level. Local commissioning can be supported but the wider context is also within our commissioning capacity. Inserting a regional tier into this commissioning does not make for efficiency, nor does it create a clear enough link between the commissioner and the people on whose behalf commissioning is being undertaken. The probation trusts are better placed to deliver local commissioning through their Local Delivery Units supported by robust Trust Commissioning Departments.

*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?*

4. On a certain level the probation trusts are operating very effectively. Almost all trusts are "green" against performance targets and "green" overall in the Probation Trust Performance Framework. Key targets, such as the enforcement of orders, are delivered at above 95% with great consistency. SWMT came into operation on 1 April and inherited the performance of its two predecessor Probation Areas. The result is a Trust with overall "green" rating. However, this belies the question of whether the right things are measured and, in particular, what outcomes are being sought by the activity measures that are in place. The reduction in reoffending figures seem now to consistently show that actual against predicted offending is reduced through the interventions provided. Desistance research indicates that incremental changes are to be expected in dealing with adult offenders who have developed criminal and anti-social behaviour over many years, possibly a lifetime. In this sense there is evidence of success. However, it would be widely thought that success is achieved in spite of rather than because of the range of performance targets that are in use. Qualitative measures relating to delivery have a far greater relevance to effectiveness and are under utilised.

5. Taking a different perspective probation trusts are not able to utilise resources effectively. The very heavy burden of administrative procedures means that front line staff spend too little of their time in contact with offenders. Input and process driven targets lead to excessive time being spent in monitoring and inputting. Again, desistance research points to the quality of the relationship with the offender as key and this relationship is sacrificed when targets are inappropriately set or monitoring processes unduly intrusive.

6. The probation service plays the key role in managing offenders and can be likened to the mortar in the offender management wall. More than any other agency or organisation the probation service links the different elements that make up good offender management (high quality assessment, robust management of contact and behaviour, and well targeted interventions) and provides the link for other organisations to work in an integrated manner. Both formally through partnerships and contracts and informally as the pivot of the offender management process, the probation service punches above its weight.

*Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered? What role should the private and voluntary sectors play in the delivery of probation services?*

7. The simple answer to this question is “no.” Some of the requirements (such as Community Payback) are demand led and available readily whilst others (such as treatment requirements) are limited by the supply. Often the limitations arise from the fact that supply is controlled through external sources (such as a Health Trust) and there is simply not enough resource invested. Provision often has to be negotiated through joint commissioning arrangements rather than arising from a set of common outcomes that inform all providers of the requirements. There is, at times, a tussle over who is responsible for payment for the provision of requirements, especially where there is no formal contracting arrangement but a reliance on another agency directing its resources toward offenders. Perhaps inevitably, offenders are often not at the top of a list of priorities.

8. Once in place the effectiveness of requirements is supported by the research on reoffending referenced above. In most cases requirements are managed according to strict criteria based on delivery manuals and these have been developed on the basis of “what works” research. There are issues relating to the integration of offender management with the delivery of interventions as offender management tends to be less well resourced (on a per offender basis) than interventions. Full effectiveness will be achieved by both offender management and interventions being adequately resourced.

9. Private and especially voluntary sector organisations already play an extensive role in the delivery of probation services. SWMT has a wide range of contracts and partner arrangements with these sectors. From the supply of logistics, through supervision of Approved Premises residents, to the delivery of accredited interventions programmes, both sectors are active. In many cases there is genuine added value to the role that these sectors play. For example, the voluntary sector is able to adapt provision to access harder to reach groups or to make a different quality of relationship with communities. The essential issue is that all of the work with an offender needs to be tied together tightly as one package that is managed in an integrated way. The role of the probation trusts in achieving this is a vital building block of effectiveness in reducing reoffending.

*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

10. The probation service has faced significant cuts in this financial year (7.3% in the case of SWMT). Given that the demands on the service remain the same there will be difficulty meeting all targets as they are currently set. As stated above, there is a common view that the target economy produces inefficiency whilst not enhancing effectiveness and addressing this issue will release resources for deployment in other ways.

11. Even given a reshaping of current demand there is no way in which current resources can address the issue of a move away from short custodial sentences. The offenders who receive short term prison sentences, typically, are at high risk of reoffending and present high levels of criminogenic need. Significant resources need to be invested so that the levels of offender management and the interventions provided are adequate to ensure offenders are less likely to reoffend and are managed sufficiently actively to reduce the likelihood that they will breach conditions and be sent to prison as a result. Breach action arising from non compliance is likely to be higher if a poor product is delivered and the aim of reducing the short term prison population will be negated.

*Could probation trusts make more use of restorative justice?*

12. There is no doubt that restorative justice could be used more by probation trusts although this needs to be informed by research into the effectiveness of such approaches in terms of reducing reoffending and increasing victim satisfaction. The restorative role of Community Payback can be made more direct through jointly commissioning work with local communities and explaining to them the process by which offenders are making amends.

13. Panels that deal with more minor offending at a local level and allow apology to the victim and explanation by the offender can be used relatively easily and have been shown to materially effect victim satisfaction with the criminal justice process.

14. Face to face restorative justice with higher risk offenders is very resource hungry as full preparation of both victim and offender is needed. Some such work is undertaken by some probation trusts but extending this work would have major resource implications.

*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?*

15. Perhaps the correct answer is “yes, as resources allow.” The issue is more easily managed in the larger urban trusts where there are larger groups of minority offenders. In more rural areas a particular minority might well be very isolated and only appear as offenders in very small numbers. Work based on group approaches clearly present particular problems in this regard. The use of voluntary sector organisations working under contract with the probation trusts is very effective in provision for minority offenders.

16. There are well developed arrangements for assessing offenders before allocating them to different streams of offender management or to interventions. The MAPPA arrangements are invaluable in managing high risk offenders and the relationship between the Police and probation services is vital in ensuring an integrated approach.

*Is the provision of training adequate?*

17. It is a difficult time to answer this question as the training arrangements are in transition. The new Probation Qualifying Framework has definite advantages in reaching many more staff, but the quality of the training is yet to be tested. In that the Framework is based on an “apprenticeship” model the quality will be affected by the availability of resources to back fill the time needed to undertake training and development. In the context of reducing resources this is a matter of concern.

September 2009

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#### **Written evidence from Raymond Ashley JP (PB 06)**

*1. Are Probation Services currently commissioned in the most appropriate way?*

1.1 My contact with Northumbria Probation Service (NPS) as a sentencer has been very mixed. Bail hostel facilities are often limited and unavailable when needed. Young Offender Team (YOT) has limited resources, and NPS appears to be over worked. The Probation Service does provide a good service to the courts, but the set up seems over complicated and “management” heavy.

*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?*

2.1 Providing information to the court to facilitate decisions about bail or custody is usually good. The provision of pre-sentence reports varies from report to report, depending on the writer, with some reports being of poor quality. The delivery of community sentences and the supervision of prisoners post-release seem good but “breaches” appear to be on the rise.

2.2 I feel confident to use the proposals in most reports, but concerned at the lack of will to imprison where necessary. Too much political pressure influencing the content of the reports, and a bias in favour of community punishment when imprisonment is an appropriate punishment.

2.3 For most magistrates, custodial sentences are a last resort in many cases, except where the offence is so serious that “only custody” is appropriate.

2.4 Where custody is appropriate, a report should NOT be required as justice is delayed. In many cases the report gives grounds for appeal because of its content.

*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?*

3.1 No, because the resources are limited due to under funding for some. Drug rehabilitation has limited success, but is expensive to deliver and requires review in court (Is this good use of Court time?).

3.2 I overheard a conversation on the local “Metro” light railway system where three youths (two male, one female) were discussing their respective orders. The gist of the conversation was that the YOT members were easy to persuade to a course of action, did not “push” issues very hard, did not strictly enforce issues and only reluctantly “breached” the order. The youths did not find the order “punishing” in any way, just sometimes inconvenient. They were amused at the attempts to “reform” them.

3.3 In my 21 years on the bench, I can recall many times where discussion was about confidence in the NPS delivery of services rather than if the community sentence was appropriate. There are still doubts about the service delivery. These doubts are based on “breach” courts, and the mistakes NPS makes in court.

4. *What role should the private and voluntary sectors play in the delivery of probation services?*

4.1 Any appropriate role providing it is well monitored and not more expensive than provision “in house”.

4.2 Example—G4S provide electronic monitoring which is usually good, but once set up they are loathed to change anything even if it is within their remit. Breached young man for smoking at bottom of yard which was out of range of receiver—court ordered range to be extended slightly to allow this activity (three metres).

5. *Does the probation service have the capacity to cope with a move away from short custodial sentences?*

5.1 No. Limited resources. Already over stretched.

6. *Could probation trusts make more use of restorative justice?*

6.1 Only if victims want this. In most cases they do not want any contact and should not be persuaded to because it is expedient.

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?*

7.1 I have no information and therefore no views on this matter.

8. *Is the provision of training adequate?*

8.1 Difficult to answer. When they are good they are very good, and when they are bad they are terrible.

8.2 Training is an issue that needs to be addressed in detail by the Probation Service but with lots of input from other agencies. Use of technology could be improved.

September 2010

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**Written evidence from CBI (PB 07)**

1. The CBI is the UK’s leading business organisation, speaking for some 240,000 businesses that together employ around a third of the private sector workforce. With offices across the UK as well as representation in Brussels, Washington, Beijing and Delhi the CBI communicates the British business voice around the world.

2. Reducing the level of re-offending has rightly been established as a principal objective for the criminal justice system. As corporate citizens and as taxpayers, business wants to see re-offending reduced and good outcomes delivered while achieving value for money. The establishment of a strong and sustainable market for probation services will be critical in achieving this aim. The CBI believes that this can best be achieved through:

- Greater competition to encourage innovation and efficiency.
- Developing a sustainable market will encourage a range of providers to think creatively about the programmes they deliver and create greater choice for commissioners.
- Improving commissioning to achieve better outcomes.
- Good contract design and using outcomes-based contracts will give providers flexibility to develop effective programmes and incentivise them to join up services to achieve lower re-offending rates.
- Improving procurement to deliver value for money.
- Cutting out wasteful duplication in the procurement of services will deliver substantial savings and improving skills will instil confidence in the provider community.

**GREATER COMPETITION TO ENCOURAGE INNOVATION AND EFFICIENCY**

3. A competitive environment will lead to better outcomes as service providers continually strive for performance improvements and efficiencies. In offender management, the benefits of competition can help to achieve lower re-offending rates and value for money services. Currently only a small percentage of probation services are delivered by independent providers; probation trusts are the lead providers within every probation area. Competition for the provision of services has been limited, restricting access to fresh ideas for improved service delivery and efficiency savings that are inherent in more competitive markets. This can be addressed by taking measures now to establish a sustainable market for probation services.

4. Both the private and the voluntary sectors can play an important role in the delivery of probation services and already have huge experience in working with offenders both in custody and in the community. Independent organisations also have developed skills in working in multi-agency environments and building relationships at a local level to improve outcomes. Such experience is particularly useful in criminal justice, where best results are achieved from tailored programmes that are composed of a variety of interventions provided by a range of different organisations.

5. Independent providers can help the Government achieve its goal of reducing the size of the prison population. Increasing the number of offenders who will be subject to community interventions at the same time as the amount of public money available to fund these interventions is reduced will require new providers and new ways of funding such services.

6. The benefits of competitive tendering have already been realised in other parts of the criminal justice system, such as in the provision of prison services. Motivated by the pressure of competition, management teams have been obliged to focus on service improvement and it has created a powerful incentive for innovation. Learning from this lesson, it is important that probation services are similarly market-tested in such a way as to ensure that is always the best provider that provides.

7. Identifying and tackling barriers to entry will be an important first step in developing a sustainable market involving a diverse range of suppliers. Larger commercial organisations with experience in providing and co-ordinating public services will be attracted to the market if opportunities are of sufficient scale to deliver a return on their investment. Strategic commissioning at a regional or pan-regional level can often deliver this scale. For smaller providers, particularly from the voluntary and community sector, it is important that procurement requirements do not present too much of a burden. Simple contracts and bidding processes will allow scarce resources in these organisations to be focused on delivering quality outcomes.

8. Open communication between commissioners and potential providers will be essential to develop a sustainable market. Commissioners benefit from obtaining increased understanding of provider organisations helping them to ensure that their invitations to bid do not over-specify and allow for flexibility in service delivery. From the provider's perspective, increasing knowledge of the opportunities available will increase their propensity to engage in the market and guarantee that the maximum number of bidders compete for contracts.

*Case Study—Path2Work: Independent Providers Working Together to Reduce Re-offending*

Serco in alliance with voluntary organisations Catch 22 and Turning Point successfully delivered the Path2Work service in the East of England region from 2007, under contract to the Probation Service. The Path2Work initiative assisted ex-offenders to secure employment or training within the community.

Each ex-offender had set needs that had to be met to help that person secure and sustain employment. These needs were identified through a range of activities including: in-depth diagnostic interviewing; basic skills screening; career path analysis; financial assessment; motivation analysis and life coaching.

Each individual on the Path2Work programme was allotted a Personal Advisor, who, together with the customer would negotiate a Personal Action Plan to meet the specific needs of that customer to help them secure employment. Plans differed depending on the customer but interventions to meet customer need could include: debt advice; referral to substance misuse counselling; providing rent deposits and acting as guarantor to landlords; access to interview skills workshops and one-to-one interview coaching; professionally written CV's; soft skills and motivation classes; the purchase of interview clothes; access to mental health workers; and enrolment with local basic skills training providers.

The collaborative approach offered individuals the support needed to get back into employment and into an environment where they far less likely to reoffend.

#### IMPROVING COMMISSIONING TO ACHIEVE BETTER OUTCOMES

9. Good contract design will be at the heart of a successful probation service and wider offender management system. Contracts should be clear on expected outcomes but accommodate innovative methods for achieving these. Over-prescriptive contracts will inhibit providers and limit their scope to introduce innovative ways of working to reduce re-offending.

10. Using outcomes-based commissioning justice commissioners can hold providers to account by making payment dependent on achieving contractual outcomes, incentivising the achievement of lower re-offending rates. The contract that currently exists between Directors of Offender Management and probation trusts is largely based around inputs and a few outputs rather than outcomes. This limits the flexibility that trusts have to design tailored programmes that specifically tackle re-offending. By identifying key outcomes and the practical steps needed to achieve them, services can be commissioned which address the causes of re-offending while avoiding unnecessary restrictions on service design or delivery. This method also keeps value for money at the heart of the commissioning decision.

11. Joint commissioning among trusts has the potential to deliver significant economies of scale and would also widen the scope of projects that independent organisations can become involved with. Currently each of the 35 probation trusts is responsible for commissioning interventions work from local providers in their probation area. There is a significant duplication of structure and process throughout the network with each trust committing resources to similar functions. Directors of Offender Management in each region should work with relevant probation trusts to ensure that opportunities to make savings through joint commissioning are taken up.

12. In addition, lower re-offending requires more joined up working between agencies. Half of spending on offenders is carried out by departments and agencies other than the Ministry of Justice and therefore achieving lower re-offending rates and value for money is dependent on co-ordinating these budgets. Commissioning structures should encourage this way of working as far as possible, facilitating co-operation between services.

13. One model that has proved to be successful in joining up services is the prime contractor structure for commissioning that has been used to deliver programmes such as the Flexible New Deal. A version of this model could be used for the delivery of probation services whereby a prime contractor has responsibility for sub-contracting services from a range of specialist providers from the public, private and voluntary sectors. The advantage of this approach is that it offers providers freedom to design a package of support for offenders that is better tailored to their individual needs and there is an incentive to think creatively to choose a combination of interventions that will deliver best results. The system also encourages partnership working, bringing together organisations from across different sectors, with mutually beneficial results. The private sector has good experience of managing these links.

#### IMPROVING PROCUREMENT TO DELIVER VALUE FOR MONEY

14. Badly-run procurements increase bid costs and create delays, often putting providers off bidding in the future. The pressure on all public bodies to deliver cost savings from public service contracts makes improving procurement all the more essential. Good procurement requires specific skills in needs analysis, risk identification and management, market engagement and performance evaluation.

15. Dissemination of procurement best practice among commissioners and stakeholders is an important component of skills development. In a time of constrained budgets sharing the best procurement resource between departments could be a more feasible option than recruiting additional permanent staff. In the justice sector, the Academy for Criminal Justice Commissioning has proved useful in providing a valuable forum to share ideas.

16. Commissioners could also consider using the expertise that is prevalent in parts of the public sector. Highly skilled officers from other government departments could be brought into criminal justice projects on a short term basis to supplement existing expertise. This would ensure that the most experienced and talented commercial staff in the public sector is used effectively.

#### CONCLUSION

17. Pursuing tough and effective non-custodial sentences will be essential in lowering re-offending rates while meeting the target of reducing the prison population. The taxpayer is impacted by the costs of a system that could perform better and business as a user, funder and provider of public services has a stake in seeing a fully functioning market for probation services. The CBI believes that there is a need for swift reform to see a sustainable and competitive market developed with providers fully focused on achieving the target of reducing re-offending. Public, private and voluntary sectors will each have a role to play in delivering this objective and will have to work in competition and in partnership to bring best results.

18. Commissioners of probation services will need to keep value for money at the heart of the decisions that they make, seeking to exploit economies of scale where they are available. Strategic commissioning at regional and pan-regional levels may provide some of these opportunities but they will also have to be sought through joining these processes across localities. Incentivising providers through a focus on outcomes will make for more innovative and efficient ways of working, particularly when afforded flexibility in how they go about achieving them. Creating this environment will require strong procurement skills and the Government should ensure that staff with sufficient expertise are in posts where their knowledge and experience can be felt.

*September 2010*

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#### **Written evidence from Mike Guilfoyle (PB 08)**

*Are probation services currently commissioned in the most appropriate way?*

The arrangements set in motion by the Offender Management Act (2007) contained provisions which if properly enacted could provide the right kind of framework for a more streamlined commissioning role for the Probation Service at the local level. However there appears to be too little attention paid by Trusts to ensuring that smaller independent organisations that aim to offer tailored services to offenders and communities are enabled to enter the field. If Probation Trusts are meant to be arms length organisations operating by contract with the Secretary of State. Removal of the regional quasi-managerial Noms/Doms offices would most likely make for greater autonomy over local commissioning options? There is a clear imperative to separate responsibility for Probation & Prison policy in the MoJ/Noms. Even though Noms has been in existence since 2004 very few front line staff really meaningfully grasp what it is!! Two thirds of supervised Offenders are only ever managed by Probation. Active arrangements that foster better levels of trust between organisations are more important than competitive contractual working. A Stand -Alone, Locally based and properly resourced Probation Service needs to be higher up the Criminal Justice Agenda?

*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?*

With pending efficiency savings aimed at reducing the deficit now in motion. The committee will have regard to Napo’s briefing paper on the MoJ cuts. Delivery of “Offender Management” could be adversely impacted if front line Probation jobs are lost. Offender Management risks fragmenting continuity of contact (a central thread of the OM model) if too many contractual providers enter the field in a market led free for all. There is an absence of the Offender “voice” in service determination. The committee may well have some regard to Professor Eileen Munro’s governmental review on cutting wasteful bureaucracy and enhancing service delivery in Social Services departments. Too much time, money and resources have been squandered by Noms on failed IT projects (C-Nomis) and this has resulted in cumulative losses in confidence and engagement by staff as well as the erosion of professionalism. Probation Trusts appear to be constrained by too many restrictive practices on being able to deploy their income, if this remains in situ, it requires more of a radical rethink of what “localism” means and how to best to resolve the conflicting priorities in terms of national and local targets in the context of local area agreements and Crime reduction partnerships.

*Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

The Magistrates Association will be providing its own submission to the committee, but there appear to be local and regional variations on the ability of Probation Trusts to respond to judicial demands due primarily to levels of differential resourcing between areas. As an example, London Probation issued “guidelines” to court staff that Curfew Orders (Stand alone Requirements) for breach of Community Orders in dedicated magistrates courts should be the “only” proposal, which conflicted with professional discretion and sentencing fairness. This was cited as being due to organisational pressures to fulfil Unpaid Work/Community Payback quotas and insufficient staffing ratios. How to address “mode of case disposals” will clearly impact on rates of re-offending. The removal of sentencers from Trust boards will no doubt weaken accountability and make communication pathways that much more problematic.

*What role should the private and voluntary sectors play in the delivery of probation services?*

The nature of the contracting environment needs to change so that greater levels of accountability are in evidence and better scrutiny of commissioning decisions are available. Better partnerships at the local level with independent providers need to be fashioned and developed. Faith sector organisations like the St Giles Trust should be encouraged to expand its range of provision in the resettlement of prisoners. But which services could be better run needs closer scrutiny especially when cost reductions and value for money proposals are so prominent. The Probation Service had a commitment to ensure that “ex-Offenders” were represented on Boards (now Trusts) This appears to have dissipated as the “users” voice is low on the priority list of most areas?

*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

The scope for offering adequate levels of supervision across the board is likely to be greatly attenuated by planned cuts in budgets. Initiatives to handle increased workloads by offering services to those sentenced to short custodial sentences is at this juncture a significant challenge that the Service would not have the capacity to manage. Successful local initiatives like the Diamond Project need to be pump primed (and recommendations contained in the committees Justice Reinvestment Report need to be re-energised) A serious review of breach practices to obviate unnecessary recalls to prison should be considered (many of these proposals were contained in the Centre for Social Justice’s landmark report-Locked Up Potential)

*Could probation trusts make more use of restorative justice?*

The extension of restorative justice programmes should be considered on the basis of the impartial evidence of its effectiveness. Pre -election pledges by Labour/Lib Dems/P Cymru cited significant cashable savings for RJ and the current Prison/Probation Minister noted that “RJ had an historic opportunity” within Criminal Justice. Probation Trusts should scale in RJ as a vital and workable solution to identified areas of Offender/victim intervention in addressing the harms of offending and victimisation.

*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?*

Probation work at its best is well suited to provide a culturally sensitive and potentially restorative role in marginalised communities. But due to the absence of effective top end leadership (No Director General of Probation) and the deleterious impact of some of the more malign managerialist projects imposed from above. It appears to have lost some of the potential for good in appearing to many at the front line as no more than an arm of the prison service, struggling to accomplish end to end management and fixated on targets which pays only limited regard to individual difference and downplays the statutory requirements of the impact of its policies on minority groups. It often pays lip service to equality and diversity when pursuing performance driven agendas.



*Is the provision of training adequate?*

The Probation Qualification Framework launched in April 2010 and broadly supported by Napo is still work in progress and may well be better amplified in the Napo submission to the committee.

The Probation Service has become unbalanced within the Criminal Justice System and has changed almost beyond recognition over the last decade for many inside and outside the service. There needs to be a better dialogue between criminal and social justice and an agency like Probation is arguably well suited as an organisation charged with the responsibility to assist sentencers reach decisions based on an informed and critical understanding of the circumstances of offenders and the families and communities in which they live.

The advent of Noms has unbalanced the relationship between Probation and Prisons, many staff regarded this as a “hostile take over”. Probation is seriously unrepresented at the strategic centre of Noms (described as the New Agency in 2009!) and as such the Probation voice has been stifled and marginalised. This has meant that the principles and values long associated with the Service have not be properly heard or duly respected. The primary tasks of both services are different and different skills are needed. Of course there are points of interface when prisoners are released but the Noms organisational project has been unwise, poorly understood and a massively costly enterprise.

The third sector (a trojan horse for Probation?) is very close to the Noms agenda and may well offer in many respects a re-humanising of the Justice system if Faith and other communities are enabled to work with offenders and victims in a more integrated and holistic way set against the fiscal imperatives of MoJ savings? Yet within the lexicon of most Probation staff the values of support, help, reform, decency and respect still loom large. If Probation is to remain a vital part of the “Rehabilitation Revolution” it will need to have the capacity to avoid the “meltdown” many fear may well happen if severe cuts go ahead and the services ability to provide “public protection” within a re-balanced Justice System (see the Probation Chiefs briefing 2010) is not to be irreversibly damaged.

September 2010

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**Written evidence from The Griffins Society (PB 09)**

**SUMMARY OF POINTS**

This submission is about the capacity of the Probation Service to recognise the specific needs of female offenders in its work. From our experience and research we believe that women who are subject to probation supervision through post-release licence and community sentences are disadvantaged. This is because women are a small minority in a system that is designed primarily for men, yet the reasons for their offending, and therefore the interventions that are needed to help them avoid further offending, may be very different to those of men. Women are particularly badly affected by supervision that focuses primarily on risk management instead of on providing help, support and guidance. The importance of positive relationships for women’s ability to engage well with supervision tends to be overlooked by probation services, except in probation areas where women’s centres provide holistic help and supervision for female offenders. It is likely resources will continue to follow risk, so we argue that the role of the probation service with women offenders should move from an exclusive preoccupation with managing the risks offenders may pose to other people, to the inclusion of the imperative to help offenders reduce risk to self. This significant shift could be achieved through the provision of holistic services that addresses all women’s needs. Such an approach would greatly increase the effectiveness of probation work in diverting women from further offending. Rather than requiring extra resources, it would save public money by reducing the prison population and its associated heavy social costs.

**1. INTRODUCTION TO THE WORK OF THE GRIFFINS SOCIETY**

The Griffins Society is a charity that was established in 1965 by members of the disbanded HM Prison Holloway Discharged Prisoners’ Aid Society. We research and promote effective practice in working with women who are in prison or subject to criminal justice interventions in the community. In partnership with the London School of Economics, we provide the Griffins Research Fellowships Programme, which enables people working with women in the criminal justice system to research an issue of their choice about women offenders. When they have completed their research, they write a report about their findings. We publish it and we help them disseminate their findings. We maintain the Women’s Information Network, a searchable on-line database of services to women offenders and publications about women and the criminal justice system; and we provide volunteering opportunities to women serving prison sentences that help them to establish a work record before they are released. The Society is governed by a Council that includes academics and women who have served prison sentences.

**2. FACTUAL INFORMATION WE WOULD LIKE THE COMMITTEE TO BE AWARE OF**

The Griffins Society often finds evidence that women offenders are disadvantaged, in comparison with men, in their contact with the probation service. This view is derived from research findings and from our regular contact with women offenders who are our volunteers. There are three specific issues that we would like the Justice Select Committee to consider. These are women as a minority in the criminal justice system, the impact

of probation risk assessment procedures, and the seemingly low priority given to establishing constructive working relationships between offenders and their offender managers. This submission focuses mainly on women who are or have recently been in prison because this is the primary focus of the Society's work—however, much of the evidence we cite here is also applicable to women subject to probation supervision via community sentences.

### 2.1 *Women who have offended are a minority in the Criminal Justice System*

We suggest that there has been little pressure on the probation service to establish effective means of working with female offenders because their numbers are few. For example, the male prison population in June 2010 was 80,700 while the female population was 4,300 (Ministry of Justice 2010). Women therefore comprise only 5% of people in prison and they are clearly a minority in a system designed with men in mind. The same could be said of community sentences. For both 2007 and 2008, men were approximately five and a half times more likely to start a community order or suspended sentence than women (Ministry of Justice 2010). There has been only one accredited offending behaviour programme developed specifically for female offenders. This is despite their different needs and learning styles (Fawcett Society 2009). In some areas, women's centres provide a holistic form of supervision for women, and some services allocate women offenders to specialist offender managers. We suggest that these methods are more suitable to women's needs than mainstream supervision; but they are not available in all areas. Funding of women's centres is insecure and it is now vulnerable to public spending cuts. Yet, they can be highly successful at helping women and enabling them to avoid further offending. For example, the Together Women Project "TWP Plus" programme, introduced in 2009 for very vulnerable women, has supervised 176 women: only one order was revoked for re-offending (Together Women Project 2010). An interim evaluation of the Together Women Project found that "gender-specific interventions must be developed which take account of women's need to feel safe, their need to feel empowered, and their different (from men) learning styles" (Hedderman *et al* 2008).

Where no women-specific provisions are available, women's supervision can be very unsatisfactory. Furthermore, some probation officers have been reluctant to refer women to women-specific provision (Hedderman *et al* 2008). For example, we know of a woman who had served a fourteen year prison sentence. She secured employment before she was released and she did so well that she received a national award for her work. She reported regularly to her "offender manager" but she had frequent changes of officer, without any personal handover taking place, so she had to start again on several occasions with a new offender manager, each of whom seemed to know very little about her. Despite being in full time employment she was instructed to attend a daytime offending behaviour programme. She was not aware of any recent assessment of her offending behaviour having taken place, and the programme seemed unrelated to the specific offence for which she had been convicted. Worse still, all the other offenders on the programme were men and she felt very uncomfortable in the group as a result. Another woman spoke of the embarrassment and discomfort she felt when waiting to report to her probation officer, as she would normally be the only woman in the waiting room among a group of men, most of whom were young and often rowdy. One of our volunteers was recently released from prison on licence. She had served a four year sentence. She received counselling in prison and she had found this to be very helpful in enabling her to resolve some of the personal difficulties that she believed had contributed to her offending. However, the counselling had to stop on her release. Her offender manager has not offered to help arrange for the counselling to be resumed. The woman struggles to see any benefit in her weekly reporting at the probation office. It is surely highly unsatisfactory that a positive intervention that was helping a woman overcome her offending behaviour is discontinued on release without the probation service being able to offer anything of equivalent helpfulness. This is especially deplorable in view of Baroness Corston's finding that "mental health problems are far more prevalent among women in prison than in the male prison population... up to 80% of women in prison have diagnosable mental health problems" (Home Office 2007: 19).

### 2.2 *The effects of prioritising risk management in probation*

The second issue that we would like the Committee to be aware of is the way in which the probation service's preoccupation with risk management (or, as it seems to us, the unrealisable pursuit of risk elimination) affects women disproportionately. Resources follow risk, and that means that probation work with the majority of women who have complex needs but who do not pose a high level of risk to the community is accorded minimal attention, despite the fact that many women who offend are a risk to themselves. Our 2009 *Griffins Fellowships research project Double Invisibility—Recalled and female, and forgotten in the criminal justice system?* (Deedes 2009) was a small study of the experiences of seven women who had been recalled to HM Prison Downview for breach of their automatic conditional release licences. None of the recalled women had been assessed as posing any significant risk to the community and only one had been accused of re-offending. They had been recalled because they had failed to comply with, mainly, the reporting requirements of their licence. Most of the reasons for non-compliance were centred in their chaotic lifestyles rather than wilful refusal to comply.

The research noted the recent large increase in the number of recalls is due to recent changes in legislation, government attitude, pressure from the media, changes in probation culture and ethos, and greater emphasis on risk avoidance. Yet the level of interest in this subject is low. Accurate data and information about recalls is hard to obtain, for male and female offenders. Offenders, who are chaotic, addicted, socially excluded, and

disadvantaged are more likely to find it difficult to comply with their licence conditions so they are returned to custody more quickly than offenders who are more organised and have stronger support structures. Chaotic offenders do not necessarily pose a risk to community safety. Offender Managers are less likely to address directly the welfare needs of these offenders because of recent changes in ethos. They are less able to respond to particular difficulties offenders face during the transition from prison to community or their general resettlement needs. Women with complex needs are thereby disadvantaged, particularly because they are so much in a minority that most offender managers have little experience in supervising women and they may therefore lack understanding of women's routes into, and out of, offending.

It was also found that there were inconsistencies in the way women on licence were managed. Some licence conditions are highly subjective, especially "to be of good behaviour". Some of the women Deedes interviewed seemed to have not understood their licence conditions and the consequences of non-compliance. The Parole Board specified that one woman in the study could only be re-released to a hostel, but it is hard to secure approved accommodation for female offenders and her release was delayed for months because a suitable hostel placement could not be found. Women may experience frequent changes of offender manager. While for women in particular, a trusting relationship between offender and offender manager may contribute to the successful completion of a licence period, there seem to be practical and emotional obstacles making it more difficult for some women to establish this kind of relationship. Few data are collected by NOMS on the reasons why offenders are recalled, and the specific characteristics of women's offending are overlooked. Therefore, recalled women seem to be "doubly invisible" within the criminal justice system.

### 2.3 Supervisory relationships

The importance for women offenders of a positive working relationship with their offender manager is the third issue that we would like the Committee to consider. The significance of personal relationships to women offenders is recognised (Home Office 2007) yet outside the women's centres, probation supervision seems to pay little attention to the value of human relationships. Indeed we would argue that many male offenders too might benefit from more attention being given to the quality of the supervisory relationship. *Research by Plechowicz (2009)* explored the benefits of the attention given to relationships in the supervision of women at The Women's Turnaround Project (TWTP), a women's centre in Wales. Women offenders commented favourably on the warmth and personal concern shown by their key workers. All felt these qualities enabled them to engage in supervision and benefit more from it than from the comparatively sterile relationships they had with their offender managers. Plechowicz concluded that "if the probation service wishes to work more productively and effectively with its female clients, major changes will need to be made to current high caseloads, and less emphasis placed on current targets, to allow offender managers to have the time required to develop positive relationships with their cases" (Plechowicz 2009: 46).

Significantly, an evaluation of TWTP by the University of Glamorgan drew very similar conclusions. The evaluation added that all the women thought that the quality of the help they had received from their key workers had enabled them to stay out of trouble and indeed, only two of forty five women attending TWTP had reoffended during the evaluation (Holloway and Brookman 2008).

### 2.4 Women-centred initiatives

We would also ask the Committee to consider why a number of promising women-centred initiatives undertaken by NOMS and the Ministry of Justice seem to have not been as effective as those leading them had intended. While the Women's Offending Reduction Programme launched the Together Women Programme, WORP does not seem to have succeeded in substantially reducing the numbers of women being imprisoned. Where semi-specialist offender managers for women are in place (as in West Yorkshire), better outcomes seem possible, but such provision remains patchy despite strategic commitments contained in documents such as the *The National Service Framework for Women Offenders* and the Ministry of Justice *Strategy for Diverting Women Away from Crime*. Initiatives that are women-centred also tend to be child-centred. Many women in prison are mothers and imprisonment of the mother is associated with poor outcomes for children, including reception into local authority care. Only 9% of children whose mothers are in prison are cared for by their fathers (PRT 2009). The role of the probation service should be to commission women-centred services that enable all but the most high-risk women offenders to be supervised effectively in the community so that they are not separated from their children.

## 3. CONCLUSION

We have argued in this submission that an inquiry into the future of the probation service should take into account the way in which women are disadvantaged by current probation culture and practice, particularly in regard to the resettlement of women who have been imprisoned. Three areas that we consider must change for the position to be corrected are (1) the lack of resources given to improving knowledge of "what works" with women other than in provision for women's centres, which are managed by the voluntary sector and are insecurely funded; (2) the preoccupation of the probation service with risk, which means that many women who are assessed as low risk to others, but who have complex needs, are supervised (and often breached) but not helped; and (3) the failure of the probation service to invest resources in building the type of positive offender/offender manager relationships that may be a prerequisite of effective interventions with women. But,

the outlook does not have to be bleak. Work undertaken in the women's voluntary sector to develop holistic interventions for women who have offended, from conditional cautioning (Easton *et al* 2010) to alternatives to custody (Hedderman *et al* 2008, Plechowicz 2009, Together Women Project 2010), have been shown to be effective both in preventing re-offending and in helping women transform their lives. The adoption nationally of woman-centred ways of working that have been piloted in some probation areas, such as the West Yorkshire semispecialist probation officer role, would ensure a more informed approach to supervising and helping women. It is in these promising interventions that the Probation Service should be investing.

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### **Written evidence from Local Crime Community Sentence National Steering Group-Probation Association (PB 10)**

#### INTRODUCTION

The aim of the Local Crime Community Sentence project is to improve public confidence in sentencing and to raise awareness of the effectiveness of community sentences and the work of probation staff.

The project is overseen by a national steering group, chaired by Rachel Lipscomb OBE JP. The steering group meets three to four times a year to consider comments from participants and development needs and it organises workshops as appropriate throughout the year for the benefit of local co-ordinators.

#### 1. EXECUTIVE SUMMARY

We would like to bring LCCS to the attention of the Select Committee as the project has demonstrated over the last seven years that it is an important part of probation work.

With the reduction of courts over the last 20 years and the highly charged media reporting of incidents that involve probation supervision it is essential that the general public understand:

- How probation staff supervise offenders.
- Why a community sentence may be the most appropriate sentence.
- What that sentence may involve.
- What sanctions are there for non-compliance?
- When are the sanctions used?

The presentations do change perceptions and increase confidence in sentencing and probation, as part of the wider need to raise public confidence generally in the criminal justice system.

This is because presentations use local "news" type scenarios. The joint presentation style with magistrates and probation is interactive.

The presentations are semi-structured and get audience involvement while giving presenters confidence to stay "on message".

*Key messages that underpin presentations:*

- To reduce crime and the number of victims of crime we need to change the way offenders behave.
- Prison has a role to play but is not always the best answer.
- Community sentences are tough and demanding. They can be more effective than prison in reducing re-offending and protecting the public.

**2. NATIONAL STEERING GROUP**

The LCCS project is led by a national steering group with representatives of the Magistrates' Association, the Probation Association and criminal justice advisers but it is driven locally by magistrates and probation working together. The support and enthusiasm of Probation Trusts, their Chairs and Chief Executives raises morale and helps staff to appreciate their value in testing times for public services.

LCCS challenges perceptions and changes attitudes by providing information and improving understanding to a wide range of audiences. It is not about "preaching to the converted".

It has been achieved by developing an interactive presentational style which develops close engagement and participation with community audiences.

Easy to use, case-study materials which look behind the headlines of media reports of local crime are used to underpin joint presentations by magistrates and probation. The media reports are deliberately eye-catching and often economical with the truth. Step by step more details are revealed about the offence and offender and a discussion of "before and after" attitudes towards sentencing is encouraged.

With this approach audiences are more open-minded; they change their attitudes when confronted with in-depth facts about offences and offenders which are explained.

The case-study material used in the presentations has been developed nationally but messages can be tailored locally. There is the freedom to select and choose the most relevant material for different audiences.

By using structured presentations and case-study material it is easy for presenters to present confidently and work together as a team—with equal weight and authority.

Through the presentations, audiences understand more about sentences served in the community, as well as realising that what they usually read about a case is a sensational headline which does not always reflect the facts of the case.

**3. WHO DOES LCCS REACH IN THE COMMUNITY?**

A wide range of audiences have been reached including victims groups, neighbourhood watch, women's groups, pensioners, students, business organisations, district and parish councils, religious groups, minority ethnic and disabled groups, police community support officers and police probationers.

Building on the successful project pilot which was completed in 2003, local magistrates and probation are now working to deliver an LCCS programme in over 30 areas in the UK.

Cambridgeshire, Cheshire, Durham and Tees Valley, Hampshire, Humberside, Kent, Lancashire, Lincolnshire, London, Greater Manchester, Staffordshire and W Midlands, Norfolk and Suffolk, Surrey and Sussex, Thames Valley, Warwickshire, Dyfed Powys, North Wales, South Wales, Cumbria, West Mercia, Avon & Somerset, Gloucestershire, Merseyside, Wiltshire, West Yorkshire, Gwent, Dorset Hertfordshire, Bedfordshire, Nottinghamshire, South Yorkshire.

**4. HOW DO WE KNOW LCCS WORKS?**

National evaluation by the Centre for Crime and Justice Studies, of LCCS has shown what a powerful tool, interactive presentations to community groups can be. (2005 evaluation attached).

As important in some ways as the project itself, is the way in which it brings together magistrates and probation staff. LCCS creates a close working relationship and greater understanding between probation and the magistracy without in any way comprising their respective roles. The presentations are frequently used as part of induction training for new intakes.

**5. ON-LINE TOOL AND WEBSITE**

LCCS co-ordinators have recently received supplies of a high-quality DVD featuring films which vividly bring to life two of the LCCS case studies.

We believe that the use of these films will enhance the project by adding a new and exciting dimension to presentations.

The DVD also contains a two-and-a-half-minute "taster" film which has been uploaded to YouTube. See below for the link:

<http://www.youtube.com/watch?v=Rekq8wsojO4>

As LCCS is proven to boost public confidence in probation trust business and is a key community engagement tool for probation trusts, the national steering group, the Probation Association and the Magistrates' Association have advised probation trusts to upload this video to their websites. This can be easily achieved using the YouTube embed code.

A key communication tool is the website [www.lccs.org.uk](http://www.lccs.org.uk) which is important for the general public to access for information about the project in their area and to provide a source of information and access to project material for LCCS members.

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## Written evidence from the Hertfordshire Probation Trust (PB 12)

### EXECUTIVE SUMMARY

1. The responses and evidence provided in this paper are drawn from the day to day operations of Hertfordshire Probation Trust. We serve a county with a population of one million. In 2009–10 we commenced 3,033 offenders on community orders and supervised 440 on licence. During 2009–10 338 offenders successfully completed their accredited programmes against a cumulative target of 305 and the Trust achieved initial green star status in the national assessment of probation trusts. We became a probation Trust on 1 April 2010 as part of the second wave in the Probation trust programme.

The submission from Hertfordshire Probation trust (HPT) provides an illustration of work undertaken by a medium/small probation trust. The Trust has worked hard to develop very strong local links with key partner agencies and local third sector providers. It is emphasised that “Reducing Reoffending” requires a shared approach and ownership from all key agencies and local third/private sector providers. The Probation Service is well placed to act as a hub for assessment, coordination and planning, but it is imperative that commitment is secured across the leadership of the wider public services, who can influence outcomes in respect of accommodation, health provision, employment, training, education etc. Hertfordshire Probation Service would be well placed to respond to working with offenders currently serving short term custody, if resources were available to support the additional work. There are skilled trainers within the organisation, however concern is shared that in the current economic environment and anticipated reducing budgets, skilled staff could be released, which would achieve a short term saving, but in the longer term undermine the need to build capacity to work with more offenders in the community.

*Are probation services currently commissioned in the most appropriate way?*

2. Hertfordshire Probation Trust (HPT) is currently primarily commissioned by the East of England Director of Offender Management (DOM), National Offender Management Service (NOMS). The new contractual arrangements were implemented for the first time 1 April 2010, when Hertfordshire Probation Area transferred under the Offender Management Act to become a probation trust. A rigorous assessment process to become a trust was passed on the first application in September 2009. HPT is also sub-contracted by Serco to improve offender's employability and achieve employment outcomes.

One of the most significant challenges under the current commissioning model, is that while the DOM can commission and set volume targets for the Trust to deliver, the demand is in fact determined by Sentencers who are independent and do not have to take account of the resource implications. A good example is Unpaid work (Community Payback). For 2010–11 HPT has been commissioned to deliver 800 unpaid work orders. At the end of Quarter 1 2010–11 226 orders have been completed. In 2009–10 the area completed 932 unpaid work orders against a target of 800. The demand from courts is clearly outstripping the commissioned capacity. This form of community sentence is well regarded and has contributed to increasing public confidence within Hertfordshire. Public confidence would be compromised if HPT ceased delivery in year once having delivered to the contract. While efforts are made to influence and engage with sentencers both by HPT and DOM this has limited impact and authority, given the requirement to respect judicial independence. Unpaid work orders have also been heavily promoted in recent years and proved a good vehicle for improving community confidence in community sentences, so it is understandable it has gained increased confidence with the courts. The reality is however that the courts are determining the volume and demand rather than NOMS.

*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?*

3. Hertfordshire Probation Trust is well placed to deliver offender management in Hertfordshire. We have made significant headway to make sure there are strong strategic links with the key partner agencies in the county and have staff co-located with police and the county council to deliver coordinated services to those offenders who present either the greatest risk of harm or propensity for high volume crime in the county. There is an excellent example of concentrated and concerted effort with the Choices and Consequences programme, which has not only delivered highly tailored offender management, but has actively kept the many victims (usually house burglary) informed of the offender progress and outcomes. The programme has also substantially improved the police sanction detection rate, with these offenders being required to admit to the full propensity

of their crimes before joining the programme. Ironically this has contributed adversely to the national “reducing reoffending indicator” NI 18 for Hertfordshire. This is an issue HPT has been raising as unhelpful and which has the potential to drive some perverse decisions re direction of resources.

There is good engagement locally with health to increase access to mental health provision and the Primary Care Trust is conducting an “offender health needs assessment” to support improving offender access to mainstream health provision such as GPs.

4. HPT delivers “offender management” in partnership with a wide range of providers, including Turning Point for Alcohol and drug services, YMCA—Accommodation, SOVA—mentoring and the Hertfordshire and Watford Women’s centers. The Hertfordshire colleges (West Herts. Oaklands, North Herts.), Job Centre plus and Serco work with HPT supporting offenders with employment training and education.

5. The Probation Service is well placed to provide the assessment and coordinate and act as the core hub for driving high quality offender management, but it cannot be delivered in isolation and requires the engagement of a wide range of other providers, there is a need to increase understanding that the probation service is not the provider of all aspects of offender management. There is concern that there is widespread public misunderstanding that Probation are responsible for all the services that contribute to reducing reoffending.

*Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

6. All 12 community requirements are available within Hertfordshire. Take up of these requirements by the courts in 2009–10 was as follows:

|                         |       |   |
|-------------------------|-------|---|
| Alcohol Treatment       | 362   | (delivered in partnership with Turning Point)     |
| Attendance Centre       | 18    | (provider NOMS)                                   |
| Curfew                  | 494   | (provider for tagging Serco commissioned by NOMS) |
| Drug Treatment          | 176   | (delivered in partnership, Health, Turning Point) |
| Exclusion               | 35    |   |
| Mental Health treatment | 36    | (provider Health)                                 |
| Accredited Programme    | 642   |   |
| Prohibited Activity     | 101   |   |
| Residence               | 9     | (Hertfordshire does not have an Approved Premise) |
| Specified Activity      | 601   |   |
| Supervision             | 1,754 |   |
| Unpaid Work             | 1,330 |   |

7. Following improved CJS understanding of domestic violence in 2007/08, there was a significant increase in the use of the domestic violence programme (IDAP) and Hertfordshire increased the number of programs from two to eight to meet demand and address backlog, this has now settled at six programmes per year. This is a useful example of increased knowledge changing practice and making an impact on demand, through increased police activity and greater awareness by courts, CPS and sentencers.

*What role should the private and voluntary sectors play in the delivery of probation services?*

8. Working closely alongside the pivotal coordination role that probation staff play in the coordination, assessment and planning of work to reduce re-offending are a range of voluntary sector and private sector providers in Hertfordshire. The voluntary sector is already involved in the delivery of offender facing interventions within Hertfordshire. SOVA currently provide approximately 75 trained volunteers, who provide mentoring, advocacy, literacy and numeracy support. More recently SOVA have been commissioned to establish Circles of Support for known sex offenders, who are provided with a group of trained volunteers to help resettle and manage sex offenders within the community, contributing to improving social cohesion and supporting longer term rehabilitation. YMCA are commissioned by HPT to provide an accommodation advice service to offenders and good links are in place with a range of voluntary sector local accommodation providers, including the night shelters and Stonham Housing Association. Further third sector providers include the Hertfordshire and Watford women’s centres, The Living Room and Dacorum CVS.

9. There is considerable professional expertise within the probation service, however we are not precious and have actively sought to widen the involvement of the third sector. An initiative currently in hand, is the provision of a 13 day training programme to local Hertfordshire third sector organisations to increase their understanding and ability to contribute; this is being delivered in partnership with Hertfordshire Community Foundation. There is an excellent culture of networking between third sector providers and probation within Hertfordshire and a number of good links to smaller scale localised projects.

10. Efforts are also being made to involve and establish engagement with the private sector community and small scale initiatives are under development, e.g. Steria releasing staff to provide IT tuition to offenders, Sainsbury promoting community payback awareness in their stores. Serco in respect of Employment, Training and Education outcomes.

*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

11. The probation service has not been immune to reducing resources; a requirement of the 2009 trust application process was to demonstrate planning and capability to deliver offender services with an overall reduction in funding of 16% over 2009—2012–13 and address demand pressures. It is important to recognise that the offenders currently receiving under 12 month sentences will have a profile for a high likelihood of reoffending and a significant number of issues that contribute to their offending. This group of offenders are therefore likely to be at the high end of need for interventions and resources if we are to be effective in reducing the likelihood of re-offending, however current short term imprisonment delivers little further than containment.

12. There is considerable expertise within the probation service, but this takes time to acquire and there is concern that we could currently be reducing the number of skilled staff to meet reducing budgets for 2011–12, when in fact we should be building up expertise and capacity to work with this offender cohort if reoffending patterns are to be effectively reduced. It will be poor national planning if we release skilled staff, only to then have to reinvest heavily in further training and also suffer the planning blight of the delay that will accompany this. The probation service certainly has the “capability” to respond to an increase, but “capacity” will need to be supported by resource, if effective services are to be delivered. There are a comprehensive and flexible suite of interventions that could be deployed to work more effectively with this offender cohort that cost “society” in a large number of different ways. A member of staff recently won the Graham Smith Award and is currently undertaking an in depth piece of research to examine the role of sentence planning in relation to offender engagement and compliance. This supports HPT’s determination to continuously develop practice and remain ambitious to develop and encourage the development of effective probation practitioners. The research has the support of the Probation Chiefs Association and will be shared nationally in due course.

*Could probation trusts make more use of restorative justice?*

13. Yes is the simple answer. HPT has delivered a small amount of restorative justice led by the Victim team, working at the heavy end with violent offenders released from prison. However this has only been accommodated on a small scale as a practice development initiative, as it has not been previously been a commissioned approach. There is some skill base and a small number of staff are currently being put forward to complete a Restorative Practice Diploma. RJ has also been incorporated into the Choices and Consequences programme, again the numbers are small. There is clearly the potential to expand and this is under current consideration for next years planning and will be included in contract negotiations, taking a lead from the forthcoming Green paper. HPT would wish to support the development of RJ methods. It is important with the higher end offending that this is appropriately resourced and victim needs are given priority. At a wider level the service is continuing to extend local engagement with local communities through community payback and considering further with key partner agencies how this can be demonstrated to contribute to this agenda.

*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?*

14. HPT pays close attention to making sure services are developed that meet the diverse range of offenders. The Single Equality Scheme is in place and the trust monitors the profile of the caseload by gender, ethnicity, age and disability, and high risk and prolific groupings. This data is published on our website and used by other providers working with us to ensure they can also tailor their services to meet offender needs. The Chief Executive chairs a quarterly Diversity Strategy Group which attends to these issues, this group is also now joined by an ex offender from the Service User Reference group.

15. Hertfordshire is developing women’s service provision to meet the recommendations of the Corston report working in partnership with the Hertfordshire and Watford Women’s centers. Hertfordshire is one of the few probation trusts that deliver the Women’s Accredited Programme.

16. Recently HPT tendered for Interpreter services, which are now delivered by Dacorum CVS, providing a good example of localism, increasing work with the third sector and addressing diverse needs. We have a good relationship with the Watford African and Caribbean Association with whom we are currently developing some local provision for BME offenders.

17. All offenders are carefully assessed for risk of harm and risk of re-offending and supervision plans are tailored to ensure that court orders are delivered and address the offenders needs, including their age, risk of reoffending and risk of harm. Like all probation trusts offenders are managed by Tier, (1–4), high risk of harm offenders at Tier 4 are managed under the Multi Agency Public Protection Arrangements (MAPPA), high risk of reoffending offenders are managed at Tier 4 as Prolific and Priority Offenders and under the Integrated Offender Management Model in partnership with Police and Herts. County Council and the Community Safety Partnerships. Details about MAPPA in Hertfordshire are published in an annual report on our website. There have been no serious further offences in Hertfordshire committed by offenders under probation supervision managed at level 2 or 3 for MAPPA in recent years.



*Is the provision of training adequate?*

18. There is a high commitment to continuous personal development and regardless of where practitioners are in their career journey they can expect to receive access to training. Assessment and intervention techniques continue to be refined and improved, for example there have been advances in domestic abuse and sex offender assessments, so it is important practitioners are kept up to speed. A comprehensive range of training is made available to all Probation Service Officers (PSOs). PSOs joining the service are all now required to complete the level 3 vocational qualification in their first 12 months. A new probation qualification route has recently been introduced that now enables staff to move on to achieve their Probation Qualification Training. HPT has four staff due to complete the previous probation qualification route in October 2010. Probation Officer training rightly has included both academic and practice and staff have an opportunity to work with a wide range of cases by the time they complete and are familiar with core assessments techniques, sentence planning and interventions. Building up a depth of knowledge and experience is also important and should not be underestimated. Practitioners are supported by regular supervision. HPT has invested heavily in developing its work force and has number of skilled trainers within the organisation.

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**Written evidence from Make Justice Work (PB 14)**

**I. SUMMARY OF POINTS**

In order to deliver effective and sustainable intensive community sentencing, the Probation Service must be resourced and supported appropriately. The prison population is at an all time high and with the stringent financial savings which are to be made to cut the country's deficit, it is critical that Probation and the services it delivers remain intact and strengthened if the government are to be able to reduce the prison population safely and appropriately.

This submission wishes to outline that:

1. Without the expertise and experience of the Probation Service, neither the Police, Courts, Voluntary Sector nor Private Sector, will be able to deliver the type of community punishment which can effectively impact on crime reduction and the number of victims.
2. MJW intends to evaluate objectively the effectiveness of the work of not just intensive community sentencing, but also the role of courts, restorative justice and the voluntary sector in reducing re-offending.
3. It is essential to support the continued funding and commitment to intensive community sentences and the necessary promotion of these programmes to give confidence to the public, ministers, key stakeholders and the media that they can impact on reduce re-offending and public safety.

**2. EXECUTIVE SUMMARY**

Only with a strong, confident and well resourced Probation Service can there be a proper structure to deal with the likely increase in offenders on community sentences should the government make good its promise to reduce the use of prison for low level offenders. The real danger is that appropriate community alternatives are not put in place speedily and efficiently in time to deal with any changes in sentencing.

Any reduction in the use of prison will put enormous pressure on the Probation Service at a time when resources are being cut back. Yet the role of the Probation Service, with its vast experience and understanding of community sentences, is critical in establishing the most appropriate ways of dealing with both low level and high risk offenders. Now is the time to consolidate and build on good practice not to throw the baby out with the bath water.

**3. MAKE JUSTICE WORK**

Make Justice Work is a new campaigning organisation designed to make the argument in the media and to politicians, civil servants and key stakeholders that the criminal justice system is in urgent need of reform: it is ineffective at reducing re-offending and inefficient at spending public money. Crucially, we plan to focus on the costliness of locking up low level offenders and the futility of short term sentences while at the same time promoting more effective ways of reducing re-offending and improving public safety. Ultimately, we hope to bring about a fundamental sea change in public attitudes to how Britain deals with the punishment and rehabilitation of offenders—one which results in less use of custody, greater investment in effective community rehabilitation and fewer victims.

MJW has over 130 ambassadors supporting its work, including Martha Lane Fox (entrepreneur), Ruth Bond (Chair of the Women's Institute), and Sir Louis Blom-Cooper QC (leading barrister and campaigner), Lord David Ramsbotham, Amir Khan (Boxer) and Simon Woodroffe (founder of YO Sushi and ex Dragons Den).

#### 4. FACTUAL INFORMATION WE WOULD LIKE THE COMMITTEE TO BE AWARE OF

MJW commissioned Matrix Knowledge to undertake a substantial piece of research last year “Are short term prison sentences an efficient and effective use of public resources?” This research proves that short term prison sentences are ineffective at reducing crime, are financially wasteful and that further commitment and investment must be put into alternatives to custody if we are to see a real reduction in crime and the number of victims. The research reveals that the majority of community sentences provide similar or better value for money and effectiveness than short-term prison sentences. Furthermore, when looking at prisoners with drug problems the comparative savings and effectiveness provided by community based sentences rise massively. Diverting one offender from custody to residential drug treatment would save society approximately £200,000 over the lifetime of the offender. The annual saving per offender who is given intensive supervision with drug treatment is £60,000. Tellingly, these figures not only include capital cost savings for the state but savings to society in terms of both reduced financial costs and reduced pain and suffering. The estimated cost savings per annum if drug using offenders given short sentences over the course of just one year (2007) were given residential drug treatment instead, would have been £60–£100 million per annum for the first six years post-sentencing.

[www.makejusticework.org.uk](http://www.makejusticework.org.uk)

At the same time we commissioned ComRes to poll a group of business leaders to assess their attitudes and opinions towards short-term prison sentences. The findings were compelling. When looking at paying back society 77% agreed that community sentences are a more effective way of low-level offenders paying back victims and society, while only 17% disagreed with this statement.

Of those polled 68% say that community sentences are more cost-effective and provide offenders with routes away from crime and re-offending.

In contrast when posed with the statement “prison sentences for low-level offenders are effective and offer value for money” only 18% agree while 43% disagree and 28% strongly disagree.

Finally, the business leaders were also asked about the issue of employment. 72% agreed that low-level offenders are more employable if they have been subject to a community rather than prison sentence. Tellingly this overall figure rises when looking specifically at business leaders from industries likely to employ ex-offenders. For example 77% of business leaders from the manufacturing sector agree with the above statement.

In July 2010, Make Justice Work launched its National Commission of Enquiry: *Community or custody: which works best?* This is the premise of a unique and timely high level national enquiry. It will seek to develop conclusive recommendations for solving the problem of low level offending.

The terms of reference for the enquiry are to investigate the efficacy and cost of short term prison sentences versus robust community based alternatives for low-level offenders.

The enquiry is chaired by leading broadcaster and columnist Peter Osborne and led by six renowned experts who have each had distinguished careers across a broad spectrum of issues intersecting with the criminal justice system:

- Lord Blair, Former Commissioner for the Metropolitan Police
- Roma Hooper, Director and Founder of Make Justice Work
- Dame Anne Owers, Former Chief Inspector of Prisons
- Paul McDowell, Chief Executive of Nacro
- Owen Sharp, Interim Chief Executive of Victim Support
- John Thornhill, Chair of the Magistrates Association

The enquiry was launched in July in Manchester, focusing on MOJ/Probation’s successful Intensive Alternative to Custody programme, and will report back in Spring 2011. The enquiry will tour the UK taking evidence from local experts and practitioners about ground-level experience of low-level offending and the relative efficacy and cost of short-term prison sentences or community-based alternatives for tackling the problem. The next project we will investigate will be the Bradford Together Women Project, looking specifically at the challenges and benefits of punishing women in the community.

Its purpose is to provide an objective overview of how community sentences work, what the challenges are and what works in practice. It is intended that the feedback from each event will provide a piece of living evidence which will strengthen the government’s resolve to divert funding away from prisons for short sentenced prisoners to effective community alternatives.

In the meantime, we continue to visit and identify multi-disciplinary community sentencing programmes which identify how positive relationships between courts, police, probation, the voluntary and private sectors impact on reducing re-offending.

## 5. THE ROLE OF THE PRIVATE AND VOLUNTARY SECTORS: EVIDENCE FROM THE INTENSIVE ALTERNATIVE TO CUSTODY PROGRAMME IN MANCHESTER

Intensive Alternative to Custody Pilot (IAC)—Greater Manchester Probation Trust. IAC targets 18–25 year old males living in Salford and Manchester who have crossed the custody threshold and without an IAC order would receive a custodial sentence of less than 12 months. IAC orders include a number of unique features that make them more punitive than a standard community order and they are designed to meet the challenges of each particular offender. This includes electronic tagging and rapid response to reoffending behaviour, intensive supervision, training and education 365 days a year, holistic family support and reintegration work that involves offenders families and closest significant adults in the rehabilitation process, and individual mentoring for each offender. <http://www.gm-probation.org.uk/what-we-do/in-the-community.php>.

The Enquiry’s findings substantiate the impressive work being undertaken by Probation and its partners in Manchester. It is clear that the private (G4S), business (Work Solutions) and the voluntary sector (POPS—Partners of Prisoners) are a critical part of the programme and are contributing greatly to the success of the programme. Equally, the Police play a crucial part in the programme, as do the courts. Key criteria to the success of such programmes are already emerging, and not surprisingly, relationships between key workers, a relevant and substantial work day, support into employment and training and work with offenders and their families are core.

There is every reason to believe that this type of programme (of which there are a number in the UK) can be replicated and embedded elsewhere and that Probation, as the lead provider, is in an excellent position to facilitate such programmes.

## 6. HANDLING DIFFERENT GROUPS OF OFFENDERS. THE NEXT ENQUIRY: THE TOGETHER WOMEN PROJECT IN BRADFORD

TWP is now an independent charity with centres across Yorkshire. Currently, there are TWP centres in Leeds, Bradford, Doncaster and an outreach centre in Keighley and another based at New Hall Prison. TWP is currently in the process of setting up one-stop shop centres in both Hull and Sheffield with local partner agencies.

The Together Women Project Yorkshire and Humberside (TWP) delivers intensive support to female offenders and women at risk of offending aged 18 or over. TWP aims to:

- (1) Support women to tackle triggers of offending behaviour so they can break the cycle of offending that many women become trapped in.
- (2) Divert women from custody (where appropriate).
- (3) Prevent family breakdown and reduce social exclusion.
- (4) Ultimately help vulnerable women to turn their lives around.

### *Why the Together Women Project?*

Considerable investment and commitment has gone into developing key recommendations from the Corston Report.

<http://www.justice.gov.uk/publications/corston-report.htm>

### *Some of the key recommendations are:*

- Custodial sentences for women must be reserved for serious and violent offenders who pose a threat to the public.
- Women unlikely to receive a custodial sentence should not be remanded in custody.
- Women must never be sent to prison for their own good, to teach them a lesson, for their own safety or to access services such as detoxification.
- More supported bail placements for women suitable to their needs must be provided.
- Defendants who are primary carers of young children should be remanded in custody only after consideration of a probation report on the probable impact on the children.
- Community solutions for non-violent women offenders should be the norm.
- Community sentences must be designed to take account of women’s particular vulnerabilities and domestic and childcare commitments.
- Sentencers must be informed about the existence and nature of those schemes that do exist and should support and visit them.
- The restrictions placed on sentencers around breaches of community orders must be made more flexible as a matter of urgency.
- Section 178 Criminal Justice Act 2003 should be implemented more generally.
- Bail information schemes in women’s prisons must be properly resourced monitored and used.

Whilst women represent only a small minority within the offending world, they are overly represented in the criminal justice system. Most women serve very short sentences. In 2008 64% were sentenced to custody for six months or less (Ministry of Justice (2009) Offender Management Caseload Statistics 2009, London: Ministry of Justice).

Women are the obvious first group to divert away from custody. They are the group which are the likely carers of the next generation of offenders and therefore, investment in women in the system is absolutely essential if there is to be any chance of breaking the cycle of offending in the next generation. (65% of boys who have a parent in prison go on to offend—Prison Advice and Care Trust Annual Review 2008–09).

## 6. RECOMMENDATIONS

- Intensive Alternatives to Custody to be expanded.
- Wider publicity through local and national media around the work of Probation (eg Local Crime, Community Sentence (LCCS), Moving On series of short films, “Nominate a project for Community Payback” schemes.
- Magistrates Court and judges to receive training to support their understanding of community sentencing. Many would like to see much more available in the community and they should have a voice which reflects this wish both in the media and government.
- Greater opportunities for courts to monitor and support offender progress.
- Continued investment in diversion from custody schemes for women and women’s centres. It is critical that current investment is not cut as this would result in the loss of extremely effective provision and expertise, meaning costs to the state and society would rise through unintended consequences.
- Further investment in drug and alcohol requirements attached to orders.
- More appropriate and supported caseloads for probation officers via the voluntary and private sector if necessary.
- Opportunities for the Probation Service to engage in more innovative solutions: See Turning the Corner: Beyond incarceration and re-offending.  
[http://www.youngfoundation.org/files/images/Turning\\_the\\_Corner.pdf](http://www.youngfoundation.org/files/images/Turning_the_Corner.pdf)
- The appointment of a National Probation Champion.

September 2010

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### **Written evidence from the Bench and the Probation Liaison Committee Chairmen in Northumbria (PB 15)**

#### EXECUTIVE SUMMARY

Stated below is the consensus view of the bench and probation liaison committee chairmen who serve the ten benches within Northumbria. The response is intentionally brief. The magistrates were made aware of the select Committee’s forthcoming review following routine liaison communications with the Northumbria Probation Service’s Trust (NPT). The magistrates wish to place on record before the Committee their appreciation of the high standards of service to Northumbrian magistrates’ courts over many years. For reasons set out below, magistrates in the area have a high degree of confidence in the expertise and experience of the trust’s staff and the effective service delivery provided by the NPT which they hope the Select Committee will recognise and will enable to be sustained.

#### *1. Are probation services currently commissioned in the most appropriate way?*

1.1 From discussions with senior members of the NPT it is apparent that for some time the service has been under considerable financial pressure. Providing the courts with high standards of service and support whilst achieving value for money has been a consistent and recurring theme of liaison meetings at all levels in recent years. From the courts’ perspective the NPT coped effectively with the change from a local to a national service and more recently to a probation trust; with regard to service delivery these changes have been managed seamlessly. It is apparent however that there remain concerns within NPT about the funding system generally; particularly in relation to its estate where prior to the establishment of a national service it had a good track record with regard to locally managed and owned properties.

1.2 The NPT has for a number of years offered the courts a “mixed economy” of provision. Two of Northumbria’s Approved Premises (formerly Probation and Bail Hostels) are managed by the Probation Trust and two by a charity, the St Vincent de Paul Society. In practical terms these have constituted a single level of service to the courts and all are well regarded for the support and facilities provided.

*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?*

2.1 NPT is involved at all stages of the criminal justice process and the effective management of offenders. This includes providing information to the court to facilitate decisions about bail or custody, the provision of pre-sentence reports, the delivery of community sentences and the supervision of prisoners post-release.

2.2 The NPT has a well deserved excellent reputation with the courts. Liaison arrangements have been consistently strong over many years and were sustained during the period during which such arrangements were no longer required as mandatory. This is because they have always added value to the work of magistrates and district judges. The NPT has also sustained a reputation for doing well with regard to external scrutiny and inspections.

2.3 Confidence levels amongst the judiciary remain high but are not taken for granted with annual feedback being sought to ensure that service delivery to the courts remains high.

2.4 There is regular contact between HMCS and the NPT at bench and area level. The NPT provides valued membership of the Northumbria Criminal Justice Board’s local delivery groups (at local justice area/local authority/police command level) as well as to the board itself. The service has a well justified reputation for enthusiastically supporting inter-agency cooperation.

2.5 In recent years the service has established a particularly strong track record with regard to the enforcement of breaches community penalties ensuring that defaulters are brought back before the court speedily to facilitate an appropriate level of judicial oversight.

2.6 Northumbrian courts are amongst the lowest users of custodial sentences in England and Wales. There is little doubt that this is linked directly to the reputation of NPT for providing community sentences of high quality which are managed in a robust and professional 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?*

3.1 In a context of finite resources the well established liaison arrangements between NPT and the courts have ensured that NPT has generally been in a position to provide an appropriate range of options to meet the courts’ needs.

3.2 Magistrates appreciate that due to financial constraints the NPT is currently unable to provide the full range of services to offenders living in the remote rural areas of Northumberland.

3.3 The NPT has always been willing to listen to and if possible respond to sentencers’ concerns. It is understood that NPT sometimes requires the support of other agencies as well as the courts. For example with regard to community order requirements concerning drug and alcohol misuse or the provision of mental health treatment support from health care providers is also needed.

3.4 Issues about service constraints on provision, or changes or new developments are communicated in newsletter to sentencers to keep them informed and to enable them to appreciate the context in which decisions have been taken.

*4. What role should the private and voluntary sectors play in the delivery of probation services?*

4.1 There is a well established and effective system of offender management in Northumbria. This ensures that resources are focused appropriately and risk of harm to the public is addressed. The process requires inter-agency co-operation and the sharing of information.

4.2 The Northumbria Criminal Justice Board has an inter-agency team looking to streamline the administrative processes in the local criminal justice system to promote efficiency, reduce costs and improve speed of throughput.

4.3 It would be unfortunate if the quality of such initiatives were to be undermined by the involvement of too many bodies with possibly disparate interests and views. An unintended consequence might be to make it more difficult to achieve economies or to sustain standards. Magistrates would support the proposition that using local knowledge and expertise the NPT should be in a position to commission services from the private sector where appropriate.

*5. Does the probation service have the capacity to cope with a move away from short custodial sentences?*

5.1 Sentencers would seek re-assurance that NPT would be given the necessary resources to enable it to deal with a greater number of offenders in the community than is currently the case. To facilitate rehabilitation, offenders given a community sentence rather than a short custodial sentence are likely to be made subject to more than one order requirement with commensurate costs.

5.2 In 2008 the rate of imprisonment in Magistrates Courts cases was only 2.1% whereas the national average was 4%. This reflects an established pattern. NPT already supervises a higher risk group of offenders in the community than most other areas of the country.

5.3 If more community sentencing by the courts is to be encouraged, care will need to be taken to ensure that additional community orders are made on offenders who otherwise would received a custodial sentence and not on those who may have received fines and discharges.

5.4. It would seem sensible for any targets to reflect the existing sentencing patterns in individual trust areas. Northumbrian courts are already infrequent users of short custodial sentences. To expect a similar level of reduction in the use of such sentences with courts at the other end of the sentencing spectrum would not be realistic and could provoke an adverse reaction from sentencers and others.

*6. Could probation trusts make more use of restorative justice?*

6.1 It is understood that NPT works with victims of sexual and violent offences where the offender has been sentenced to at least 12 months in custody. Apparently the main barrier to extending this work is the cost which would also inhibit an expansion of this work into other areas; with more funding more use could be made of these options.

6.2 In recent years Northumbrian magistrates' courts have participated in international research with the Australian National University and the University of Pennsylvania in relation to voluntary pre-sentence restorative justice work. The initiative produced disappointing results. When dealing with summary offences, which by definition are low on the scale of seriousness, and which in the vast majority of cases were not going to result in a custodial sentence, there appeared to be insufficient incentives to motivate offenders to participate. Also, in most cases, victims had "moved on" and were disinterested. Success in the US seemed to reflect a comparatively high use of custodial sentences and therefore the tangible benefit to the offender of avoiding prison or receiving a shorter prison term.

*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?*

7.1 The NPS(T) has a well established track record in this area and in particular in relation to offender management and multi-agency public protection arrangements which from time to time has involved work with HMCS staff and the courts (for example in respect of "Prolific Priority Offenders"). Also, recently NPT has reviewed its approach with regard to dealing with women offenders in the Northumbria area and been very supportive to the recently implemented "Specialist Drugs Court" in Newcastle upon Tyne.

*8. Is the provision of training adequate?*

8.1 From the courts' perspective the standards of training provided to NPT staff manifests in a high quality of service to local courts which is reflected in the confidence shown in the service as well as the reports provided and community sentences overseen.

September 2010

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**Written evidence from the Wiltshire Probation Trust (PB 16)**

**EXECUTIVE SUMMARY**

Wiltshire Probation Trust welcomes the opportunity to contribute to the Justice Select Committee's inquiry into the Probation Service as it considers that significant changes are required if Trusts are to be able to deliver what the Government requires. We fully support the introduction of the "rehabilitation revolution" and wish to be central to the new arrangements as they evolve because we believe probation holds the expertise and has the skills to assess and manage offenders in the community in order for them to stop offending.

Key points of note include:

- Current commissioning processes do not produce the required outcomes. These need to be simplified, localised and undertaken by Probation based on knowledge of local offender needs, local problems and relevant partner agencies in the voluntary and private sectors.
- Probation Trusts need to be freed up from the current over bureaucratisation and be allowed to operate locally with autonomy. This would include freedom from national contracts that are not cost-effective eg property.
- Probation needs to be freed up from central targets and be outcome focused. This, accompanied by less regulation, would release resources to increase offender management capacity.
- Probation trusts, as the centre of local knowledge and expertise on offenders and offending, would need to have increased capacity to manage higher caseloads and the commissioning processes to meet the extra demands that reducing short term custody would produce.

- What constitutes offender management needs to be clarified. The relationship between the offender and their offender manager is crucial to its success. Delivery of the sentence plan can be undertaken by a range of different commissioned agencies, co-ordinated by the offender manager who would motivate the offender to engage and enforce the order if necessary.
- Overall, Probation Trusts are keen to lead locally to deliver Government policy and are well placed to ensure that commissioned services are properly targeted and achieve the required outcomes.

1. *Are probation services currently commissioned in the most appropriate way?*

National

1.1 Nationally, probation commissioning is currently undertaken by DOMs through a contract. DOMs also commission some services on a regional basis, often meeting a collective need rather than a local one. The IT and property contracts, which have a major impact on economic viability, are also sourced nationally. We do not consider this is the best way to ensure the commissioning of local services. In terms of quick wins for local flexibility and savings, the single most effective step would be to amend the OM Act so as to empower Trusts to own land/property and then to allow them to source property services locally.

1.2 NOMS also commissions some services nationally but since local Trusts are rarely consulted about these, they do not always fit local needs eg the BASS contract relating to bail accommodation, and the OLASS contract. The procurement processes used are complex, and lengthy, resulting in central directives being implemented that may not necessarily be locally relevant.

Local

1.3 Commissioning is therefore over-bureaucratised rather than focusing on ensuring that an offender's criminogenic needs are met thus reducing re-offending. Effective Probation work is geared to individuals so the commissioning process needs to be local, simple and flexible. Probation Trusts have a good track record of commissioning local services but need the capacity to build on this. Some local contracts involving the private and voluntary sectors have had to be de-commissioned by Trusts (in Wiltshire eg for enforcement, alcohol and financial management), because of funding cuts. These were small effective contracts that were tailored to local needs and geography.

1.4 Whilst regional/national commissioning can achieve economies of scale, it works against the increasing emphasis on local joint co-commissioning of services between partner agencies. Local Probation Trusts need the flexibility and autonomy to make their own decisions about how best to meet offender needs and to have the authority to join in with multi-agency innovative approaches designed to achieve more effective services based on outcomes. At the present time we do not have this authority.

1.5 In conclusion, local commissioning is the most effective means of ensuring that service delivery is cost effective and achieves the desired outcomes. Probation Trusts have wide experience of this and are frustrated at the national and regional obstacles and the lack of funding that prevent them having the freedom to commission what they know would best work with offenders.

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?*

Probation Trusts

2.1 Probation Trusts, despite being in reality little different from Boards, continue to be successful in delivering high levels of performance, good resource management, and reducing re-offending rates. Being local, they can meet on an equal footing with other strategic partners and be influential in partnership working and local decision making. Probation is recognised by its partners as "punching above its weight" within partnership activity, and Trusts have developed a high level of local influence.

2.2 Trusts were led to expect the freedom to conduct their own business more effectively without undue interference. Instead they are frustrated at the increased bureaucracy, over-regulation and controls that have been imposed by NOMS. The basis of Wiltshire's Trust application was to increase innovation, but we have found this difficult to achieve in the current NOMS environment eg the SBC programme that seeks to be highly prescriptive about how services are delivered rather than allowing for local differences that are likely to have more effective outcomes.

Offender Management

2.3 The term "offender management" (OM) has become over-used and confusing, particularly since the police coined it for the Integrated OM project. A different term seems advisable to describe the process of end-to-end OM, and clarification of exactly what it refers to ie an administrative role or one that directly intervenes with offenders. The terminology "offender managers" is also confusing for the public as they are familiar with "probation officer".

2.4 The original excellent concept of a probation officer maintaining contact with an offender throughout the process and being responsible for the supervision plan and directing its implementation has not worked out in practice because prisons have been reluctant to relinquish control over the sentence plans. OM has been differentially rolled out, making it confusing for all including prisoners and the public.

#### Outcome Focus

2.5 At the same time NOMS has placed the emphasis on the OM process rather than its outcomes, with targets devised to ensure eg timeliness. This has encouraged the present target-driven environment rather than making the purpose/outcome of the interventions core in probation staff thinking. The Government needs to urgently address this and clarify/emphasise the probation role.

#### Offender Engagement

2.6 Probation officers are skilled at assessing offenders' risk of re-offending and harm, identifying factors related to their offending, drawing up a plan to address those needs, and organising interventions to meet those needs. Their core role is to assess, plan and monitor the effectiveness of delivery. Accordingly they develop an effective working relationship with offenders to ensure compliance, enforcing where necessary, and work with them directly on their thinking, behaviour and attitudes, reinforcing work undertaken by other providers. They act as the "glue" for an order and motivate offenders to engage with their sentence plan. This could be equated with the GP role in the medical world.

2.7 This works well in practice and is effective. There is emerging evidence that it is the degree of offender engagement and the quality of the relationship that makes a difference with offenders. At present, however, officers have to balance that function with administrative requirements eg OASys. Reducing the highly regulated performance management framework and focusing on the probation/offender relationship would produce better reconviction results and allow for more creativity in the work undertaken.

2.8 In conclusion therefore, Probation Trusts need to be clearly identified as having the primary responsibility for managing offenders, their supervision and the direction and oversight of any interventions provided by a range of resources that are readily available to meet offenders' needs. NOMS also needs to be a review of the term "offender management" and clarify role of probation in its delivery.

### *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?*

3.1 The CJ Act 2003 provides for a range of 12 additional requirements to be included in community orders, not all of which are managed by Probation Trusts eg mental health and drug requirements. Most can be utilised fully by sentencers but some areas do not have, for example, an Attendance Centre, or do not have easy access to mental health or alcohol provision since this is dependant on local Health services being prepared to commission such services. This leads to inconsistent provision across the country, and sometimes within Trust areas if there is more than one PCT.

#### Outcome Focus

3.2 There are also issues in the provision of accredited programmes that are subject to numerical targets agreed with the DOM that can be based only on projected figures, so if demand exceeds these then it is difficult to resource. There are for example long waiting lists for eg domestic violence programmes because the need far exceeds the resources allowed, and this can be frustrating for sentencers but could be addressed by a Trust setting its own priorities.

3.3 There can be problems too in meeting the NOMS target of commencing an offender on a programme within 6 weeks of the start of the order. This rigid approach does not allow for sequencing the delivery of requirements eg an offender may need to be stabilised on drugs or learn to read better so they can understand/use course material, prior to commencing a programme. Service delivery is also more difficult in rural areas such as Wiltshire where it costs more and presents logistical difficulties.

3.4 Probation performance is currently strong with the best ever results in 2009–10. A significant number of offenders successfully complete their orders and do not re-offend—a key indicator of effectiveness. Orders are enforced promptly and in Wiltshire, annual surveys show that we enjoy a good relationship with sentencers who are confident about our practice.

#### Reducing re-offending and perceptions

3.5 The recent negative publicity about Community Payback highlights the problem of what is expected of probation supervision and of what constitutes punishment. It also highlights the risks in a strongly target-driven/prescriptive rather than outcome culture. There is a significant degree of deprivation of liberty in community supervision but it is not custody. Direct punishment achieves little but delivering effective rehabilitation services within a framework of punishment can reduce re-offending. Offenders, like all of us, respond positively to being treated respectfully as a human being, and to working within clear boundaries/expectations. If not then their negative views of authority will be reinforced and they re-offend. Probation can



provide the balance between these two and research shows it is the most cost-effective way of reducing re-offending. Sentencers recognise this but Probation needs to work closely with them to maintain confidence levels. This is best achieved at local level and cannot be done regionally/nationally.

#### 4. *What role should the private and voluntary sectors play in the delivery of probation services?*

4.1 Probation has long worked with the private and voluntary sectors in a number of ways and welcomes the opportunity to extend this. With the reduction in resources, the focus has had to increasingly be on delivering core services and there has been less resource available to commission. Indeed, some contracts have had to be de-commissioned so that core practice is delivered.

4.2 Whilst probation welcomes increasing the availability of interventions from a range of different sources, this must be well co-ordinated. Reviews of cases that go wrong usually identify problems with fragmented delivery, often taken advantage of by offenders. There would be a danger in fragmenting delivery even more if it was not co-ordinated by probation. Delivery of the plan can be done by different agencies but the task of orchestrating and monitoring the outcomes must rest with Probation to ensure cost-effective delivery.

4.3 Other sectors are showing enthusiasm for working with offenders and this is positive. The commissioning and oversight of offender services must however remain in the public sector for there to be clear public accountability through Ministers and Parliament, and a strong professional lead built on the vast professional experience of front line probation services. There are good opportunities for other sectors to become involved and enhance work already being undertaken. Developing a way to harness the best from each sector would result in a more cost-effective approach rooted in the local area using the voluntary sector's local connections and the private sector's drive for efficiency. In this way the public would benefit most from the successes achieved and would feel more connected with the delivery.

4.4 There are real opportunities for Probation Trusts to create new delivery models and to work with others to establish eg social enterprises/arms-length companies. Trust Board members bring a wealth of experience in this field and are keen to have the freedom to develop different and creative approaches alongside other sector agencies.

#### 5. *Does the probation service have the capacity to cope with a move away from short custodial sentences?*

5.1 The probation service does not at present have the capacity to manage a steep rise in caseloads within the current framework and resourcing levels. There could be some absorption of more offenders if there was a freeing up of the expectations and administrative elements of supervision, with an emphasis on achieving outcomes rather than process driven targets. More creative ways of managing groups of offenders could also be developed. However more resources would be required to effectively manage a significant increase.

5.2 The move away from short-term custodial sentences would be welcomed by the Probation Service but would need to be managed well if public and sentencer confidence was to be maintained. There is a real challenge in respect of managing lower risk persistent offenders who often represent the "revolving door" group who go in and out of prison. Drugs and alcohol are root elements in much crime so Health provision also would be required. However, properly resourced, the probation service is confident that re-offending rates could be lowered for this group.

5.3 Resources could be freed up by reducing the amount of regulation currently imposed but the bulk would need to be released from the prison system and from central administration, and re-allocated to local Trusts as front line deliverers. Local options could be developed in partnership with a range of agencies, such as enhanced diversion schemes/the creative use of Community Payback/shorter orders, that would improve the cost-effectiveness of interventions, but in order to manage the volume of extra numbers effectively then probation would need to be properly resourced.

#### 6. *Could probation trusts make more use of restorative justice?*

6.1 Probation Trusts could undoubtedly make more use of restorative justice (RJ). There are several schemes around the country that can demonstrate their effectiveness. There is however a lack of consistent availability and some areas have little more than an extended use of fixed penalties in place. Closer work between Trusts and local police is required.

6.2 Probation's main contribution to RJ is Community Payback which has a clear restorative element, although without the direct victim contact. This appears to have been lost more recently with the Government's emphasis more on punishment, but this could be re-balanced and the restorative elements strengthened by Probation.

6.3 RJ is also important to victims and can have a powerful impact on offenders so it would be beneficial to develop a broad framework including a sentencing option. This would allow Probation to support offenders to benefit from a range of RJ interventions at different stages to maximise the benefits to victims and to the offender change process.

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?

#### Diversity Issues

7.1 Part of Probation's initial assessment process for offenders requires diversity issues to be taken into account so that resulting plans for those with particular needs such as offenders who are female, disabled or young adults would have this built into the agreed actions. Identifying these issues is a particular strength of probation who have a good track record in respect of equality and diversity.

7.2 In rural areas where numbers are small and spread thinly, service delivery is more expensive. In this case, care is taken to ensure that adequate support is provided/special arrangements are made. We resource interpreters where this is required which can prove expensive if needed throughout a whole order.

#### High and Medium Risk Offenders

7.3 There are multi-agency Prolific and other Priority Offender (PPO) schemes for those at high risk of re-offending, and these are now being combined with Integrated Offender Management (IOM) arrangements. Merging the two processes would be helpful.

7.4 High risk of harm offenders are managed through the MAPPA process and are prioritised. Probation has an excellent track record of success with this group, with less than 1% of MAPPA cases re-offending. Overall only 0.6% of offenders commit a serious further offence (SFO) whilst on supervision although this can have high profile implications for the Service which can undermine public confidence in community supervision.

7.5 Whilst it is right that public protection is given the highest priority, it is important to note that this has implications for the remainder of the caseload. Some medium risk offenders present significant and complex problems and it is from this group that the majority of SFOs emanate. With the continuing reduction in resources and the prioritisation of high risk offenders then inevitably there will be less resource for the medium and low risk groups.

8. Is the provision of training adequate?

8.1 New training arrangements for probation officers were introduced by NOMS in April 2010 and are as yet untested. The increased autonomy under the new arrangements is welcomed but there are concerns about whether this will be properly resourced. For the first time this year, we were unable to offer jobs to qualifying probation officers because of the downsizing of the organisation due to reduced budget. Workforce planning is particularly difficult at present given the current level of uncertainty.

8.2 There is no continuous professional development post qualification for probation officers and only NVQs for other staff. This is a serious gap and one that needs to be addressed. Local training is provided for staff but this requires proper resourcing. There is a danger that training budgets will be reduced even further with the financial cuts and this would have serious consequences for future effectiveness. There are problems in accessing timely training for national training eg accredited programmes, which affects local delivery.

8.3 There is also a serious gap in leadership and management development and succession planning, with no national programme in place other than occasional invitations for senior staff to attend prison management events. There is no funding available for senior or middle manager programmes, and Chief Executives are not considered to be eligible for Senior Civil Service training despite the complexity of their role.

September 2010

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### **Written evidence from the Association of Retired Chief Officers and Inspectors of Probation (PB 18)**

#### EXECUTIVE SUMMARY

1. The last coherent strategy for probation was defined by the 1991 Criminal Justice Act. It would be helpful and timely if the Justice Select Committee could look afresh and objectively at the future role and purpose of the probation service.

2. The following definition is offered for consideration: The purpose of probation is the safe supervision of offenders in the community within the terms of their licences and orders.

3. It is important that the links between sentencers and probation are restored so that supervisory discretion could be shared. A review mechanism could be set up with courts that would assist in the assessment and management of risk and has the potential to reduce the need for costly recall.

4. It will take political courage to acknowledge that much offending is inextricably linked to the social circumstances of offenders. There is a further challenge in re-establishing risk and dangerousness as the major criteria for custodial penalties.

5. In a spirit of openness it would be helpful if rehabilitation could be defined, along with the benchmarks for achievement.

6. The current NOMS structure is costly, bureaucratic and has not worked. It would be better if a Probation Unit was set up within the Ministry of Justice to help devise policy and to allocate and monitor resources.

7. The role of the Chief Inspector of Probation should be enhanced to give oversight of both practice, management and the effectiveness of Trusts.

8. A National Probation Council should be established with core membership of Ministry of Justice, Probation Association and Probation Chiefs Association to ensure the spread of good practice and ongoing development.

9. Probation chief executives should be given discretion to manage in a way which reflects local circumstances, and in partnership with sentencers, police services, local authorities, the voluntary and private sectors.

10. The probation service is the one organisation that can command the confidence of all the players in the CJ system and the community and should be pivotal to all aspects of supervising offenders in the community.

## 1. PREAMBLE

1.1 The membership of the Association of Retired Chief Officers and Inspectors in Probation has enormous experience of probation and criminal justice matters over more than half a century. The membership continues active debate about probation issues and the following contribution is distilled from this dynamic.

1.2 The changes to the governance of the probation service over the last two decades have undermined the structural cultural influences, developed in the post war period and up to the 60s and 70s, which have in the past guided probation practice. The service is now heavily bureaucratised and target driven in a way which has pushed it towards being an agency of enforcement and punishment, rather than rehabilitation—its historical purpose. Since 2003–04 when NOMS was created the probation service has been centrally driven, lost its identity and become submerged in prison culture. As a consequence the criminal justice system has lost what was in the past a truly community based organisation concentrating its energy and skills on the supervision and rehabilitation of those who had offended.

1.3 The last coherent government strategy for probation was defined by the 1991 Criminal Justice Act. Subsequently this was derailed by a hostility to the traditions of probation that has been continued by governments over two decades.

1.4 It would be helpful, and timely, if the Justice Select Committee in its inquiry into the role of the probation service, could look afresh and objectively at the future role and purpose of the probation service. An exercise to escape from the shackles of spin and dogma that have afflicted much of the public debate about criminal justice over the decades would be enormously valuable in helping re-define first principles. To achieve this it will be necessary to rise above the cosmetic appeal of contemporary thinking, and draw on the best traditions of parliamentary debate. The outcome is also likely to appeal to fair minded sectors of society.

## 2. KEY ISSUES

2.1 Here is the challenge. If we were to create an organisation now to handle the aspirations of courts in supervising offenders in the community what would be its primary task—its purpose?

2.2 The following definition is offered for consideration:

*The purpose of the probation service is the safe supervision of offenders in the community within the terms of their licences and orders*

2.3 This is clear and unequivocal. Safety cannot be guaranteed but it can be managed, and the conditions of court orders and post release licences provide a legal framework for the process. There follows from this a further set of issues to be debated about discretion to be used during the supervision process—who should exercise it, can it be shared and what might be the appropriate mechanisms?

2.4 There are a number of observations that are offered on these points. Firstly it is important that the link between probation and sentencers is restored. The core business of probation is safe supervision and there are dangers of having this diluted by having a multiplicity of providers.

2.5 It would be helpful to have the parameters of supervisory discretion agreed at a local level between probation and the courts. A local review mechanism could be set up with the courts, which could be used by probation managers as part of the assessment and management of risk. Informal review hearings could be established operating on a similar basis to the way in which the Parole Board handles recalls.

*The social context of supervision*

2.6 Any review mechanism, just as in sentencing, is likely to take account of the social circumstances of the offender, as factors ranging from unemployment to drug taking are all influential in behaviours.

2.7 Curiously the social circumstances of offending have become difficult to discuss because of the media clamour that is heard when there is any discussion about crime. It will take political courage to acknowledge that much offending is inextricably linked to the social circumstances of offenders. A more holistic view of the problem reveals that many of those in prison have failed in have lived in fracture families, have been in care, have failed in education and have literacy and numeracy problems, are unemployed and have drug and alcohol problems.

2.8 What is more it would be expected that any downturn in economic circumstances would be accompanied by an increase in offending. Delinquency, anti-social behaviour and offending become part of an individual's everyday attitudes and behaviours which are both anti social and personally dysfunctional but in the context of that individual's value system are simply part of an everyday coping mechanism.

#### *Defining the aspirations of community penalties*

2.9 Against the backdrop of social dysfunction what might be the measures that have the potential to ensure the success of the rehabilitation process? Helping individuals improve their social functioning as citizens and parents need careful attention. But it is also true that work and gainful employment are key factors in the rehabilitation process. We would stress these are particularly important issues in the present economic climate when the growth in poverty is likely to lead to more acquisitive crime and inevitably media calls for yet tougher sanctions.

2.10 However in the light of the already exceptionally high numbers of people in prison, when compared to wider European figures and, the heavy demand in terms of public expenditure associated with it, community based sentencing options make sense. Prison is expensive and is less likely to deter offending than community supervision. It is the sensible Value For Money option, particularly if aimed at rehabilitative measures that are designed to challenge attitudes and behaviours.

2.11 The corollary to this is the further challenge in re-establishing risk and dangerousness as the major criteria for custodial penalties and spelling this out to the general public in a consistent and systematic way. This would establish rehabilitation as a critical aspiration of criminal justice for those who are not deemed a danger to society.

#### *Defining rehabilitation?*

2.12 The concept of rehabilitation seems to have gained a new political impetus since the general election. If we were to accept however that rehabilitation, also a cheaper and more humane approach, was a legitimate aspiration of our criminal justice system then it would be helpful if it could be described. It might then used to define the script for the supervision process itself, again in order to establish some public credibility through a transparent understanding of both the process and its aspirations.

2.13 The following is offered for debate:

#### *Rehabilitation would seem to imply the restoration of an individual to levels of attitudes and behaviours consistent with public expectations*

2.14 It follows that rehabilitation is essentially about the changing of attitudes and behaviours. The vehicle for the process is a relationship with a supervisor who can use the sanctions provided by the terms of orders and licences to ensure compliance, and a raft of proven counselling techniques and mentoring which can support individual change.

2.15 The rehabilitation of offenders has been the traditional aspiration of the probation service. If the coalition government has concerns to reduce public expenditure; and at the same time wishes to promote the ethic of rehabilitation then the probation service would be the logical and appropriate vehicle for the development of community penalties. The service has also done much to develop the effective practice agenda and this could be used to define and target the key processes and programmes that would provide the greatest chance of success.

2.16 However as we begin to examine these issues there is the fundamental existentialist question to be answered:

#### *How can we change the attitudes and behaviours of those who offend?*

2.17 In order to achieve this two key themes emerge. Firstly community supervision is a process of rehabilitation within the sanctions defined by court orders or prison licences. Secondly the vehicle for the process is a relationship with a supervisor who defines the boundaries of behaviour with reference to the court orders and prison licences.

2.18 If supervision is to be successful there has to be a connected effort to challenge and change behaviour and ultimately attitudes in every aspect of the supervision process. It cannot simply be a reporting system based on sanctions, as it seems to be in danger of becoming.

2.19 There is also a fundamental question to be answered about whether or not supervision is to be community based or simply an office bound process. The supervision process provides greatest understanding of the attitudes and behaviours of offenders if it can be used alongside insights into social functioning provided by home visits. Home visits also yield invaluable data in the process of risk assessment. Concerns about health and safety should not be a barrier to this key aspect of the supervision process.

2.20 It is recognised that the rehabilitation process will also be enhanced by programmes and group based activities; techniques used by Alcoholics Anonymous and others to supplement the work of individual mentors. The effective practice agenda in probation, which is concerned with methods of working will helpfully inform the way forward here.

2.21 Equally partnership is another important feature of a holistic approach to supervision. Probation has a good track record of shared working with other agencies and the new governance structure should enable this to be promoted with the appropriate oversight of chief executives and boards.

2.22 A system involving partnership with local authorities is central to this and the Scottish Community Justice Authorities provide a workable and possibly the best basis for delivery. A model in which probation brokers with the courts the contributions of the voluntary and private sectors would enable local initiatives to flourish in response to local need. This would seem to encompass recent evocations of the big society and would provide coherence for local social dynamics. For example if in one area there was a strong initiative like a modern apprenticeship scheme or a community chaplaincy there would be potential for social synergy.

#### THE KEY ISSUES ABOVE SET OUT THE CONTEXT FOR THE RESPONSE TO THE COMMITTEE QUESTIONS

##### *1. Are probation services currently commissioned in the most appropriate way?*

Q1.1 The probation service is now part of a national offender management structure which is highly bureaucratic and antipathetic to the values of probation itself. This structure is an attempt to conflate the structure of two distinctly different organisations, prison and probation, which have quite different purposes.

Q1.2 The national and regional NOMS structures are quite simply expensive and unnecessary. Many functions, for example HR, can be handled at a local level. Considerable savings could be made here through an exercise in decentralisation.

Q1.3 It would be better if a small and discrete probation unit were to be set up within the Ministry of Justice to monitor and allocate resources, and help devise policy.

Q1.4 Day to day responsibility should then be fully delegated to chief executives and Trusts in local areas. This too would send a powerful message about de-centralisation.

Q1.5 The role of the Chief Inspector of Probation should be enhanced to give oversight of both practice and the effectiveness of trusts and local management.

Q1.6 All these measures would reduce bureaucracy and produce considerable cost savings.

##### *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?*

Q2.1 Over the last 15 years the probation service has moved from committees to boards to trusts. There has been a false assumption that structural change would produce greater effectiveness, which has not proved to be the case.

Q2.2 The removal of judges and magistrates has been a mistake and as key customers of probation they should be involved in the governance of the service. Their feedback is essential in establishing the credibility of the supervision process, and they also have a part to play in sharing discretion throughout the supervision process itself.

Q2.3 The return of sentencers to a key role in probation trusts is an important part of effective governance.

Q2.4 The probation service is best placed to deliver supervision, offender management, but the area chief executive with operational responsibilities needs to be empowered with greater discretion to deliver the aspirations of government in the context of local social circumstances and the expectations of the courts.

Q2.5 Local leadership is important and it would be helpful if chief officers were more able to contribute to local debate more freely, even in campaigning in appropriate circumstances.

Q2.6 National oversight might be provided by a newly created National Probation Council, with a secretariat provided by the Ministry of Justice. This would provide a structure to bring together representatives of The Probation Association, The Probation Chiefs Association and Ministry of Justice and would facilitate broadly based strategic decision making. In this model the Chief Inspector of Probation would provide oversight of both performance and governance.

Q2.7 It will also be important to look at the effectiveness of the Trust structure, over time. The move from Committees to Boards and now Trusts has been rapid and has incurred significant costs. The new structure should be tested in terms of its contribution to governance and Value For Money.

*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?*

Q3.1 Community supervision of offenders evolved from a covenant between sentencers the courts, and the offender, which at the same time placed a set of responsibilities onto the supervising probation officer. Sentencers remain the determiners of the parameters of supervision of offenders in the community. If sentencers do not have confidence in those supervising offenders and the methods being used then community sentences will not be used and the prison population will grow. For confidence to be won sentencers must have a clear idea of the supervision process, post sentence including an understanding of sanctions and discretion. It follows that discretion which is shared between the sentencers and the supervisory agencies, ie probation, helps reinforce the confidence in the continued use of community penalties. There is ample evidence to support this and the Chief Inspector of Probation's report into Drug Treatment and Testing Orders provides insight into the issues.

*4. What role should the private and voluntary sectors play in the delivery of probation services?*

Q4.1 Traditionally probation has shared supervision with the voluntary sector and this partnership has the potential to enrich the process.

Q4.2 Probation should broker supervision with the courts in a way which allows other contributions to the supervisory process.

Q4.3 The model provided by the Scottish Community Justice Authorities could usefully be explored as a potential example of a working model.

Q4.4 It should also be remembered that Local Authorities and Police Services are key probation partners in community supervision. New structures should not undermine this important feature of community safety, which is a key dimension of community based working with offenders. This is a fundamental operational difference between probation and prison.

*5. Does the probation service have the capacity to cope with a move away from short custodial sentences?*

Q5.1 Capacity is a reflection of resources and workload prioritisation. The probation service would applaud such a move but not if it left it with an impossible agenda. It is important that probation continues to give proper priority to the supervision of the most dangerous people on its caseload. In the eyes of the community these will always be the lifers and paedophiles out of prison on licence. Public protection has to be properly resourced. The work done by the Probation Chiefs Association about capacity and resources provides critical data on this issue.

Q5.2 However some of the changes discussed in this memorandum do have structural implications that could lead to cost savings. For example local sentence review processes could reduce the cost associated with breach for both courts and probation.

Q5.3 Sentencer's confidence in community penalties from would also grow through these exchanges which could see an increase in their use.

*6. Could Probation trusts make more use of restorative justice?*

Q6.1 Yes.

Q6.2 There are some good examples of restorative justice in this country and there is potential for development here. Community Justice and Justice Reinvestment have proved their worth on the other side of the Atlantic and could be explored alongside other thinking here.

*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?*

Q7.1 There is no doubt that to handle all groups appropriately would be the aspiration of the probation. The answer to this question however is best provided by a review of the practice reports produced by the Chief Inspector of Probation. This should inform the situation accurately.

*8. Is the provision of training adequate?*

Q8.1 No.

Q8.2 Since the mid 1990s the issue of appropriate probation training has become increasingly obscured.

Q8.3 Until there is a clear definition of what is required from probation it is impossible define the service's training needs. Equally it is impossible to define the academic content of any qualification process. However this should be the longer term aspiration.

Q8.4 Should the recruitment situation become critical, in the short term a direct entry scheme could be set up using the existing regional training structure, NVQ framework and local systems to ensure standards.

Q8.5 There should be no shortage of graduates leaving university who would be attracted to a role in an organisation which has clarity of purpose and an important job to play in this country's criminal justice system.

Q8.6 However it is also important that the service does not lose well qualified and competent staff as a result of budget cuts.

*September 2010*

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### **Written evidence from the Thames Valley Restorative Justice Service (PB 20)**

#### EXECUTIVE SUMMARY

1. This submission represents the views of the Thames Valley Restorative Justice Service (TVRJS) Steering Group; a multi agency group that has been in existence for some 10 years, originally convened to oversee the development of the Home Office Funded Justice Research Consortium's Thames Valley trial site. TVRJS is not a body corporate but a collaborative partnership involving the voluntary and statutory sector.

2. It confines itself to the question "could probation trusts make more use of restorative justice?"

3. Since 2001 TVRJS has been delivering RJ conferencing with serious adult violent offenders post sentence, in both a community and custodial setting; since 2005 the target criteria was extended to include domestic burglary, For community based cases the activity has taken place in the context of a community order with a specified activity requirement.

4. The TVRJS was awarded the prestigious 2010 Howard League for Penal Reform award in the Community Sentence category.

5. We think that Probation trusts could make more use of restorative justice.

6. This submission is based on 10 years experience of delivering restorative justice and identifies the main cultural, structural and organisational issues, that need to underpin any such expansion of Trust activity.

7. The main points of this submission are:

- Probation trusts could make more use of restorative justice.
- Restorative values need to permeate the whole thinking and culture of Probation trusts.
- There is "value added" benefit to a service delivery that is underpinned by a collaborative partnership commitment across a range of statutory and voluntary agencies involved in the criminal justice system.
- No restorative justice intervention should occur in a vacuum.
- Restorative justice has a role to play at all stages of the criminal justice system.
- Probation trusts should ensure restorative justice providers have equal responsibility for enabling the restoration of both victim and offender together with the restoration of anyone else affected by the incident.
- The needs and wishes of victims should inform the point of intervention.
- Probation trusts need to ensure that the restorative justice facilitator role is separated out from the role of the offender manager.
- It is safe to introduce a "presumption in favour of participation" in respect of post sentence offenders.
- Resettlement of prisoners is an area where our experiences indicate that such an approach is likely to be beneficial.
- Restorative justice has potential to displace many lower level cases that are silting up the system thus freeing up Probation trusts to concentrate on medium and high-risk offenders.
- Probation trusts should ensure that Probation Victim Liaison Services are funded to enable victims to meet with their offender in those cases where the victim wishes to do so.
- Restorative justice enables the local community to "connect" to the work of a Probation trust in a way that is often denied to other forms of intervention.

#### DETAILS OF SUBMITTER

8. Ray Fishbourne is a former Chief Officer in the Probation Service and has worked in the criminal justice system for some 43 years. He has been the Chair of the Thames Valley Restorative Justice Steering Group since its inception in 2000.

9. He was the senior lead manager of the Home Office funded Justice Research Consortium's Restorative Justice Research Trial in the Thames Valley; a trial that was focused on adult serious violent offenders and their victims, post sentence. He has acted as an advisor to the Fels Center of Government and the Jerry Lee Center of Criminology at the University of Pennsylvania where he was involved in Restorative Justice and Resettlement developments, both in the USA and UK. He has also undertaken sessional inspection roles with HMI Probation and acted in a consultancy capacity to both the Prison and Probation Service.

#### EVIDENCE AND OBSERVATIONS BASED ON EXPERIENCE OF TVRJS

10. In our view restorative justice needs to permeate the whole thinking and culture of probation trusts so that all service delivery, organisational structures and processes are underpinned by restorative values based approach.

11. A collaborative partnership approach underpinned by voluntary and statutory agencies involved in the criminal justice system offers considerable "value added" advantages to the delivery of restorative justice. It secures a broadly based support for the concept, creates a whole system favourable environment and facilitates solutions to any cross agency process issues that may arise.

12. We think that restorative justice has a role to play at all stages of the CJ System, from diversion through to post sentence and there should be opportunity for victims to meet with their offender at any one of the stages.

13. The point at which victims may wish to meet with offenders will vary and the emotional impact of victimisation will affect different people at different stages of their journey through the criminal justice process. The role of probation trusts is to enable such need to be responded to at the appropriate stage.

14. No restorative intervention should occur in a vacuum and it should be considered, timed and sequenced as an integral part of supervision planning or sentence management processes. Such a process starts with the production of OASys prior to the completion of the Pre Sentence Report (PSR). The PSR should then address issues of restoration where relevant in the introduction, offence analysis, offender analysis, assessment of risk of harm and likelihood of re-offending conclusion and proposal.

15. Post sentence focus should be to work towards the most restorative approach and such activity needs to be seen in the context of the wider delivery of episodes of intervention e.g. accredited programmes and other specified activity requirements. An assessment of the timing of restorative approaches needs to be made in each case and needs to be informed by an offender victim empathy assessment and an assessment of the victim's needs and wishes; both these assessments should inform decisions regarding whether, in what way and at what stage, to intervene.

16. Post sentence interventions need to strike a balance that enables judgements to be made as to the most optimum point to intervene and it may not be helpful to be governed by rigid timetabling. There should be a general expectation that restorative approaches will be considered in each case but not that it will happen in each case (certainly not face to face contact with victims) for it is not a panacea and will never be suitable for everyone. There needs to be a range of options, as one size will not fit all, and these need to be based upon latest research as to what is most effective, for whom and in what circumstances.

17. The TVRJS has grappled with how best to integrate restorative justice post sentence. In the early days we found that some offenders invited to take part in RJ Conferences as part of Community Sentences may express great willingness to meet with and apologise to their victims at the Pre-Sentence Report stage. For this positive attitude of remorse and desire to make amends they may gain credit in the probation officer's Pre-Sentence Report. It has been our experience that many tend to be reluctant or withdraw their co-operation once a Community Sentence has been imposed. By this shift in attitude they fail to live up to their implied commitment to the court and deny the victim the chance of meeting them. This means that the Court is effectively misled; the offender declines the opportunity to take responsibility for the harm they have caused and the victim is unable to exercise their choice to meet the offender and attempt to resolve the matters of hurt and loss which may remain as a result of the crime they have suffered.

18. In order to address this difficulty in making Restorative Justice part of community sentences we have adopted an approach involving a "presumption in favour of participation" on the part of the offender. By doing so we maintain that our service delivery is more victim focused.

19. Offenders are assessed for suitability in the Thames valley at the PSR stage against agreed criteria.

20. Our aim has been to "shift the culture" to one that makes participation in RJ as part of a community sentence the norm. Before sentence the strong message is conveyed to the offender that there is a duty to face the person harmed and an expectation of making amends unless there is good reason not to, or the victim does not wish to take part.



21. A “presumption in favour of participation” approach ensures that the maximum number of victims and offenders experience a quality process that has the potential to deliver increased victim satisfaction rates and reduced re-offending rates.

22. The other point to emphasise with regards to integrating restorative approaches into offender management is that in relation to certain restorative approaches (particularly those involving face to face meetings) probation trusts need to ensure that the restorative justice facilitator role is separated out from the role of the offender manager.

23. A restorative justice facilitator should not have any direct service delivery or management responsibility for the offender. The role of the restorative justice facilitator is to act impartially and to have equal responsibility for enabling the restoration of both victim and offender together with the restoration of anyone else affected by the incident. The role of the offender manager is to provide the structured framework for the offender, pre and post RJ intervention; this is key to setting expectations and enabling positive outcomes.

24. Restorative Justice approaches have much to commend them as a means of displacing many of the lower risk cases that currently are silting up the criminal justice system and as a consequence diluting the resources and effectiveness of other probation trust activity aimed at the medium/high risk cases. This in itself would be a good move but it would also have the potential effect of increasing the capacity of probation trusts to cope with a proportion of offenders displaced from short-term custody. So by freeing up resources at the “shallow” end of the system via the introduction of restorative justice—alongside or as an alternative to prosecution, low risk supervision, fines or curfews, there might be the knock on effect of creating resource capacity at the “deep” end.

25. There is evidence to show that RJ is more powerful in achieving change with adults and with more serious offences. Resettlement of prisoners is also an area where our experiences to date indicate that such an approach, on behalf of probation trusts, is likely to be beneficial. Restorative conferencing has great potential immediately prior to release (with or without a victim present) in that many prisoners are alienated from their families, friends and communities and conferencing is one way in which these important bridges can be rebuilt.

26. The prison environment is perceived as a safe place by victims. Victims benefit from undertaking RJ prior to a prisoner’s release because it enables them to understand that the offender does not bear vengeful feelings towards them. Victims can ask offenders about their plans for release and come to an understanding about how they would handle chance meetings in the street.

27. The principal benefit for victims is the reduction of fear amongst victims of violent offences. RJ delivered to this group of victims has been shown to reduce their sense of vengefulness and to reduce symptoms of Post-Traumatic Stress Disorder. It is believed from feedback provided by victims that there is potentially a wide range of health benefits which can reduce time taken off work and promote healthy recovery from the setback caused by crime.

28. Offenders approached whilst in prison have a relatively high consent rate and offenders are able to integrate learning from the RJ process into their plans for release.

29. Probation trusts have responsibility for the Probation Victim Liaison Service that currently offers information about the operation of the sentence and the opportunity to request non-contact conditions and exclusion zones (to victims of offenders who have received sentences of 12 months imprisonment or more in cases of violence). The system also provides victims with the opportunity to provide Victim Personal Statements to bodies considering the release of the offender. Victims can be given very little information about the attitudes and progress of the offender who is in prison for a violent offence. This unbalanced information can have the unintended consequence of increasing, rather than reducing fear in those cases where the victim has no personal knowledge of the offender.

30. Victims who wish to meet the offender have no opportunity to do so because the funding to facilitate such meetings does not exist. Victims could be given the opportunity to request a facilitated meeting with the offender, in suitable cases, in order to redress the lack of balance in the information provided. Whilst it may be only a relatively small proportion of victims who would take up this offer, the fact that the offer is being made would contribute to a reduction in fear by taking away the apparently automatic assumption that victims need non-contact conditions and exclusion zones.

31. Restorative justice gives victims and communities opportunities to “connect” with the work of a probation trust and in so doing increases understanding and awareness of the issues inherent in the criminal justice process. Individuals and communities will become better informed about crime and punishment matters.

32. We see opportunities to infuse almost any new provision in a future Criminal Justice Bill with restorative justice interventions in appropriate cases.

#### RECOMMENDATIONS FOR ACTION

33. Restorative values should underpin the organisational structure and service provision of all probation trusts.

34. Probation trusts should ensure restorative justice providers have equal responsibility for enabling the restoration of both victim and offender.

35. There is “value added” benefit to a service delivery that is underpinned by a collaborative partnership commitment across a range of statutory and voluntary agencies involved in the criminal justice system.

36. Victim’s needs and wishes should inform decisions regarding whether, in what way and at what stage, to intervene.

37. Restorative justice should be considered, timed and sequenced as an integral part of the pre conviction criminal justice process and post conviction supervision planning or sentence management processes

38. A “presumption in favour of participation” (subject to an agreed suitability criteria) in respect of post sentence offenders should be integral to any new future criminal justice provision involving restorative interventions.

39. Probation trusts should ensure that Probation Victim Liaison Services are funded to enable victims to meet with their offender in those cases where the victim wishes to do so.

40. Probation trusts should ensure the development of restorative interventions as a means of meeting the needs of victims and offenders, and engaging in a purposeful manner with the communities they serve.

*September 2010*

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### **Written evidence from Community and Criminal Justice Division, De Montfort University (PB 21)**

#### EXECUTIVE SUMMARY

1. The qualifying probation training arrangements have changed very recently and it is important that these new arrangements are given a chance to operate and to be properly evaluated. This qualifying training requires adequate funding so that the relevant staff can receive training and those who are on training receive full support. The location of probation training in higher education is an important acknowledgement that what is required is more than simply training in technical skills, and this principle could be extended to the development of a post-qualifying structure extending beyond the point of probation officer qualification. Probation practitioners, wherever they are employed, should receive the same training.

#### INTRODUCTION

2. The Community and Criminal Justice (CCJ) division at De Montfort University (DMU) has over 20 years experience and expertise in teaching, training and research in probation. The division delivered the Diploma in Probation Studies in the East of England and later the Midlands for 12 years and DMU is now one of only three universities contracted to deliver the new Probation Qualifying Framework (PQF). DMU has contributed significantly to probation research and scholarship, and a list of selected publications is presented as an Appendix.

3. The expertise within the division means that we could present responses to all the questions posed by the Committee, and where our published work has particular relevance to one or more of the questions posed, this has been highlighted in the appendix. However, our particular interest is in probation training and our submission will mainly focus on the final question posed by the committee:

*“Is the provision of training adequate?”*

#### BACKGROUND AND CURRENT TRAINING PROVISION

4. Qualifying training for probation officers was delivered through the Diploma in Probation Studies (DipPS) from 1998 to 2010, following the separation of probation training from social work training. In 2010 a new Probation Qualifying Framework is being launched, and DMU is one of three universities (along with Sheffield Hallam and Portsmouth) contracted to deliver this.

#### REFLECTIONS ON PROBATION TRAINING

5. The Probation Qualifying Framework is very new (at the time of writing, the first students have not yet started at DMU, although some have started at other institutions) and our first point is that it should be given time to operate and should be evaluated as it is delivered. The process of replacing the DipPS with the PQF has taken at least three years (DMU was commissioned to write the curriculum in 2007) and it is important now that there is a period of stability and predictability in probation training. There are, however, some further observations and suggestions that can be made about probation training.

*Who should have access to the probation qualifying structure?*

6. A change in the workforce profile in recent years has been the increasing number of Probation Service Officers (PSOs). Yet until quite recently the training made available to this group of staff was seriously

deficient: people were asked to take on work calling for sophisticated skills and to accept significant responsibilities within a very short time of appointment. The greatest benefit that has been brought by the introduction of the PQF is that training is no longer restricted solely or mainly to the probation officer grade, but that PSOs are also included. The new structure brings two clear benefits to PSOs, firstly they are provided with training at Vocational Qualification three (VQ3) level and, secondly, there is a clear pathway, with funding, to a full probation officer qualification. The original recommendation in the 2007 work carried out by DMU and Portsmouth University was that the qualifying training for PSOs should be located within higher education and should attract a university certificate, but this was not accepted. Nonetheless, the inclusion of PSOs in the new structure is to be welcomed. It is still possible, however, that the pressure of resource constraints will still leave some staff in roles for which they are inadequately trained. Staff pressure and inexperience have been cited in enquiries into serious further offences. For example, the Independent Review of a SFO relating to Damien Hanson and Elliot White was critical of both individual and organisational practice, but of particular note was that the front line worker for White was unqualified *and* lacked adequate supervision (Knight & Stout 2009):

“In the case of Elliot White it is clear that the probation service officer managing the case was inexperienced and required support. An internal inquiry by LPA into the circumstances of the case concluded that the level of staff supervision provided by the senior probation officer was inadequate.” (HMIP 2006)

7. The 2007 proposals also included a recommendation that case administrators (CAs) be included in the training structure. (It is worth noting that the inclusion of CAs in the structure was determined by NOMS at tender stage; it was not an initiative of the universities). Case administrators are not included in the final framework. This is regrettable, as the case administrator role increasingly involves direct work with offenders, including sometimes passing on of difficult information. A case administrator post is, for some, a first opportunity to work in probation and some CAs progress to posts as PSOs or POs. It remains our view that case administrator training could usefully be included in the framework.

8. The coalition government has made it clear that it expects probation tasks to be carried out by a range of providers in the statutory, private and voluntary sector. This provides further training challenges as the qualifying framework is not easily accessible to candidates outside the statutory sector, and there are currently no equivalent qualifications on offer for practitioners in private or voluntary organisations.

9. Probation is a highly skilled profession. It calls for more than technical skills; staff need insight and intellectual and emotional maturity. All these are necessary to encourage and enable offenders to change, to bring them to recognise that their behaviour has been unacceptable and to motivate them to participate in the interventions that will bring about change. Emotional literacy is essential to establish effective working relationships with damaged and mistrustful individuals, not least those who pose a risk of serious harm to others and who, in many cases, have themselves been victims of abuse and violence. All staff need to acquire, practise and demonstrate the skills, knowledge and values appropriate to their role. All staff need a detailed knowledge of diversity, and the impact of disadvantage and discrimination on particular offender and victim groups.

#### *Support and Funding for Training*

10. The numbers of candidates submitted for qualifying training are very low, and have fallen dramatically in the last few years. As a rough comparison, DMU welcomed 308 students in 2003 to cohort 6 and a further 197 to cohort 7 in 2004. The team continues to work with the same regions but took on 63 DipPS students in 2008, no students in 2009 (due to the changes in the training regime) and expects 23 students to start in September 2010. This reflects a similar drop in numbers nationally. It is clear that this reduction in numbers has been caused by the limited funding available, and the drop in the recruitment of staff, particularly at probation officer grade. However it does lead to concerns that there might be a shortage of qualified staff available to carry out the most demanding and highly skilled tasks of the probation service, such as supervising high risk offenders.

11. The funding pressure on the probation service could also have further detrimental effects on the experience of training for candidates. PSOs engaged in the PQF must be provided with workload relief, adequate study time and appropriate tutor support to enable them to learn and to move up a level in skills knowledge and understanding. It is also vital that students continue to learn in groups, or cohorts, to allow reflection and conceptual analysis, particularly on work with high-risk offenders, that only shared learning can provide. The probation service must continue to value its identity as a learning organisation, supportive to those engaged in training.

12. Training, and for that matter research, have often been the first casualties of budget cuts in other areas. It is tempting, but a temptation to resist robustly, to seek accelerated routes which may fail to equip staff with the skills and knowledge that they need. It is accepted that the workforce is unlikely to increase significantly, but it is important for the foundations of a solid framework to be laid down for now and for the future.

### *Post-qualifying structure*

13. While there has been a great deal of discussion about the nature of qualifying training, there has been much less consideration of the importance of continuing professional development (CPD). The most that qualifying training can do is to equip staff to be ready to begin their practice. CPD should be available to enable staff to learn about new developments, including changes in law, policy and in emerging evidence about effectiveness, and to take on roles calling for specialised skills or knowledge. It is also essential that the value of training for management is appropriately recognised and staff in middle and senior management roles given the opportunities they need.

14. When probation training was part of social work training, there was a well-established post-qualifying framework for probation officers enabling them to engage in CPD and to achieve both a professional and an academic qualification for this work. A post-qualifying framework was never introduced alongside the DipPS but the introduction of a new qualifying framework provides an opportunity to build on that framework and to offer accredited professional and academic programmes for developing practitioners and aspiring trainers and managers. The continuing close association between the probation service and universities provides potential both for research opportunities and the development of continuing professional development opportunities. In our experience, there is considerable interest from practitioners in continuing their professional studies at a postgraduate level. However, in the absence of a formal post-qualifying framework these aspirant students are dependent on the goodwill and ability to make a financial commitment of their employing area.

### CONCLUSION

15. Probation practice is a complex and challenging professional role and the current and previous training regimes reflected this. There is a risk that financial pressures could lead to a simply instrumental approach being taken to training; this could in turn lead to a squeeze on quality and an increase in the public risk relating to the often difficult and damaged people who make up the offender population. Responses to recent crises in social work have included a recognition of the skilled and demanding work that social workers do and the need to attract high quality staff and train them at a high level. The same arguments apply to probation, particularly as there is a prospect of a greater emphasis on managing high risk offenders in the community and on restorative justice. If a variety of providers are to be involved in delivering probation then the high-quality qualifying training on offer in the statutory sector will need to be made available to prospective voluntary and private providers. It is important that future practitioners, wherever they are employed, are encouraged to develop research awareness, sophisticated thinking and conceptual understanding appropriate to the role of the probation officer.

### REFERENCE (SEE ALSO APPENDIX)

HM Inspectorate of Probation (2006) *An Independent Review of a Further Serious Offence Case: Damien Hanson and Elliot White*. London: HM Inspectorate of Probation.

### APPENDIX

#### KEY PUBLICATIONS FROM THE CCJ DIVISION, DMU

Canton, R (2010, forthcoming) *Probation*, Cullompton: Willan.

This is a general introductory text about the work of the probation service, intended to give a reliable account of most aspects of contemporary probation policy and practice, while offering theoretical and critical perspectives as well.

Canton, R and Hancock, D (2007) *Dictionary of Probation and Offender Management*, Cullompton: Willan.

This widely-used book was edited by Professor Rob Canton from CCJ and contains contributions from many staff in the division. It also contains contributions on many of the topics that are subjects of the Select Committee inquiry such as contestability, probation trusts, probation training, restorative justice, community penalties and diversity.

Dominey, J (2010) "Work-based distance learning for probation practice: Doing the job properly",

*Probation Journal* 57: 153–162

This article argues that work-based distance learning can be an appropriate model for probation training, but only if certain principles of teaching, quality assurance, organisation and resourcing are adhered to. It identifies key aspects of work-based distance learning and highlights the factors that must be in place if the model is to produce knowledgeable, competent and motivated practitioners.

Kemshall, H (2009) *Understanding the Community Management of High Risk Offenders*, Maidenhead: Oxford University Press

Professor Hazel Kemshall has published extensively on the subject of the management of risk in the community and this is the most recent of her many books. This book examines in detail a range of risk management techniques and considers assessment, multi-agency working and recent policy and legislation.

Knight, C and B Stout (2009) 'Probation and Offender Manager Training: An Argument for an Integrated Approach', *Probation Journal* 56(3): 269–83.

This article argues that training arrangements for probation staff need to take account of the fact that complex offender-focused work is now being carried out by various grades of staff and that the issue of role boundaries should be central to the debate about competency and qualifications. The importance of higher education in enabling the development of critical and reflective skills as well as knowledge for all staff is emphasized.

Stout, B, Yates, J and Williams, B (eds) (2008) *Applied Criminology*, London: Sage

This edited collection is a key CCJ publication and most chapters have some relevance to probation. Those with direct reference to the topics of the Select Committee Inquiry include Knight et al's chapter that discusses the managing, resourcing and teaching of diversity and Stout and Goodman's chapter that argues that restorative justice is an approach that requires greater citizen involvement.

Ward, D Scott, J & Lacey, M (eds) (2002) *Probation: Working for Justice* (2nd edition) Oxford University Press

A collection of papers on a wide range of probation topics. Written around the time that the Human Rights Act was implemented, the book explores the ethical challenges of probation as well as reviewing effective practice, public protection and the changing organisation of the Service.

September 2010

## Written evidence from Avon and Somerset Criminal Justice Board (PB 22)

### 1. EXECUTIVE SUMMARY

1.1 This submission is made by the Avon and Somerset Criminal Justice Board (ASCJB). The ASCJB was the pioneering criminal justice board nationally and has been in operation since 2001. The board comprises of the following Chief Officers in Avon and Somerset; Police, Crown Prosecution Service, HMCS, Probation, Prisons, Youth Offending Teams, Victim Support. Legal Services Commission and the Police Authority are also represented on the board.

1.2 The view of the ASCJB is that currently Probation services are not commissioned in the most effective way. With the development of a more integrated approach to offender management the Probation Trust is best placed to commission appropriate services and develop key strategic relationships with other partners, in order to meet the requirements of those offenders managed collectively by the criminal justice agencies in an area.

1.3 The ASCJB believe that provision of integrated offender management is core to the future operation of many of the criminal justice agencies, not just Probation, and significantly impacts the resulting output of reducing crime and reoffending by those most at risk of causing harm to our society. The future of Probation Service provision should be viewed within the bigger picture of partnership working with other agencies, not as a stand-alone service provider.

1.4 Avon and Somerset have developed a unique model for provision of integrated offender management with full co-location and integration of Probation Police, CJIT and Prison staff. There is also very close working links to other service providers, including those from the voluntary and private sector, to address the reoffending pathways. This has allowed for a greater freedom of approach compared to the traditional approach to offender management and allows the local CJS to target statutory *and* non-statutory supervision cases in a similar manner. The economy of scale and benefits from co-location and integration significantly increases the capacity of the CJS locally to deal with offenders at risk of reoffending compared to individual agencies working alone. The significant increase in capacity is both by means of support and pathway provision as well as enforcement and provision of sentencing options for the courts. The increased sharing of intelligence and information between partners associated with a truly dynamic risk management model enables each individuals needs to be regularly assessed and appropriate resources allocated and sequenced to have maximum impact.

### RESPONSE TO SPECIFIC QUESTIONS

#### 2. Are probation services currently commissioned in the most appropriate way?

2.1 Currently Probation services are mainly commissioned by NOMS through their regional structure (Directors of Offender Management). It is the view of the A&S Criminal Justice Board that this arrangement does not best meet the imperative to commission services with local relevance and strong strategic links with other local providers in the criminal justice and associated sphere. Probation workload is determined by the Courts, either by requests for pre sentence reports or by sentencing to community sentences or imprisonment followed by supervision on licence. The current structure for commissioning involves an unacceptable dissonance between NOMS, the independent commissioning body, and those agencies, in particular HMCS who directly influence the workload for a Probation Trust. There is little or no communication directly between NOMS regionally and local criminal justice agencies either individually or via the Local Criminal Justice Board, regarding the strategic policies for the area and the impact this may have on volume of sentencing outcome for an area.

2.2 It would seem logical and sensible for HMCS to have a close strategic relationship with the commissioners of the services provided by Probation, given they make decisions about the community and custodial sentence that probation services will manage.

2.3 Avon and Somerset have been one of the pilot areas for Integrated Offender Management (IOM) and have developed a cost neutral, fully integrated model for delivery of this initiative, increasingly seen as a good practice model for other areas. Unlike other pilot areas, the A&S IOM model has Police, Probation, Prisons and CJIT staff working together collaboratively, co-located and in close partnership with voluntary and community sector organisations. This close working allows the unit to deal with a considerably greater caseload than purely the statutory cases Probation would normally focus on. The Probation Trust is well placed to commission appropriate services which meet the requirements of those offenders managed collectively by the criminal justice agencies in Avon and Somerset.

2.4 Historically Police and Probation services have been commissioned and delivered independently of each other, with the National Offender Management Service (NOMS) being solely responsible for commissioning services from Probation including those targeting reoffending pathways. With development of Integrated Offender Management (IOM), where there is a strong partnership approach to reducing the reoffending rates, an independent isolated system is emphatically not an effective means of commissioning services that deliver value and results. This is especially so for the IOM model used in A&S, where the degree of integration of the scheme allows for a wider range of offenders than those under statutory Probation supervision to be targeted. It will be essential for the future success of IOM schemes, for the new "Police Commissioners" to be in close strategic and formal partnerships with the body responsible for commissioning Probation services in the future.

### 3. *How effectively are probation trusts operating in practice?*

3.1 The Avon and Somerset Probation Trust is an effective member of the Avon and Somerset Criminal Justice Board.

### 4. *What is the role of the probation service in delivering "offender management" and how does it operate in practice?*

4.1 The A&S Criminal Justice Board view is that IOM is at the heart of how "Offender Management" should be delivered, and that the Probation Trust and qualified/experienced Probation staff have an essential role to play in this. As outlined above the model for IOM used in A&S has several unique features. Unlike the other pilot areas the model has been delivered as cost neutral to the agencies involved. The IOM unit is truly co-located and integrated with staff working alongside each other, where possible using common IT systems. Intelligence and information is freely shared between partners, and a flexible approach is taken to managing offenders with appropriate staff performing their specialist function irrespective of previously existing boundaries and role responsibilities. The economies of scale resulting from this approach allows for statutory and non-statutory cases to be managed within the unit with individual cases being dealt with according to the risk assessment of the individual, rather than as a result of categorisation as statutory cases.

4.2 The operation of the local IOM model covers four areas of business:

4.2.1 *Targeting*: Intelligence and an extensive breadth of information from Probation, Police and other partners in the IOM is used together with the joint expertise in analysis to collectively identify those offenders who are at most risk of reoffending. This is a dynamic process with regular reviews of offenders' status allowing substantial agility in the changes made in management regimes to ensure that appropriate resources are allocated and action plans developed to effectively manage the identified risks.

4.2.2 *Case management*: All IOM cases are managed according to an agreed tactical menu of options, ranging from surveillance, monitoring and control at one extreme to support and rehabilitation at the other. There is a constant review of cases between partners to identify the appropriate options for a particular offender at that time. The prison service are integral to the development and delivery of this approach, using their knowledge and expertise of managing the offenders whilst in prison and linking to services outside the prison gate during the transition period of release. The project is extraordinary in the extent to which prison staff work "outside the gate" alongside partners in the community.

4.2.3 *Commissioning*: Probation, Health and Local Authorities work closely at both operational and strategic level to identify offender needs across all the pathways, appropriate services can be commissioned from within the agencies where possible, or from external providers eg voluntary and community groups and the private sector.

There is ongoing work to ensure that all partners involved with the IOM deal with offenders as ordinary "customers" eg homeless or mentally disordered and gaining access to services in the same way as other members of society rather than grouping them as offenders and treating them differently.

It would assist development of pathway support from IOMs, if there were a local commissioning budget explicitly associated with reducing reoffending, and/or local agencies had a duty to ensure their services had been commissioned with relevance for the characteristics of offenders.

4.2.4 *Enforcement*: The joint approach to managing offenders and sharing of intelligence and information between partners dealing with the offenders allows for a faster identification of where things are going wrong with an offender's engagement in the IOM scheme. This allows for remedial action to be taken earlier and helps prevent breaches, recalls and further offending. Where enforcement is deemed to be necessary, the sharing of intelligence allows for more certain identification of the problem and a speedier arrest or recall.

5. *Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

5.1 The development of an effective IOM scheme in an area, with individual offender engagement involving a wider range of partners and voluntary and private sector providers being managed by Probation and Police, greatly increases the range of interventions available because of better links to providers across all the reoffending pathways. This leads to a wider range of services being available for sentencers. The close management and regular review of offender's engagement in pathways, that is an integral part of the IOM scheme operating in A&S, allows for a close monitoring of the effectiveness of service providers and the efficacy of the case management approach to reducing reoffending.

6. *What role should the private and voluntary sectors play in the delivery of probation services?*

6.1 Local statutory agencies are unable to provide a comprehensive range of services across all the reoffending pathways. To be really effective, offender management must be able to engage support for offenders across the whole range of options to meet needs. Some of this provision is best and most effectively and efficiently delivered by voluntary and private sector providers. Where possible they should be locally sourced to ensure that provision is locally delivered and joined to other support systems. However there are issues of scale and volume where a wider approach to commissioning may be more appropriate, in particular rural areas where voluntary sector provision is less available.

6.2 Criminal Justice Board members have confidence in the services directly delivered or commissioned by the Probation Trust.

7. *Does the probation service have the capacity to cope with a move away from short custodial sentences?*

7.1 The IOM model developed in Avon and Somerset allows for an increase in capacity and the ability to manage a greater number and range of offenders including non-statutory supervision cases. This is achieved by the effective co-location and integration of Probation, Police, Prison and CJIT staff and the constructive relationships they have developed with voluntary and private sector providers in the area. The resulting economy of scale and the flexible working approach ensures that staff with the best skill set, are utilised for particular roles, rather than operating in individual silos. In this context probation staff expertise is employed, within existing resources, in dealing with cases that would not normally fall within their remit.

8. *Could probation trusts make more use of restorative justice?*

8.1 The Probation Trust is keen to make much more use of Restorative Justice (RJ) in appropriate cases. The Trust has significant experience in working with victims of serious crime and this expertise can be well utilised to support RJ developments. Evidence shows that for appropriate offenders the impact can be huge and lead on to engagement in follow up programmes. Crucially there are significant benefits for victims achieved from RJ. RJ should become a formal option for community and licence supervision in appropriate cases. Locally the close working with police in the IOM unit has allowed the effective use on RJ in case management programmes, the Avon and Somerset Police were already utilising RJ as a successful alternative to prosecution in appropriate cases.

9. *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?*

9.1 The local IOM model developed in A&S utilises a dynamic risk management model, with each of the key agencies, Police, Probation, Prisons and other team members providing information and intelligence to allow each individual being managed to be assessed independently. In this way each of an offender's key needs and requirements are assessed and an appropriate response is formulated for management of that offender, a local example is the use of Eden House a one stop provision specialising in women offenders. The all inclusive nature of the information sharing allows for a much more detailed, accurate and rounded assessment being made of the offender's individual needs, and appropriate resources are carefully sequenced to have the most impact, taking into account the circumstances of the particular offender. The Local IOM model involves the Youth Offending Team and all Deter Young offenders (DYOs) are managed through the IOM process, which substantially assists with the crucial transition phase as they move to management by adult services.

10. *Is the provision of training adequate?*

10.1 No submission.

September 2010

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**Written evidence from the West Yorkshire Probation Trust (PB 23)**

EXECUTIVE SUMMARY

Existing arrangements for the commissioning of probation services could be improved, not least because they are often too distant from local communities and local services.

Probation Trusts are structured to deliver services at local level, and have key skills in assessing risk and in co-ordinating and delivering services to offenders at all stages of the criminal justice process. Trusts are highly valued members of local partnerships. They are ideally placed to commission probation services at local level.

Probation Trusts have delivered reductions in reoffending. They could achieve much more if they were enabled to focus on local concerns and priorities, rather than meeting centrally imposed targets and scrutiny requirements. Trusts should be given greater business freedoms to enable them to develop their competitive and innovative potential.

Trusts have the ability to reduce the reoffending rates and risk levels of those currently sentenced to short term custody, but capacity would need to be created to enable them to work effectively with this demanding group.

Trusts already have extensive links with a range of other organisations, including those in the voluntary sector, which could have a particularly enhanced role in the management of lower risk offenders. Restorative Justice should be a core sentencing option.

Trusts can demonstrate effective work with a diverse range of offenders, including those posing a high risk of harm and reoffending.

It is too soon to assess the effectiveness of the new probation qualifying framework, but its general approach is welcomed. Greater attention is needed to the development of senior managers.

*Are probation services currently commissioned in the most appropriate way?*

1. Most probation services are commissioned by a NOMS regional Director of Offender Management, who is informed by a strong national steer. This approach is distant from local communities and their diverse needs, from local sentencers, and from existing commissioning arrangements at locality level. Regional commissioning of probation services contrasts with much offender-related commissioning which takes place at local authority level.

2. Existing governance arrangements with NOMS can often be experienced by Trusts as a mixture of commissioning and line management activity. A greater emphasis on the former would bring more clarity to the arrangements, an increased focus on outcomes, and a consistency with current legislation.

3. Probation Trusts are structured, through its Local Delivery Units, to deliver services at local level, and are at the very centre of local partnership arrangements to reduce re-offending. They co-ordinate the management of offenders at all points of the criminal justice system, working closely with statutory and voluntary agencies as well as the private sector.

4. The Probation Service has an extensive knowledge and skills base in delivering offender services in order to reduce re-offending and manage risk, and is respected as such by partners. It is a statutory member of Community Safety Partnerships, and is increasingly involved in joint and co-commissioning activity.

5. The Probation Service has a track record of innovation, of supporting innovation in others, and in developing flexible responses to changes either in criminal behaviour or in government policy.

6. Trusts have reduced the reoffending rates of those under probation supervision.

7. If it is accepted that the case for the commissioning of probation services at local level is well made, Probation Trusts, for all the above reasons, are ideally placed to act as the local commissioner of probation services.

*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?*

8. The anticipated freedoms and flexibilities to enable Trusts to respond proactively to local issues have not yet been delivered by NOMS. Additionally, Trusts require greater business freedoms to enable them to develop their potential to compete and innovate.



9. Instead, Trusts have had to devote significant resource to centrally-imposed monitoring activity or to nationally-determined priorities. Front-line staff spend a considerable portion of their time meeting national and regional audit, inspection, and monitoring requirements.

10. Such activity takes front line staff away from direct contact with individual offenders, and restricts their ability to build the constructive relationships which research evidence highlights as a vital element in engaging offenders in changing anti-social attitudes and behaviours.

11. Nonetheless, many Trusts have delivered better than predicted reductions in re-offending—a key test of their effectiveness. In West Yorkshire, reductions approaching 10% are being achieved. Critical factors behind such successes have been Trusts' skills in assessing risk and crime-related issues, and their ability to co-ordinate the full range of services, delivered by a number of providers, that constitute "offender management".

12. The importance of this co-ordinating role cannot be emphasised too much. An increasing number of agencies are involved in the delivery of services to offenders, and with it comes the potential for fragmentation and loss of focus. Trusts have shown that they have the capability to manage this complex undertaking, and they are rightly regarded by local partner agencies as the lead organisation in driving the reducing reoffending agenda. It is suggested that no other agency has the depth and range of knowledge and skill in relation to managing offenders, nor is better placed to commission services to offenders at local level.

*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. Sentencers are able to fully utilise those requirements that are delivered by Probation Trusts. Probation staff are available in court to provide advice to sentencers about the detail of requirements, and there are sound communication and feedback channels between Trusts and sentencers on issues of mutual interest.

14. Problems can arise for some Trusts where requirements are dependent on services provided by other agencies, such as treatment for alcohol or mental health issues.

15. There is a tension between centrally determined volume targets for requirements and local assessments of need for such requirements. The national performance framework and its priorities do not always sit easily with local concerns and priorities.

16. Some Trusts are extending the range of services available to sentencers eg via more specified activity requirements, so that courts can more precisely tailor the sentence to the individual defendant.

17. In terms of effectiveness, completion rates of requirements are high, and there is an established link between completion rates and reduced reoffending. Performance against enforcement targets is consistently strong. Victim satisfaction measures are high, as are those of community payback beneficiaries.

18. The reoffending rates of those on community orders managed by Trusts outperform short term custody by some margin.

*What role should the private and voluntary sectors play in the delivery of probation services?*

19. Trusts already have strong and extensive links with voluntary agencies. These agencies often have good localised connections that can be especially beneficial after a period of statutory supervision has ended. Voluntary agencies play a vital role in the delivery of essential services relating to accommodation, employability, substance misuse, and community payback for example.

20. If Probation Trusts are to manage greater numbers of community orders as part of any initiative by government to reduce the prison population, the voluntary sector could play a significant role not only in the supervision of lower risk offenders, but also in the supervision of offenders with complex needs, who typically form the majority of those who are currently sentenced to short term custody. Voluntary agencies could be pivotal in providing mentors and volunteers to complement the work of the statutory sector, in line with the government's Big Society approach.

21. The private sector could assist in delivering more efficient support functions, not least in relation to technology. The private sector could also have a role in improving the employability skills of offenders, many of whom have low literacy and numeracy levels, and, crucially, in providing employment opportunities for offenders. The private sector may well have skills that could support any social enterprises that were established to deliver some probation services.

*Does the Probation Service have the capacity to cope with a move away from short custodial sentences?*

22. The Probation Service is used to dealing with high volumes (at any one time it deals with around 250,000 individuals) and with the issues posed by short sentence prisoners, whose reoffending rates are significantly higher than those prisoners who are subject to statutory supervision by Trusts.

23. Sentencers already make full use of Probation resources. The volume and complexity of probation caseloads continue to increase. Because of their offending and risk profile, short term prisoners need to become

a priority group for offender management, and for that reason capacity would undoubtedly need to be created to enable Probation Trusts to reduce the reoffending of this group.

24. In terms of creating the necessary capacity for Trusts, lower risk groups would need to be diverted through the use of pre court measures, greater use of fines, discharges, and electronic monitoring, and through greater involvement of the voluntary sector. The use of shorter, leaner requirements in community orders would need to be encouraged. The experience of many Trusts is that maximum impact takes place in the first three to six months of an order.

25. Government should present the evidence to the public about the effectiveness and cost effectiveness of community orders over short term custody, and to publicise more widely the public's stated preference for measures that are proven to reduce reoffending.

26. As well as the diversion of lower risk cases from the Probation caseload, the transfer of resource from custody to community settings would need to take place, as would the transfer of resource from national and regional structures to individual Trusts. Increasing Probation's ability to commission services, especially those that offenders have historically struggled to access, such as housing, mental health, and substance misuse services, would support a more systematic approach to those with chronic and complex needs.

27. Reducing the burden of central process and output driven targets, of central audit and scrutiny would assist in releasing capacity. Crucially, increasing the exercise of local professional judgement of skilled staff through a relaxation of nationally-determined standards, and through the implementation of a more generic community order (whose components would be determined more by the supervising officer) would further release much-needed capacity.

*Could Probation Trusts make more use of restorative justice?*

28. The Probation Service has a history of delivering services to victims, for example in helping to establish Victim Support, and in setting up numerous mediation and reparation schemes.

29. The Probation Service's public protection work is driven by the aim of protecting victims, and in a number of Trusts victim-empathy work with all offenders is a core activity. Restorative Justice (RJ) is deployed both as an element of Intensive Alternative to Custody schemes and as a community order specified activity. Feedback from victims demonstrates an extremely high level of satisfaction with the victim liaison functions carried out by Trusts. RJ practice therefore sits comfortably with Trusts' general approach to work with victims and offenders.

30. There are a number of reasons why Trusts would wish to employ greater use of Restorative Justice: victim satisfaction, support from sentencers, impact on reoffending (especially in relation to prolific offenders), public approval for such schemes, and resonance with approaches that support desistance from offending. Making RJ a core sentencing option would therefore be welcomed.

*Does the Probation Service handle different groups of offenders appropriately eg women, young adults, black and ethnic people, and high and medium risk offenders?*

31. The Probation Service has expertise in undertaking individualised assessments, and in translating those assessments into bespoke supervision packages. It deals with a wide range of people with diverse backgrounds and complex needs, and has developed a range of provision to address those needs. Trusts are increasingly obtaining and using feedback from individual offenders about the appropriateness of the services being delivered to them.

32. In relation to *women*, Trusts already work hard to engage with the complex needs of many women offenders. Some Trusts have semi-specialist staff who concentrate on women offenders, and have helped to establish women—only services delivered in partnership with voluntary providers, both seconding Trust staff into the provider's one-stop facilities and also improving the provider's skills in relation to the management of risk. Satisfaction rates among the women offenders who access these services are high, and short term custody for women has reduced. This latter factor is especially relevant, given the child-care responsibilities undertaken by many women offenders.

33. There exist strong links between Trusts and Youth Offending Teams (YOTs). Many *young offenders* do however experience difficulty in making the transition into the adult justice framework. They tend to have lower compliance levels and completion rates as a result. Trusts are aware both of the generally lower caseload levels experienced by staff working in YOTs, and of their access to a wide range of services to support the young person and their family. Improving the transition from the youth to the adult justice system has to be a priority for the justice system in order to support desistance from offending and reduce reoffending rates, although this is unlikely to be resource-neutral.

34. The Trust is a central participant in prolific offender schemes and in Integrated Offender Management schemes, both of which provide intensive support and access to wrap-around services. Given that the relatively small number of offenders in such schemes are responsible for large volumes of offences, and given that many schemes have delivered reductions in predicted offending, it is highly desirable that Trusts are resourced to

work with those prolific offenders who currently would receive a short custodial sentence of under 12 months and who would not currently be subject to statutory supervision by Trusts.

35. Some Trusts commission local voluntary agencies to support their work with *ethnic minority* offenders and to ensure that the services provided meet the needs of these groups. Staff from these agencies are often co-located in Trust offices and have full access to the Trust's information. Trusts organise their groupwork provision, including community payback services, to ensure that they are delivered with sensitivity. Trusts also monitor the proposals in their court reports and the resulting sentencing outcomes, which are shared with courts.

36. With regard to risk, Trusts use structured assessment and targeting tools to ensure that risk issues are identified and that resource is matched to the level of risk and need. Evidence shows that accredited programmes are most effective when targeted at *medium risk* offenders, and so Trusts use the targeting matrices to ensure that suitable medium risk offenders access these programmes. Accredited programmes and specified activities complement the individual work undertaken by supervising officers, who co-ordinate the whole package of services to such offenders.

37. Structured assessments and targeting matrices are applied to *high risk* offenders also. Such offenders are managed via Multi Agency Public Protection Arrangements (MAPPAs) and are accorded the highest level of attention and resource. Trusts ensure that individual risk levels in these cases are reviewed regularly, and they monitor the quality of risk assessments. The MAPPA model is widely regarded as an effective method of managing high risk offenders, and as a Responsible Authority within MAPPAs, Probation activity is central. In a number of areas, it is Probation that chairs the MAPPA strategic management board, for example.

38. No system can eliminate risk entirely, but MAPPA activity has resulted in a rate of less than 1% reoffending by those already assessed as dangerous.

39. With regard to offenders who pose a high risk of reoffending, the involvement of Trusts has been essential to the success of prolific offender schemes and Integrated Offender management schemes, which have shown marked reductions in actual versus predicted offending. Trusts are responsible for the offender management of the vast majority of such cases.

*Is the provision of training adequate?*

40. The new Probation Qualifying Framework (PQF) has enhanced the ability of Probation Trusts to engage in effective workforce planning. This means that Probation Trusts can use anticipated workload to plan for the number and skill mix of employees required to deliver services.

41. The PQF offers the facility of a professionally qualified workforce before the grade of Probation Officer. It also offers increased flexibility in terms of career pathways and routes available to ultimately qualify as a Probation Officer. However, it is too soon to assess the effectiveness of the PQF.

42. Effective practice training is delivered on a regional basis and is often provided by Trust practitioners. This has the advantage of retaining relevance to current practice. However, in times of reducing resources there may be issues about releasing these employees to deliver training. Work demands may also make it more difficult to release employees to attend learning and development events.

43. Our technology does not support the use of on line learning on desk tops (e-learning). Such flexible provision will become more necessary if Trusts are to use their resources more efficiently.

44. There is a potential concern in relation to future national capacity as budget cuts may lead Trusts to reduce their commitment to investment in the PQF and other learning and development activity. This may lead to a potential shortfall in qualified probation officers, who manage the most dangerous offenders and who write the most complex reports for courts. This would have implications for public safety.

45. Additionally, there needs to be a sustained investment in developing the strategic, leadership, and business skills of senior managers, who will be operating in an increasing complex and competitive environment. One way that this could be assured would be to transfer NOMS resources for senior management development to Trusts.

September 2010

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**Written evidence from Police Sergeant 7157 Lee Bailey, West Midlands Police, Dudley Local Policing Unit, Offender Management Supervisor (PB 24)**

*What is the role of the probation service in delivering "offender management" and how does it operate in practice?*

My officers work very closely with two Probation staff who are solely dedicated to the offender management of Priority and Prolific Offenders. Those PPOs who are on statutory supervision have one to two appointments per week and attend Brierley Hill Police Station for a joint appointment with Police and Probation staff. During these appointments discussions take place around addressing drug, housing, education and employment issues among others. PPOs are also drug tested by Probation staff.

It is Probation's role to lead on the management of all conditions within a PPOs licence or community order assisted by Police and other agencies that have a stakeholder interest in a particular individual. Probation make the decision to recall a person to prison, or to breach them on a community order. This decision is made with information, intelligence and advice provided by Police and the other agencies involved.

Probation usually chair the SPF (Shared Priority Forum meeting) and invite other interested agencies to discuss the management of individuals who are of note at that time. It is usually at this meeting that decisions are made on plans of action in relation to an individual and conditions are agreed for licences and orders.

September 2010

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### Written evidence from Leicestershire and Rutland Probation Trust (PB 25)

#### SUMMARY

1. Leicestershire and Rutland Probation Trust was one of the six first wave Probation Trusts which were established in April 2008 and took on the business of the former Leicestershire and Rutland Probation Board. This submission draws on our experience to inform recommendations for the future commissioning of Probation Services.

2. As a top performing, innovative Probation Trust with a strong record of partnership working, we consider that Probation Services are commissioned best locally so they can be responsive to local needs and demands. Probation Trusts should be freed up to agree local performance targets with partners to address local concerns. Management of offenders should be seamless, integrating interventions and joining up provision across the criminal justice system. Greater attention should be given to the provision of mental health services for offenders using a place-based budgeting approach. As a commissioner, Probation Trusts would be well placed to bring together voluntary, private and public sector efforts into an effective supply chain delivering consistent offender rehabilitation services. A move away from short custodial sentences will require a shift of resources from imprisonment to community sentencing if offending is to be reduced and the public protected. There is clear scope for more reparative solutions as alternative sanctions and at each stage of the criminal justice process. Whilst the voluntary sector can play a useful role in the provision of a differentiated service to some groups of offenders it is crucially important that the management of the more risky offenders remains within the public sector to ensure effective accountability. New training arrangements are in place for Probation Officers and Probation Service Officers, attention now needs to be given to developing arrangements for training the managers of the future.

*Are Probation Services currently commissioned in the most appropriate way?*

3. The Trust has an extensive knowledge of the local community, the requirements of local sentencers, the needs of offenders and the range of local organisations which can provide services for offenders. As a first wave trust, we have sought to develop our role as a local commissioner working with local partners to commission a range of services to rehabilitate offenders, including employment services, drug and alcohol treatment, housing related support, health services and arrangements for Integrated Offender Management for adult offenders released from short prison sentences. As an active member of Local Strategic Partnerships and Community Safety Partnerships, the Trust has ensured that Reducing Reoffending has been a top priority and enabled Leicester and Leicestershire to achieve Beacon Status for Reducing Reoffending. It is estimated that at least 50% of the services that offenders need to enable effective rehabilitation are not funded by the Ministry of Justice but through other government departments, and strong local partnership working is needed to ensure that offenders can access these effectively. This Trust has a long history of partnership working and in 2008 achieved the British Quality Foundation's award for Partnership Development.

4. Regional commissioning of Probation Services has, to date, added little to what can be achieved locally, though there is potential for facilitating improved working between Prisons and Probation in the delivery of rehabilitation services.

#### Recommendation

5. We recommend that consideration is given to establishing local Probation Trusts as the commissioners of Probation Services on behalf of the Ministry of Justice.

*How effectively are Probation Trusts operating in practice? What is the role of the Probation Services in delivering "offender management" and how does it work in practice?*

6. Leicestershire and Rutland Probation Trust has been a top performing Trust since its establishment, and several years prior to this as a Probation Board. It has achieved the top rating for performance for the past four years and has received extremely positive reports from the Probation Inspectorate in the last two Offender Management Inspections. It has been Recognised for Excellence by the British Quality Foundation and has achieved the Customer Service Excellence Award.

7. In the most recent inspection, the inspectors commented on the ‘culture of continuous improvement that permeated the Trust’. This continued high level of performance is attributed to strong effective local leadership, robust systems for performance management, positive management, staff and union relations, good working with local partnerships and a “can do” culture. Through working with local partners, we have now, for the first time, achieved a statistically reduction in reoffending in Leicester of 9% in the past year.

8. Whilst completing the Trust application process during two iterations has helped to focus the organisation’s strategic and organisational development planning, the promised freedoms that being a Trust were supposed to provide have failed to materialise.

#### Recommendation

9. We recommend that Probation Trusts be given more freedom to agree outcome focused performance targets in conjunction with local partners which contribute to reductions in re-offending and which support effective sentencing.

#### OFFENDER MANAGEMENT

10. The Trust was one of the first to fully implement the Offender Management Model. For us this means providing consistent, continuous, integrated supervision of offenders from appearance in Court through assessment and sentence whether in the community or in custody. We have extended this model to drug and alcohol misusing offenders to provide end to end services from the point of arrest at the police station through to completion of sentence. Consultation with offenders has shown that they value a consistent service and we have ensured through effective offender or “case” management that the range of interventions and the work of various providers is consolidated into appropriately sequenced and coherent plans. Local Community Safety Partnerships have provided funding from Area Based Grant for a limited period to extend this offender management to the more risky offenders released from prison without supervision and offenders are prioritised in conjunction with the Police and other partners.

#### Recommendation

11. We recommend that arrangements for offender management are maintained and extended when funding permits to ensure that offenders’ experience of supervision is continuous and integrated, with a single offender manager responsible for achieving an effective service to individual offenders.

*Are Magistrates and Judges able to utilise fully the requirements that can be attached to Community Sentences? How effectively are these requirements being delivered?*

12. In Leicestershire and Rutland sentencers can access a full range of requirements without difficulty, with the single exception of Mental Health Treatment Requirements. Provision for alcohol treatment has been problematic in the past but through a Total Place project delivered by local partners that has focussed on drug and alcohol services; increased funding is being made available to provide coherent alcohol treatment pathways on the basis that this will provide future savings for Criminal Justice and Health Services. We are now beginning to examine the barriers to the effective commissioning of mental health services for offenders in the community in the light of Lord Bradley’s recommendations, but this is being further compounded by imminent health service reforms.

13. Through close liaison with Sentencers and local partners, we are able to ensure that the range of provision they require is available. The Trust is focussed on ensuring that orders are completed as intended and completion rates are increasing. 72% of orders are now completed successfully, including 77% of Unpaid Work Requirements. Where requirements are not completed, offenders are returned to court swiftly.

#### Recommendation

14 We would recommend that there is a renewed focus on taking forward Lord Bradley’s recommendations regarding mental health services for offenders. We would also recommend that the responsibility for liaison with Magistrates and Judges remains with local Probation Trusts.

*What role should the private and voluntary sectors play in the delivery of Probation Services?*

15. As a Trust, and before that as a Board, Leicestershire and Rutland has a long history of effective working with voluntary sector organisations. Most recently as lead provider, we have brought together a consortium of voluntary, public and private sector organisations to deliver a multi-million pound European Social Funded Programme (REACH) across the East Midlands, aimed at improving offenders’ skills and moving them into employment. We work with a social enterprise to deliver a Learning Café to improve offenders’ skills in the catering trades. We also work with charities providing housing related support and with a range of organisations including voluntary and private sector bodies, and social enterprises which provide supervision or placements for offenders on Community Payback (Unpaid Work). We are developing our supply chain of local voluntary sector organisations which can bring specific skills to bear to assist with the delivery of Probation Services. We have been particularly grateful for the role that the private sector has played through Leicestershire Cares

(an offshoot of Business in the Community) which has provided work placements for offenders, the majority of whom have subsequently gone on into full-time employment.

16. From our experience there is a balance to be struck between the skills and abilities of the different sectors. Whilst the private sector has more resources behind it, and can produce long-term innovation, it is not necessarily the cheapest option and we have experienced difficulties with expensive national facilities management contracts which have provided poor service. The voluntary sector can be flexible and innovative and good at providing local solutions, yet it does need support to maximise its potential, and when full cost recovery is taken into account can be more expensive as it does not necessarily have the economies of scale available to the public sector.

17. Probation Trusts are hindered from being competitive by expensive national contracts for premises, IT and facilities management. The lack of year-end financial flexibility, inability to borrow and build up reserves means that they have difficulty in competing for contracts which are geared to payment by results as they present significant cash flow difficulties.

#### Recommendation

18. We recommend that Probation Trusts are freed up from some of the current constraints that make it difficult for them to commission more effectively from the voluntary and private sectors, and as a provider to compete on an equal footing. Trusts require 3 year budgets with year end flexibility and freedom to move away from national estates, facilities management and IT contracts that make them uncompetitive.

#### *Does the Probation Service have the capacity to cope with a move away from short custodial sentences?*

19. As a Trust with a strong commitment to reducing the harm to the community from re-offending, we would like to offer more provision for offenders as an effective alternative to short custodial sentences. In the short term, whilst the demand for community and licence supervision remains high, and with significant budget reductions being required, this will be very problematic. The problem is likely to be exacerbated by loss of other funding streams, such as Area Based Grant which has been used to provide additional services for the more problematic offenders through Prolific and Priority Offender schemes in conjunction with the local police. Over time if demand on the criminal justice system can be managed down through diversion of less serious offenders from the courts and prisons, then Trusts will be better able to respond. At present the Leicestershire and Rutland Probation Trust certainly has the trained and experienced staff to manage the more problematic offenders and the structures, systems and management necessary to reduce the risk they pose without exposing the public to an unacceptable level of risk of re-offending.

#### Recommendation

20. If Trusts are to manage more offenders as an alternative to short custodial sentences, then an appropriate level of resources will need to be found, including making up for the loss of other funding streams currently used to manage the most prolific offenders, such as Area Based Grant.

#### *Could Probation Trusts make more use of restorative justice?*

21 As an innovative Trust working in partnership with others, we would be very keen to make more use of restorative justice. It is already used by the local police as an alternative to prosecution and has received very positive local media coverage. Community Payback is directed to addressing the concerns of local citizens through citizens panels which nominate projects to be completed. There is however, a tension in the delivery of Community Payback between responding to citizens' concerns, providing a cheap punishment and rehabilitating offenders. For us the punishment is completing the required hours, rigorously enforcing compliance as necessary. The more offenders can see how they are making reparation to the community, the more the work has meaning and can be seen to benefit specific beneficiaries, the more rehabilitative it is likely to be. There are also opportunities for making supervision more directly reparative, as is evidenced in the Youth Justice System, where bringing victims and offenders together can, if managed carefully, lead to some closure for victims and a commitment from some offenders to reform.

#### Recommendation

22. We would encourage the government to make more use of restorative justice. Probation Trusts are well placed to affect this in partnership with other agencies and in particular the voluntary sector using trained mediators and volunteers where appropriate.

#### *Does the Probation Service handle different groups of offenders appropriately, eg women, young adults, black and minority ethnic offenders and high and medium risk offenders?*

##### 23. Women

As a Trust we deliver an accredited programme for women convicted of acquisitive crime and a programme for violent women. We also work in partnership with a voluntary sector project funded by the Ministry of

Justice to deliver a one-stop shop for women at all stages in the criminal justice system. We recognise that women in general have different patterns of offending than men, different social circumstances, and different need profiles which must be addressed appropriately to achieve effective rehabilitation.

#### 24. *Young Adults*

We are concerned to ensure that there is a smooth transition from youth to adult services and therefore work with our local Youth Offending Teams to effect good handovers of the management arrangements and support services for those who are still in the criminal justice system at age 18 and therefore in danger of continued offending.

#### 25. *Black and Minority Ethnic Offenders*

As a Trust serving a large minority ethnic population in Leicester, we are committed to achieving a representative staff group, responsive services, good community links and effective communication of the work of the service.

#### 26. *High and Medium Risk Offenders*

As a public sector provider and a responsible authority for Multi-Agency Public Protection Arrangements, we give the highest priority to the effective supervision of offenders likely to cause the most harm to the public in conjunction with other MAPPAs partners; the Police, local authorities, and health services. In particular we prioritise interventions for sex offenders, those convicted of domestic violence and the mentally ill. We accommodate many of these offenders initially in our own approved premises (hostels) where they can be closely supervised and then work with local authorities to ensure they are accommodated appropriately subsequently. We have our own psychology service which is able to assess and treat some of the most complex cases, and floating housing support to ensure close support for those in their own tenancies in conjunction with the Supporting People programme.

#### Recommendation

27. We recommend that Probation Trusts as local commissioners be encouraged to ensure an appropriate and differentiated service which is responsive to the needs of each group of offenders, using the resources of community organisations where appropriate. However we firmly believe that the management of the most risky offenders should remain with the public sector because of the need to ensure clear lines of accountability for delivering services to these individuals.

#### *Is the provision of training adequate?*

28. The Diploma for Probation Studies Programme has served us well for the past decade and the new Probation Qualifying Framework looks promising, although as it is only just coming into operation it is too early to say how successful it will be. We have managed to retain the vast majority of the staff who we have trained and would hope that any changes to the commissioning of probation would not result in a loss of trained staff, where there has been considerable investment of resources. The gap we perceive is in the development of the future managers of the service. The Probation Inspectorate have just given the Trust the highest possible rating for effective management, which reflects the considerable investment we have made in managers gaining formal qualifications through university post graduate public management programme and other courses.

29. These have been arranged at a local and regional level. We consider that a more consistent national framework is required geared to the needs of future probation managers, with particular reference to commissioning public services and leading in partnership.

#### Recommendation

30. We would recommend a review of management training for probation managers to enable them to operate effectively in the complex environment of the criminal justice system and local partnership arrangements.

*September 2010*

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### **Memorandum submitted by Thames Valley Probation (PB 26)**

#### 1. EXECUTIVE SUMMARY

1.1 TVP does not consider the current commissioning arrangements to be the most appropriate because they are not locally determined and are not those most likely to contribute to effective and responsive local partnerships, particularly with the voluntary sector.

1.2 TVP delivers effective offender management, and this is evidenced by the latest re-offending data and the recent inspection report. The delivery includes a mix of in house provision, and services from the private, voluntary and statutory sectors to reflect local need and circumstances.

1.3 Judges and magistrates in the Thames Valley are able to use all the requirements except those for attendance centres. Sentencer satisfaction with the options and services is high and they express confidence in the reports they receive and in the way the sentences are managed locally. This confidence is reflected in relatively low rates of imprisonment locally.

1.4 TVP already works with the private and voluntary sectors and could do so more effectively if commissioning were more locally owned and determined and less centrally driven.

1.5 TVP already works with some non-statutory cases who have served short prison sentences under the auspices of the local Priority Offender and Integrated Offender Management arrangements, and will continue to find effective ways to target those offenders most at risk of further offending, balancing the need for resources to reflect risk and for the expectations of sentencers to be met.

1.6 TVP is the leading probation Trust in relation to the provision of effective restorative justice and believes it has developed a model which could be nationally replicated, and could be further developed if partners within the criminal justice system and the wider community were suitably encouraged by government.

1.7 TVP has worked hard to provide responsive and sensitive services to women offenders, young adults, BME offenders, and those offenders presenting high and medium risk of harm and/or likelihood of re-offending.

1.8 The new training arrangements offer some significant advantages for those seeking professional development and for probation Trusts, but the new funding arrangements must reflect the need for learning and development within each area, and must not provide Trusts with perverse incentives to train fewer people and simply recruit trained staff from other areas.

## *2. Are probation services currently commissioned in the most appropriate way? No*

2.1 The current commissioning model is removed from the demand arising from local courts and from the concerns of local communities. Crime is committed locally, it impacts locally, and solutions need to be developed locally. The contribution of Trusts lies in their expert understanding of local offending and local offenders which spans what is often a divide between the criminal justice system and other local service provision.

2.2 National framework and regional target setting processes constrain the discussions that TVP is able to have with local partners, and reduce the scope for local variation or movement of resources across the area. Local partners want to be able to allocate priority and resources by local agreement. The regional arrangements in form of the NOMS Directors of Offender Management is an unnecessary tier which has the potential to hinder local relationships and the authority to TVP as a Trust negotiating with key partners.

2.3 The focus should be on local commissioning of services to reflect local need delivered increasingly through local partnership working. It should be based upon a shared local strategic assessment which includes contributions from Judges and Magistrates. (This need is increased now that local Magistrates cannot sit as full members of probation Trust Boards). In Thames Valley it should be the local probation Trust responsible for commissioning or providing local services with its partners from the statutory, private or voluntary sector.

2.4 Commissioning probation by local authority would be too low a level, given there are nine local authorities in Thames Valley and cross border issues would be complex. Economies of scale and strategic approach would be lost. However some commissioning by Trusts may be most appropriately done at the Local Delivery Unit level because of the scope of the other partners involved or the very local nature of the service being sought. Whilst some national schemes, such as curfews, can be commissioned nationally, third sector services are better commissioned locally.

2.5 Integrated Offender Management (IOM) is the model of how offenders should be managed locally, with the police providing disruption and surveillance activities, probation providing the through the gate offender management and co-ordination and other partners contributing to rehabilitation plans. The prison service is not linked into local services (because the prisoner population is not based in local prisons) so there is a need for probation services to be separated from its current relationship with HMPS, and be more closely allied to local police, health, accommodation and social care provision.

## *3. 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?*

3.1 Since becoming a Trust in April 2010, TVP has achieved significant financial savings whilst maintaining front line services to victims, offenders and communities.

3.2 TVP is performing effectively across all four domains in the Probation Trust Rating System. The latest figures published in relation to reducing re-offending overall, and by Prolific and other Priority Offenders (PPO) in particular, demonstrate the positive impact being achieved for the people and the communities of the Thames Valley. It was subject to inspection by HMIP in April 2010 and achieved an "encouraging" report that praised local leadership, local partnership arrangements, and improved practice in relation to public probation and the reduction in likelihood of re-offending. The concurrent OFSTED inspection praised TVP's



arrangements for offender training and employment. At the same time surveys of local Judges and Magistrates demonstrate high and improving levels of satisfaction and confidence.

3.3 TVP staff deliver reports to the courts and to the parole board, and provide the assessment, planning, management, enforcement and ongoing risk assessment of offenders. Interventions to address offending related need in order to change offenders' attitudes and behaviour are currently delivered either by probation staff, or by multi agency arrangements with police and local authority partner agencies under the Integrated Offender Management arrangements, or by individual or joint commissioning of specific drug, or alcohol, or accommodation, or health services, from the public, private or voluntary sectors.

3.4 The few highest risk offenders are effectively managed by probation staff, working within the strong local Multi-Agency Public Protection Arrangements (MAPPA) arrangements, and TVP manages five approved premises to provide enhanced levels of surveillance, supervision, engagement and support for those presenting the highest risk of harm to the public.

*4. Are Magistrates and Judges able to utilise fully the requirement that can be attached to Community Sentences? How effectively are these requirements being delivered?*

4.1 Courts in Thames Valley currently use the full range of Community Sentence requirements except for adult attendance centres. We have five approved premises for those whose risk requires higher levels of surveillance. Courts make use of curfew requirements involving electronic monitoring. Drug rehabilitation requirements are extensively used by local sentencers and they are able to review their success. Requirements for psychiatric and psychological treatment are less frequently used, in part reflecting inconsistency in public provision.

4.2 In terms of specified activities TVP has in place interventions in relation to restorative justice, employment training and education, alcohol treatment, and a compliance programme called Back on Track, and is able to offer focused work on racially motivated crime, finance benefit and debt, victim awareness, etc.

4.3 IOM arrangements with police and other partners mean that TVP puts in place enhanced levels of interaction and oversight for those offenders most likely to re-offend, including some who are not currently statutory cases (having served short prison sentences as adults for example).

*5. What role should the private and voluntary sectors play in the delivery of probation services?*

5.1 The core offender management functions of risk assessment and advice to courts and the parole board, the management of public protection cases within the MAPPA and MARAC and safeguarding frameworks, and the planning and enforcement of cases based on accountable professional judgement should properly remain within the probation Trusts. This makes multi agency working more effective, and ensures that it is offender or victim risks and needs (rather than target based contracts) that are at the core of decision making. The organisational risks inherent in the responsibility for the management of offenders in the community should remain publicly accountable and externally inspected.

5.2 Specific interventions can and should be provided by whatever agency or organisation can do them most effectively, with the greatest economy. Locally the private sector provides some accommodation, some security/monitoring (within approved premises) and the curfew requirements (under the electronic monitoring contract). The not for profit/voluntary sector provides some mental health support, some drug treatment (under joint commissioning arrangements), some alcohol provision, some family focused provision, offender learning and training.

5.3 The voluntary sector is also able to support individual offenders with more specific needs—including close support from AA, or from specific local communities (Somali community in Milton Keynes, or Asylum Welcome in Oxford).

5.4 We are also building on good existing arrangements for the use of volunteers working with offenders to support them more intensively or during the latter stages of supervision and community re-integration. This includes a contract with SOVA (training and employability), the establishment of a voluntary body—New Leaf—to work with short sentenced prisoners on release in Buckinghamshire, and we are developing similar services across the area. We were instrumental in setting up the Hampshire and Thames Valley Circles of Support and Accountability. We have some long term local partners from the voluntary sector such as The Elmore team in Oxford for mental health support, Bucks Association for the Care of Offenders for prisoners pre and post release, Thames Valley Partnership—in developing a range of community safety initiatives, Parents and Children Together—for the Reading based Womens Centre, and the Elizabeth Fry charity for the provision of the voluntary approved premise for women in Reading.

5.5 It is the local nature of these providers that is especially notable—and valuable—because they are integrated into broader local services and core pathways, and individualised and personalised services are their forte. The voluntary sector also benefits substantially from the long term provision of unpaid work under Community Payback.

5.6 Delivery of high volume non-intensive and pre-specified services is probably best susceptible to private sector involvement and equally more likely to offer an attractive business proposition to them.

6. *Does the probation service have the capacity to cope with a move away from short custodial sentences? In Part*

6.1 As the only provider of specialist probation services, probation Trusts have absorbed variations in demand before, but not previously within such a difficult financial environment.

6.2 Currently TVP is working with partners under the Integrated Offender Management Arrangements to engage with short sentenced adult prisoners on release, even though they are not statutory cases. Provided these resources are retained when the use of short sentences reduces then there is some capacity already to work with those dealt with differently by the courts.

6.3 TVP has already made progress in impacting on the numbers serving such sentences, especially women, through careful targeting, more intensive interaction by case trackers, a Women's Centre, the Back on Track programme, etc. TVP also seeks to free up its resources by encouraging the greater use by courts of curfews and fines.

6.4 Reduced budgets must mean less overall provision by TVP as well as less capacity to commission and purchase services. TVP is committed to ensuring that those supervised are dealt with in line with minimum national expectations, but are prioritised in relation to risk to the public first, and then likelihood of re-offending and concomitant offending related need.

6.5 That said, some re-investment from savings in the prison service budget would be required to balance the anticipated cuts to current funding, both for Trusts and those who provide other services that offenders are known to need if re-offending is to be reduced.

7. *Could probation Trusts make more use of restorative justice? Yes*

7.1 There has been multi agency involvement in RJ in the Thames Valley for some 15 years, involving the police, youth offending, conditional cautioning, sentenced prisoners in custody and by TVP. In the last 10 years an attempt was made to establish a Restorative Justice Service at arms length from the statutory agencies, part funded through the LCJB, but indications of lack of sustainability from government meant that no voluntary body was willing to take on this function.

7.2 TVP were involved as one of the three research sites funded by government to research the impact of several different RJ models. The research was led by Professors Sherman and Strang, and an assurance and value for money study was undertaken by Professor Shapland.

7.3 There were two different strands to the research in TVP related to:

7.3.1 offences of violence where offenders were made subject to community sentences with a specified activity requirement. Sentencers support this well, they have confidence in it and the results in relation to the community project indicate a 55% reduction in the rate of re-offending (the highest of all the pilots but not statistically significant due to numbers); and

7.3.2 similar offenders, but where a custodial sentence was imposed (mostly prisoners at Bullingdon prison). The reduction in the rate of re-offending for the prison pilot was 33%.

7.4 In the two Thames Valley studies 78% of victims who took part said they would recommend it to others and 72% said the conference provided them with a sense of closure.

7.5 The overall findings of the three national schemes were a 36% reduction in the rate of re-offending—a statistically significant result—compared to the control group.

7.6 The schemes in Northumbria and London have ended, but the scheme run by TVP has continued to operate with the full support of local Judges and Magistrates and been expanded to include offences of domestic burglary.

7.7 In 2010, TVP's Restorative Justice scheme was given the award by the Howard League for Penal Reform in the effective community justice category.

7.8 TVP believes that restorative justice specified activity requirements could be made available to courts by all probation Trusts, and some other Trusts already include an RJ facility within their Intensive Alternative to Custody schemes. Although our current role limits our scheme to post sentence cases we believe that all personal crime victims should have the opportunity to register their interest in restorative justice at any stage during the criminal justice process, including diversion for less serious offences, conditional cautioning and deferred sentences, as well as post sentence. In TVP we already take referrals from our victim liaison unit to undertake conferences where victims of serious violent crimes express an interest in this within the context of the planning for the release of offenders, thus helping to reduce victims' fears at the pre-release and post-release stages.

7.9 TVP would welcome encouragement and financial support for the voluntary sector to provide RJ interventions at any stage in a case. An agency operating at arms length would ensure that due weight is given to the needs of the victim as well as the offender.

8. *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? Yes*

8.1 *Women*: TVP is providing an increasingly effective service to women offenders through the presence of women's champions in all areas of service delivery, the establishment of a women's centre in Reading within the recent Corston funding stream, and we have an approved premise for women run by the voluntary sector. Feedback to offender surveys for women and in the recent inspection are good.

8.2 *Young Adults*: Young adults form a significant group in our identified Priority Offender and Integrated Offender Management cohorts and those offenders are in receipt of a tracker service which involves a higher intensity of engagement; our current increased emphasis on offender engagement is in part aimed at greater efforts to successfully engage and intervene with this age group.

8.3 *BME offenders*: we have the 6th highest volume of BME offenders in the country but they are dispersed and in urban centres that are far apart. We seek to engage with local voluntary sector provision where it is available (eg Somali young offenders in Milton Keynes). We analyse most of our services and key outcomes by race and ethnicity and there are some apparent disproportionalities which we are seeking to address. Generally there is little evidence of disproportionality in offender feedback surveys.

8.4 *High risk offenders*: see 3.4 above.

8.5 *Medium risk offenders*: Provision of offender management was commended in the recent inspection. We seek to ensure that intensity and investment of staff time reflects risk and need profiles of offenders. As resources reduce this prioritisation will become rather more stark. We are developing local supervision centres for medium risk offenders, and seek to provide relevant but less intense specified activities in each area.

9. *Is the provision of training adequate?*

9.1 Provided the new Probation Qualification Framework has sufficient funding to train the necessary numbers in each of the training routes over the next three to five years then there should be enough effectively trained and developed staff to meet the needs of probation services providers operating in whatever sector. Some shortfalls will occur while the new framework settles down, especially in areas of relatively high turnover such as Thames Valley. We do believe that the new framework will provide better in house and degree level training than the previous model, that access routes to the training are more open and transparent, and that succession planning over the longer term will be more easily managed.

September 2010

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### Written evidence from Bail for Immigration Detainees (BID) (PB 27)

#### EXECUTIVE SUMMARY

1. Foreign nationals currently comprise around 14% of the total prison population. Foreign national ex-offenders form an increasingly significant cohort of the immigration detention population in terms of absolute numbers, and in terms of the difficulties they face in securing release on bail and that UKBA seems to have in removing them from the UK. Around 40% of all immigration detainees have a criminal conviction.

2. BID has concerns about:

- (i) Failures on the part of the Probation Service to properly and fully discharge their responsibility to foreign nationals to carry out end-of-sentence risk assessments and planning as it would for UK nationals completing a custodial sentence.
- (ii) Failures on the part of the Probation Service to ensure that evidence relating to assessments of risk of harm and reconviction for foreign national prisoners is automatically made available to all parties to decisions to detain or continue to detain foreign nationals under immigration act powers whether in prison or the immigration detention estate, as well as those subject to these decisions.
- (iii) The consequences of these failures for foreign national ex-offenders held in immigration detention which include barriers to lodging bail applications and being able to adequately make a case for release, as well as, prolonged, costly and possibly unlawful immigration detention.

3. In this submission BID makes a number of recommendations for specific improvements to policy and procedures on the part of the Probation Service in relation to foreign national offenders.

#### INTRODUCTION

1. Bail for Immigration Detainees is an independent charity that exists to challenge immigration detention in the UK. We work with asylum seekers and migrants held in removal centres and prisons to secure their release from detention. In the past year (2009–10) BID helped 2089 immigration detainees to prepare and present their own bail applications.

2. BID is concerned that there is a lack of clarity on precisely which categories of foreign national ex-offenders the Probation Service retain an interest in for the purposes of bail address approval, leading to

withdrawn bail applications on the day of hearing at a cost to the public purse. Secondary to this it appears that there may be regional variations in practice relating to approval of bail addresses.

3. BID provides free legal advice and information to detainees to help them exercise their right to liberty by making their own bail application before an immigration judge if they have no legal representative. BID provides written materials, telephone support, and runs workshops inside removal centres and prisons. We prepare applications for release on behalf of vulnerable detainees who are unable to represent themselves, in particular long term detainees, split families, and families with children, using free assistance from barristers to present the bail application.

4. Drawing on extensive casework experience BID engages in research, policy and strategic litigation to influence detention and bail policy and practice to ensure that people deprived of their liberty are better able to exercise their legal rights, and to bring an end to indefinite detention. BID sits on a number of regular policy and operational stakeholder meetings convened by the Home Office, the Tribunal Service (Immigration & Asylum Chamber), and the Legal Services Commission. BID makes regular submissions to parliamentary and other enquiries, and to regulators of immigration services, the detention estate, and the prison estate. BID was invited to give evidence, jointly with The Children's Society, to the Home Affairs Committee on 16 September 2009 on the detention of children in the immigration system.

5. BID further promotes access to justice for immigration detainees by identifying long-term detention cases suitable for Judicial Review and brings together solicitors and barristers willing to act in such cases. BID also applies to intervene in High Court appeals where our experience with immigration detainees can be helpful to the court. Of relevance here is BID's intervention in *A (Somalia) v United Kingdom*, a case concerning the long term detention of former foreign national prisoners (ex-FNPs) under Immigration Act powers (Application 27770/08) now pending in the European Court of Human Rights. BID also intervened in *SK (Zimbabwe) v SSHD*, UKSC 2009/0022, a case concerning a foreign national ex-offender who argues that the SSHD's failure to implement his own policy to conduct regular reviews of decisions to maintain immigration detention renders such detentions unlawful. Judgement is awaited in that case.

#### GENERAL COMMENTS

6. Foreign nationals currently comprise around 14% of the total prison population.<sup>1</sup> Foreign national ex-offenders form an increasingly significant cohort of the immigration detention population in terms of absolute numbers, and in terms of the difficulties they face in securing release on bail and that UKBA seems to have in removing them from the UK. Around 40% of all immigration detainees have a criminal conviction, and some 90% of BID's clients have a criminal conviction.

7. In BID's experience, where the Home Office has indicated its intention to deport a foreign national ex-prisoner, there is an expectation that the individual will be transferred to immigration detention at the end of their custodial sentence prior to removal from the UK. As a result foreign national prisoners are frequently not prioritised for risk assessment as part of a pre-release plan. Post-sentence immigration detainees therefore frequently do not have access to Probation Service documents that could otherwise help them argue their eligibility for bail in front of an immigration judge.

8. Removal from the UK may take several months to arrange, or there may be what UKBA calls "general legal barriers" to removal such as no flights to the country of origin at the time of detention (eg Somalia at the time of writing). This is one reason why so many of the people who have spent years in immigration detention are foreign national ex-prisoners. A number of foreign national ex-offenders in prolonged immigration detention are long term UK residents with strong community ties. Some of these, generally women, were sole carers for their children prior to their convictions, and these children must often remain in social service care pending resolution of removal and deportation issues for their detained parent.

9. Provisions in the UK Borders Act 2007 enacted in August 2008 removed the discretion of the Secretary of State over whether to pursue deportation in respect of non-EEA nationals convicted in the UK who are sentenced to imprisonment for 12 months or more (24 months for EEA nationals). BID has become increasingly concerned that where ex-offenders are subject to "automatic" deportation provisions they are increasingly becoming long term detainees at great financial and human cost.

10. Foreign nationals of interest to UKBA who are held in prison, including those subject to deportation action as a result of the length of their sentence, are commonly moved directly from prison to the immigration detention estate either while their removal or deportation is arranged, or during the resolution of their immigration status. During their time in detention, and while they remain in prison post-sentence if held solely under Immigration Act powers, detainees are entitled to apply for release on immigration bail.

11. BID has general concerns about insufficient coordination between agencies of the criminal justice system and the immigration system. Whereas post-sentence immigration detainees have experience of both the criminal justice and immigration systems, the legal representatives, immigration judges, Prison and Probation Service staff, and immigration officials working on their case are likely only to know one system or the other, not both. However, BID is concerned about the apparent lack of planning and provision for the procedural needs of

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<sup>1</sup> Source: HM Prison Service. Available at [http://www.hmprisonservice.gov.uk/adviceandsupport/prison\\_life/foreignnationalprisoners/](http://www.hmprisonservice.gov.uk/adviceandsupport/prison_life/foreignnationalprisoners/) [accessed 9 September 2010]

agencies who now have to work together closely on transitions from prison to removal centre, and about the barriers to making and arguing bail applications that are generated by these failures.

12. The experience of large numbers of foreign national ex-offenders being held for periods of one or two, or even three years in the detention estate is relatively recent. Areas of concern over the cross-agency management of transitions from prison to the detention estate are only now emerging two years after the implementation of “automatic” deportation legislation. However BID already has serious concerns as a result of our casework in removal centres and prisons about the operation of risk assessment by the Probation Service and the role of such assessments in decisions to detain or maintain detention. We believe that the Probation Service may be running the risk of High Court action where there is demonstrable failure on its part to adequately assess risk of reoffending and otherwise prepare for release foreign nationals subject to deportation or removal action.

#### BID’S EVIDENCE

13. BID would like to offer evidence on the following consultation question:

*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?*

Failure of the Probation Service to carry out end-of-sentence reports for Foreign Nationals

14. BID is concerned that the Probation Service is failing to carry out end of sentence reports and risk assessments for foreign nationals to the same degree that is required for UK national offenders. It is BID’s experience that end-of-sentence reports are not routinely carried out for foreign national offenders with sentences of 12 months or more.

15. This failure has serious consequences for the ability of foreign national ex-offenders and their legal representatives to adequately argue for their release on bail in the absence of considered and up to date information on risk of reconviction or risk of harm posed to the public on release into the community. BID believes the consequences of this failure contribute to prolonged and potentially unlawful immigration detention in many cases, and the over-representation of ex-offenders among the increasing numbers of long term and very long term immigration detainees.

16. This failure on the part of the Probation Service generates unnecessary barriers to release on bail in a number of ways:

- 16.1 At present UKBA are able to routinely argue in immigration bail hearings that bail applicants with criminal convictions are highly likely to reoffend without having to adduce any evidence and without any regard for the nature of the offence. Where UKBA cannot or do not obtain OASys reports their internal guidance suggests reliance on caseowners’ own assessment of the risk of reoffending in a particular case, which may in turn rely on out of date risk assessments made at the time of sentencing and gives no consideration to possible salutary effects of the prison service and changes in circumstance or behaviour that may have occurred since the start of the custodial sentence.<sup>2</sup>
- 16.2 Without up to date risk assessments produced at or near release by the Probation Service it is more difficult for detainees and their representatives (if they have one) to adequately argue the case for release on bail. As a result a number of detainees who do not in fact pose any sort of risk may be unnecessarily and possibly unlawfully detained.
- 16.3 At present we understand the Probation Service will provide their end of sentence reports to representatives and courts if requested. However a significant proportion of immigration detainees have no legal representation for their immigration issues and cannot be expected to know of the existence of Probation assessments. Accurate and up to date Probation Service assessments will enable detainees to adequately represent their case for release, whether legally represented or not, and we believe would also be of use to UKBA caseowners and Section 4 bail team staff.
- 16.4 BID understands that when a bail hearing is listed NOMS is required to complete a risk assessment pro-forma which is sent to UKBA’s Criminal Casework Directorate and to the Tribunal centre where the case will be heard. A copy of the OASys summary relating to the bail applicant is also available at the relevant regional probation office. Since 1 November 2006 it has not been a requirement for Probation Areas to provide separate information to the appellants’ representative.<sup>3</sup> It is of concern that these assessments are not automatically provided to detainees or their representatives in advance of the hearing to enable them to be entered separately as evidence in support of arguments for release in bail hearings.

<sup>2</sup> UKBA, Enforcement Instructions and Guidance, (Section 55.3.2.8, Chapter 55). Available at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/chapter55?view=Binary> [Accessed 9 September 2010]

<sup>3</sup> Source: Probation Circular PC32/2007—Management of foreign national prisoners: licences, bail hearings, releases from immigration detention and deportation. Probation Service, October 2007. Available at <http://www.probation.homeoffice.gov.uk/files/pdf/PC32%202007.pdf> [Accessed 9 September 2010]

16.5 While recognising that the criminal justice system and UKBA need to define and assess risk of harm for their own distinct purposes, BID believes it is essential that Probation Service evidence relating to ex-offenders must automatically be made available to detainees and their representatives to enable release on immigration bail wherever possible and avoid costly and damaging long term detention. It is BID's experience that where Probation evidence is made available to UKBA, the Probation Service assessments of risk of reoffending and harm to individuals may directly contradict those separately produced and submitted to immigration tribunal bail hearings by UKBA.

eg BID's Oxford office report that in August 2010 the Home Office argued against release on bail for a Campsfield IRC detainee with a three year sentence for a drug related offence, noting that he had been "assessed as being a medium risk of re-offending ... [and] assessed as being a high risk of harm due to the seriousness of his offence and the assessment on the Harm Matrix". However, the Probation Service had informed BID on request that using OASys and OGRS risk assessment tools approved by NOMS our client's Offender Manager had completed an assessment in April 2010 and concluded "likelihood of re-offending—Low; Risk of harm to Public—Low; Risk of harm to known Adult—Low; Risk of harm to Staff—Low".

16.6 Failure by the Probation Service to routinely carry out and provide evidence of end of sentence reports may impact on how an assessment of the legality of detention is reached in individual cases.

16.7 It is arguable that failure by the Probation Service to routinely carry out and provide evidence of interventions such as end of sentence reports discriminates against foreign nationals held in UK prisons as a group.<sup>4</sup>

17. BID recommends that end of sentence reports should be carried out for all foreign national prisoners regardless of whether they face deportation action and regardless of the nature of their offence and length of sentence.

18. BID recommends that end of sentence reports for foreign national prisoners should be provided to the UKBA caseowner and the Criminal Casework Directorate of UKBA as a matter of course. This will enable appellants or their representatives to ask immigration judges to require UKBA to submit these reports in corroboration of the SSHD's argument in future bail hearings with the confidence that they will have been provided, and may reduce discrepancies between assessments of re-offending risk between the Probation Service and the UKBA.

19. BID recommends that end of sentence reports should automatically be provided directly to all foreign nationals as they leave the prison estate for use in immigration bail applications and other applications for release. This will ensure that unrepresented detainees have the best chance to argue their own bail case on up to date evidence relating to re-offending risk.

Failure of Probation Service to approve accommodation used for bail addresses in a timely fashion

20. Ex-offender immigration detainees seeking release from detention may need to rely on publicly provided accommodation as a bail address as part of a package of support for detainees known as Section 4 (1)(C) support.<sup>5</sup> This support is administered by UKBA. Some detainees may be able to arrange accommodation privately. For foreign national ex-offenders with certain types of convictions it appears to be necessary for the Probation Service to approve proposed bail address accommodation, whether provided under Section 4 or not. This process may include a determination of whether or not the premises are suitable for electronic monitoring and will enable the individual to comply with the terms of any licence in force at time of release from detention, consideration of any victim issues, and arrangement for MAPPA meetings to take place if required.

21. In a number of bail applications immigration judges are now requesting confirmation from detainees or their representatives on the day of hearing that a bail address has been approved by the Probation Service. BID is concerned that there is a lack of clarity on precisely which categories of foreign national ex-offenders the Probation Service retain an interest in for the purposes of bail address approval, leading to withdrawn bail applications on the day of hearing at a cost to the public purse. Secondary to this it appears that there may be regional variations in practice relating to approval of bail addresses.

22. It is BID's experience that Probation Service teams do not respond quickly to such requests, thus depriving a number of detainees of their liberty who might otherwise have been released, and presenting an obstacle to ex-offenders' attempts to access their immigration bail rights. BID finds it hard to believe that UK national offenders at the end of their custodial sentence would be kept in prison for significant periods of time while the Probation Service confirmed the suitability of any proposed accommodation on release.

23. A number of foreign national ex-offenders spend longer in immigration detention on release from prison than they served for their offence. There are many factors contributing to this for which many agencies must

<sup>4</sup> The National Probation Service as a public authority is subject to a group of public sector duties (PSDs), including the race equality duty introduced into legislation in the Race Relations (Amendment) Act 2000, that place on them a number of legal obligations in respect of the need to eliminate unlawful racial discrimination and promote equality of opportunity in relation to functions and policies. 1976).

<sup>5</sup> Section 4(1)(c) of the Immigration & Asylum Act 1999 outlines the role of the government in provision of accommodation for persons leaving immigration detention.

take responsibility. The failure of the Probation Service to approve bail addresses in a timely fashion is one such contributory factor.

24. BID recommends that the Probation Services ensures a consistent approach throughout the service to the manner in which it's responsibility for and interest in accommodation issues relating to foreign national ex-offenders who apply for release from detention on immigration bail are discharged. These responsibilities should be discharged in a timely manner that is mindful of ongoing deprivation of liberty for these individuals.

25. BID recommends in respect of foreign nationals offenders that are transferred to the detention estate on release from prison, that Probation Service guidance on the categories of offender in which they retain an interest in relation to bail address approval or otherwise, be made publicly available.

26. BID recommends that the Home Office and Ministry of Justice and their subsidiary agencies jointly address the training needs for people working with this group of immigration detainees that links together the two jurisdictions.

September 2010

### Written evidence from Centre for Mental Health (PB 28)

#### EXECUTIVE SUMMARY

- Probation services have a key role in ensuring that offenders with mental health problems are diverted successfully from short prison sentences and are rehabilitated following a prison sentence.
- The Mental Health Treatment Requirement has the potential to divert more offenders from prison yet is rarely used in practice. For the MHTR to be delivered successfully, we need to foster better communication and joint working between probation and health services.
- Use of the Alcohol Treatment Requirement and Alcohol Specified Activity Requirement varies widely. Successful use of these requirements depends upon health and probation working together to commission support for the wide range of offenders who misuse alcohol.
- The voluntary sector can offer support to probation services, both in supporting commissioning of alcohol and mental health treatment and in offering peer support to clients.
- There are widespread concerns about the capacity of probation services to deliver more community sentences. But there are also concerns about the capability and willingness of a range of services to work together to provide support to offenders with multiple needs. These need to be addressed to fulfil the potential of community sentences as an alternative to short-term imprisonment.
- Support into employment should be a central part of any support package offered by probation services. This should include offenders with mental health problems, who are too often excluded from such support.

#### INTRODUCTION

1.1 Centre for Mental Health is an independent national charity which works to improve the life chances of people with mental health problems. The Centre aims to find practical and effective ways of overcoming those barriers so people with mental health problems can make their lives better, with good quality support from the services they need to achieve their aspirations. A major focus of our work is the mental health of people within the criminal justice system.

1.2 We are pleased to have the opportunity to provide evidence to the Committee based on our research and development work. We have found that the role of Probation services is vital both to create robust alternatives to imprisonment for offenders with mental health problems and to facilitate the effective resettlement of released prisoners. Nine out of 10 prisoners have a mental health condition, personality disorder or drug or alcohol dependency. Two-thirds have more than one such difficulty, while an estimated 50% of probation service clients have mental health problems. Imprisonment damages a person's mental health, can exacerbate existing mental health conditions and uproots people from sources of support in their communities to get their lives back on track. Investing in alternatives to prison for people with mental health problems is thus a major justice reinvestment opportunity.

*Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

2.1 Of the 12 requirements that can be attached to a community order, the mental health treatment requirement (MHTR) is among the least widely used. Our research has shown that this is because:

- use of the MHTR depends upon probation officers, solicitors and psychiatrists all being familiar and confident in using it: but this is far from being the case;
- court and probation workers vary widely in their knowledge of mental health issues and confidence in dealing with them;

- mental health professionals are rarely aware of the MHTR and the role of mental health services in supporting the requirement; and
- court psychiatric reports are subject to long delays. These are vital for an MHTR to be created and need to include an offer of treatment from local services, which is often not the case.

2.2 Offenders with a “dual diagnosis” of mental health problems and drug or alcohol dependency are much more likely to be given a Drug Rehabilitation Requirement than an MHTR. The courts and probation services are more familiar with the DRR, it has a dedicated staff team and the process for managing it is clearer.

2.3 The MHTR has the potential to offer many offenders a robust and cost-effective alternative to a short prison sentence. To fulfil this potential the Government should support improved communication between health and justice agencies, including:

- providing practical guidance for justice and health professionals on how to construct and manage MHTRs;
- supporting the development of protocols between the courts, probation and health services, for example to facilitate timely and adequate psychiatric reports; and
- implementing the Bradley Report’s recommendation of a diversion service to serve all courts and police stations to identify people who may benefit from an MHTR and ensure they can be used.

2.4 The availability and take-up of the Alcohol Treatment Requirement (ATR), and the lower level Alcohol Specified Activity Requirement (ASAR), appears also to be highly variable and dependent upon the quality of particular strategic and joint commissioning relationships between probation and primary care trusts, the commitment of front line staff, and the interests of sentencers. Training for court staff (for example clerks, jailors and magistrates) about alcohol has been identified as essential to enable treatment requirements to be utilised. The Alcohol Specified Activity Requirement represents a highly effective means of addressing the alcohol support needs of a wider group of alcohol misusing offenders (compared with the ATR).

*What role should the private and voluntary sectors play in the delivery of probation services?*

3.1 Voluntary sector organisations appear to fulfil three functions in relation to alcohol and probation services:

- Providing a developmental function for commissioners. In Devon, Addaction employs an alcohol development worker who has been jointly commissioned by the PCT/DAT and Probation to develop alcohol services for offenders. The recruited individual has developed a strategic and operational framework for the delivery of ATR services and is now moving on to do the same for ASARs.
- Delivering “peer support” services for alcohol misusers. Wiltshire PCT commissions an addiction peer support and advocacy group which engages with a large number of offenders. While probation does not directly commission this service, the coordinator sits on the county’s joint commissioning group.
- Several probation managers have spoken of how third sector organisations are valued as being able to provide more flexible “wrap around” services for offenders with multiple needs with a more “client centred” approach to that required from directly employed probation staff. In this sense contracted third sector organisations frequently appear to fulfil the original role of probation to “advise, assist and befriend” offenders.

*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

4.1 Diverting offenders with mental health difficulties from short prison sentences to community-based alternatives like MHTR is vital if the Government is to achieve its stated aim of reducing the prison population and bringing about a “rehabilitation revolution” in the justice system. The current rate of imprisonment of people with mental health difficulties is unsustainable given the cost pressures facing the justice system. It is therefore vital to investigate alternative ways of providing probation supervision for any increase in community orders to be manageable and for risk and need to be adequately managed.

4.2 The needs of some young adults are poorly met due to under developed capacity and need particular attention. Probation and mental health services for young adults do not as a rule have the necessary skills to meet the needs of young people in transition to adulthood.

4.3 As well as investigating the capacity in the probation to support and divert people from short prison sentences, the capability of all agencies to come together and jointly commission services meeting multiple priorities also needs to be considered. We have found, for example, that probation managers sometimes find difficulty in “holding their own” with PCT colleagues on joint commissioning panels. This is partly systemic as probation and health operate separate commissioning frameworks—but also possibly indicative of a need for greater training and support for those in probation seeking to negotiate joint funding for treatment programmes.

4.4 The remit of probation to deliver targeted, timely interventions for identified offenders also frequently appears to sit poorly with PCT colleagues who are reluctant to consider enhanced levels of treatment for



offenders to that of the general population. Some PCTs have been reluctant to co-commission services to deliver the Alcohol Treatment Requirement, leaving probation services to do this alone.

4.5 People with mental health problems, and particularly those who come into contact with the criminal justice system, rarely just have mental health problems and indeed often have multiple health and social problems. Probation have a crucial role in coordinating the elements of support required to address these as well as any sanction for offending that applies.

4.6 Employment needs to take a central place in this package of support. Being in paid work has an important role in improving mental health, addressing social need and reducing reoffending. Recent research by Centre for Mental Health reveals that placement in real employment with ongoing support (Individual Placement and Support) has real potential to achieve the above. The Centre is working with a number of employers who provide such opportunities for former offenders. Currently, people with mental health problems are often likely to be excluded from employment schemes as a default. Probation needs to consider routes into employment as a part of all sentence planning.

*September 2010*

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### Written evidence from Rethink (PB 29)

#### EXECUTIVE SUMMARY

Rethink, the leading national mental health membership charity, works to help everyone affected by severe mental illness and other mental health problems to recover a better quality of life. For four decades we have been representing the voice of people affected by severe mental illness—as a result we are supporting and in touch with over 350,000 people affected every year through our services, support groups and by providing information on mental health problems. This history and experience means that we have a unique insight into working with and supporting people affected by severe mental illness with their recovery.

Rethink has identified the following key priorities for probation services in relation to offenders with mental health conditions:

- Probation staff writing pre-sentence reports need sufficient mental health training so that appropriate sentence proposals can be made.
- Provision should be made for those offenders with complex needs, such as offenders with mental health problems, who are currently not under the supervision of the National Probation Service due to sentences of less than 12 months.
- The voluntary sector could offer probation services advice and support in their areas of expertise and also be involved in areas of workforce development to ensure the probation service is able to handle offenders with specific needs effectively and efficiently.
- Clear guidance on the Mental Health Treatment Requirement for Community Orders should be developed so that probation staff and sentencing courts have more confidence issuing these requirements.
- Agreements on local provision need to be made between key bodies, such as the National Probation Service, the NHS and Her Majesty's Court Service so that Community Orders with MHTRs can be delivered effectively.
- Comprehensive mental health training for all probation staff would help ensure that those with specific mental health needs are identified and either diverted effectively or handled appropriately within the system.

#### 1. Introduction

1.1 Rethink is experienced in the area of criminal justice and mental health. In December 2007, Lord Bradley was asked by the Secretary of State for Justice to carry out an independent review of how more offenders with severe mental health problems can be diverted away from prison and into more appropriate facilities. Lord Bradley and his team commissioned Rethink to set up a Service User and Carer Review Panel to assist this work. Fifteen mental health service users and carers from across England, each with direct experience of the criminal justice system, formed the panel and met twice with Lord Bradley and his team in the House of Lords. Rethink also conducted a focus group with prisoners based in HMP Birmingham. Rethink is currently working with the Health and Criminal Justice Programme Board on the Delivery Plan of Lord Bradley's recommendations and continues to facilitate the Service User and Carer Panels to inform this work.

1.2 Given Rethink's experience and expertise, this submission focuses on the experience of offenders with mental health problems and the probation service. It will therefore not address the question of the probation service handling different groups of offenders appropriately as a separate question, as this is not our area of expertise. Current training need for probation staff is also highlighted throughout the submission, rather than as its own section.

## 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?

### 2.1 Introduction

The probation service has a key role in "offender management" throughout the offender pathway, being present in courts, prisons and community settings, with a focus on reducing re-offending, protecting the public, rehabilitation of offenders and the proper implementation of community sentences. This section discusses the roles of the probation service in pre-sentence reports, approved premises and reducing re-offending for offenders with mental health problems. The current challenges around community sentences will be discussed in the following section.

### 2.2 Pre-sentence reports

For probation staff in court, pre-sentence reports (PSRs) are the key element of their "offender management" role with offenders with mental health problems. These reports provide information about the offender and the offence and the report writer is also expected to make sentence proposals based on their assessment of the offender. It is therefore essential that probation staff need sufficient knowledge of and training in mental health so that an appropriate sentence proposal can be put forward, especially as the offender may appear in court with no information on their mental health background and unknown to local services. In these cases, as highlighted in *The Bradley Report*, if liaison and diversion services are not present, it can fall to untrained probation staff to identify and then assess mental health needs. As the probation service also has a public protection remit, the weight of responsibility of making an informed assessment of the risk of the offender to themselves and others as part of the PSR is significant. Without the appropriate mental health training, this can result in inappropriate sentence proposals which could have a detrimental effect on the offender's mental health and stop them accessing much-needed treatment and support. This in turn could have a knock-on effect on re-offending if their offending behaviour is linked to their mental health condition.

Either probation staff need to receive significant training or they need a lower level of training and support from professionals with mental health knowledge. Rethink's Community and Advice Support Service (CASS), which operates in the Community Justice courts in Plymouth, has supported good practice in the area of pre-sentence reports. Probation officers often ask CASS staff to sit in on interviews with offenders as part of the PSR process. By engaging with CASS at this stage, probation staff ensure informed decisions about possible care packages and signposting to local mental health services etc. can be made and ensure the mental health needs of the offender can be appropriately met in the PSR recommendations. However, funding for services such as CASS is insecure and this service has recently been subject to cutbacks despite the focus at national level on diversion.

### 2.3 Approved Premises

Approved premises are provided by the probation service as a means of enhancing supervision for individuals on probation, on bail awaiting trial, or subject to licence. *The Bradley Report* highlighted that there had been strong feedback from stakeholders that there should be an increased use of bail for offenders with mental health problems, ensuring they are only remanded in custody when absolutely necessary. We support this aim, however, there does not currently appear to be appropriate mental health service provision to support individuals who might be housed in approved premises, placing an unnecessary strain on probation officers, who may be untrained in mental health awareness. Out of the total of 101 approved premises across England and Wales there are only three that specifically deal with mentally disordered offenders and provide enhanced mental health services.<sup>6</sup> No formal evaluation of these three premises has yet taken place to measure the effectiveness of services. However, a report has been carried out into the mental health training needs of probation staff working in approved premises, and results show that staff do not feel adequately skilled in the area of mental health. Of the sample asked, only 15% of staff said they had a lot of confidence working with residents with mental health problems, and only 3.8% felt they had a lot of knowledge of mental health.<sup>7</sup> For staff at approved premises to fully engage with residents and aid rehabilitation, it is important that they are upskilled in mental health.

### 2.4 Reducing Reoffending

Currently, the Probation Service does not have a responsibility to supervise adult offenders who serve a sentence of less than 12 months. Services are able to offer voluntary after-care to this group but take-up of this is currently low. In 2000, the Home Office funded a study into the voluntary after-care of short-term prisoners, which found that the provision of this voluntary after-care was declining and that it was increasingly seen as less of a priority by probation services.<sup>8</sup> The report concluded that short term prisoners are often repeat offenders facing major social and personal difficulties, and it is argued that there are good reasons for making

<sup>6</sup> 14Lord Bradley (2009) *The Bradley Report*.

<sup>7</sup> Hatfield et al. (2005) Mental health training needs amongst staff of Probation Approved Premises: A comparison with mental health hostel staff in the voluntary sector *Probation Journal Vol 52*, Number 2, pp 137–152.

<sup>8</sup> Maguire, Mike, Raynor, Peter, Vanstone, Maurice, Kynch, Jocelyn (2000) Voluntary After-Care and the Probation Service: A Case of Diminishing Responsibility *Howard Journal of Criminal Justice, Vol 39*, Number 3, pp 234–248(15).

some provision for this group. A similar recommendation is made in *The Bradley Report*, which also comments that current provision is often through voluntary sector services and commissioning of these is inconsistent.

Provision of this kind of support could be crucial to rehabilitation and reducing reoffending, especially for offenders with mental health problems. Rethink supports the work that is currently being done on diverting offenders with severe mental illness away from the criminal justice system, and will continue to work closely with the Department of Health and the Ministry of Justice on the implementation of Lord Bradley's recommendations in this area. According to figures from the Revolving Door Agency, over 60,000 people every year start sentences of less than a year. The majority of these spend less than three months in prison and are then released with no support, which is not conducive to rehabilitation.<sup>9</sup>

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?*

### 3.1 Provision

The Mental Health Treatment Requirement (MHTR) was introduced alongside the alcohol treatment requirement as a new provision for Community Orders in the 2003 Criminal Justice Act, providing access to treatment where the mental health problem does not require a Hospital or Guardianship Order. If an offender agrees to comply with the MHTR, they receive mental health treatment for an amount of time determined in the Community Order, under supervision of probation. However, there is a growing body of evidence that suggest that MHTRs are not being used as widely as they could be. Research from The Centre for Justice Studies at King's College London suggests that 42% of offenders serving community sentences have mental health problems according to Ministry of Justice statistics, but MHTRs made up less than 1% of total use of requirements in 2006–07.<sup>10</sup> As one of the newer provisions for the Community Order, the delivery of MHTR is still being established in some areas of the country and that might account for a lower take-up than other requirements, however the figures above suggest that there is much larger discrepancy between potential need and usage than might be expected. By failing to address the needs of offenders adequately as part of their community sentences, the underlying factors of offending behaviour are not being treated, rehabilitation is not possible and community sentences are ineffective. Rethink supports the *Bradley Report* recommendation that a service level agreement needs to be drawn up between Her Majesty's Court Service, the Probation Service and NHS to ensure that the necessary mental health provisions are in place so that Court Orders can be delivered effectively. Mental health services may not currently be adequately resourced to provide the extra capacity that an increased use of MHTRs would require. There may be some ways to deliver efficiency savings to ensure resources are available to free up capacity, however the scope for efficiency savings in the mental health sector is likely to be less than in other parts of the NHS as this area of provision has previously been subject to more cutbacks than other more "popular" services.<sup>11</sup>

### 3.2 Guidance

Another major barrier to effective delivery of the MHTR is lack of guidance for staff and subsequent confusion among probation and healthcare professionals about the purpose and implementation of MHTRs. This was highlighted by a member of Rethink's Service User and Carer Panel for the *Bradley Report*, who told of their experience of community orders.

Once the order with the MHTR was issued, nobody in court knew who was responsible for setting up the treatment. The defending solicitor and probation officer both challenged the judge when asked to set it up and in the end the judge adjourned the case, allowing the panel member to ask their new GP to refer them to a psychiatrist. Once referred, the panel member was told the hospital psychiatrist was not prepared to say he would take him on for the full amount of time the Community Order specified, which led to further complications.

The reluctance of health professionals to guarantee treatment for the duration of an order may be related to the level of resourcing of mental health services as well as to lack of guidance. If the Ministry of Justice budget is to realise planned savings, it is crucial that a greater proportion of NHS spending is released for mental health services. The recent White Paper and the proposal to introduce GP commissioning needs to ensure that mental health provision is equally accessible and of equal quality to physical health services. Currently, GPs report that they feel less confident about taking on mental health commissioning than physical health commissioning. Additional support will be required for GPs to take on mental health commissioning.<sup>12</sup>

4. *What role should the private and voluntary sectors play in the delivery of probation services?*

### 4.1 Support and Advice

Rethink runs a number of criminal justice services that work with both prison and probation staff and there is a great potential for voluntary sector organisations to work in partnership or as external agencies to support

<sup>9</sup> Revolving Doors Agency (2010) *Case for Change*.

<sup>10</sup> Enver Solomon and Arianna Silvestri (2008) *Community Sentences Digest* Centre for Crime and Justice Studies, King's College London.

<sup>11</sup> Rethink (2006) *A Cut Too Far* report.

<sup>12</sup> Rethink (2010) *Fair Treatment Now* report.

the delivery of probation services. Voluntary sector organisations can often offer expertise and advice to both the offender and the probation staff, as shown by the example of Rethink's Community and Advice Support Service's (CASS) input into the pre-sentence report interview in section 2.2 above. CASS has been integral to the successful operation of Community Justice courts in Plymouth and works in partnership with designated police and probation officers, aiding resettlement and reintegration with the aim of reducing reoffending by increasing access to the community services which are most appropriate to each offender. Voluntary sector agencies can develop more trusting relationships with clients as they are separate from the state.

As mentioned above, *The Bradley Report* recommends that the National Offender Management Service, in partnership with the Department of Health and the NHS, should develop a national strategy for rehabilitation services for those leaving prison with mental health problems or learning disabilities who are not subject to supervision from the Probation Service. If there were to be a move towards such a strategy, voluntary sector organisations could have a role to play in developing and delivering resettlement packages and after-care that there would not otherwise be scope for given the National Probation Service's resources. For many groups, there is a stigma attached to receiving support from statutory mental health services. Voluntary sectors organisations can appear less stigmatizing and take a less medical approach to mental health, which is more acceptable to many groups. For example, Rethink has developed programmes for young people, who sometimes struggle to accept or identify mental health needs, by using non-medical labels and terms.

Voluntary sector organisations also have a role to play alongside probation services. Rethink's Gateshead Mentally Disordered Offenders floating support service is specifically targeted at people currently under the supervision of the National Probation Service who have a diagnosed mental health condition or history of chronic mental health issues. This may include people who are difficult to house due to their complex lifestyles or challenging behaviour or who are high risk or difficult to manage due to their presenting problems. They are likely to have a history of difficulties in maintaining or securing their own tenancies and require access to floating support, health services and probation in order to improve their chances of successfully managing a tenancy in the community. This floating support service helps offenders to achieve a measure of financial support and to have increased choice and control over their lives in a safe environment, free from discrimination and harassment. It provides timely support, sensitive to individual needs, which enables service users to live in their own homes and to be supported into employment. Again, this could reduce reoffending, as people are supported to reintegrate and this security could have a positive effect on offending behaviour.

#### 4.2 Workforce Development

The need for mental health training for probation staff in various roles eg writing pre-sentence reports and in approved premises, has been discussed in more detail above and there is a role for the voluntary sector to deliver this training. One of the key recommendations from Rethink's Service User and Carer Panels is comprehensive mental health awareness training for all criminal justice staff. This should preferably be designed by people with lived experience of the system and mental health problems to be as constructive as possible. *The Bradley Report* also prioritised training of staff across the criminal justice system in its recommendations. Comprehensive training would ensure that probation staff are more confident identifying offenders' mental health needs and diverting them or handling appropriately within the criminal justice system. Rethink has developed and delivered a range of mental health awareness programmes suited for criminal justice staff. Our training programmes are developed and delivered by people with a lived experience of mental health problems. This depth of experience is critical to the success of the training and is an element of workforce development that the voluntary sector is particularly well-suited to deliver and which could enhance the delivery of probation services. External evaluation of these programmes has found that social contact with people with experience with mental illness has far more impact on attendees than straightforward information.<sup>13</sup>

September 2010

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### **Written evidence from Dr Rob Mawby, Senior Lecturer in Criminology, Leicester University and Professor Anne Worrall, Emerita Professor of Criminology, Keele University (PB 30)**

#### 1. EXECUTIVE SUMMARY

1.1 This submission is based on emerging research findings and addresses the following questions:

*What is the role of the probation service in delivering "offender management" and how does it operate in practice? Is the provision of training adequate?*

1.2 The probation service has been through many changes during its history including, for example, four different qualifying training routes in recent decades. The service has demonstrated its willingness to adapt to the changes in contemporary society and politics.

1.3 Despite these changes the service has maintained certain core values (eg, recognising the human worth of offenders, belief in the ability of people to change) that have informed and guided probation work.

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<sup>13</sup> Rethink/Institute of Psychiatry (2009) How can we make mental health education work?

1.4 Therefore there is continuity and change in the role of the probation service: continuity in core values and in attracting people who are drawn to working with offenders; change in functions, structure, ways of working and sentencing regimes.

1.5 In working with offenders through shifting contexts during changing times, we would argue that probation work is complex; to quote one of our interviewees, probation work “IS rocket science”.

1.6 The emerging data from our research suggest that Trainee Probation Officers (TPOs) on the brink of qualifying are joining a probation service that is highly ambivalent about its identity.

1.7 Amid these tensions, routine daily probation work remains demanding and probation staff do good work over long hours. Relationships with other criminal justice agencies, especially the police, have improved out of all recognition.

1.8 The demise of the home visit means that probation officers have less affinity with local communities, less understanding of the realities of offenders’ lives and less contact with potentially supportive and rehabilitative relatives of offenders.

1.9 The probation service is particularly poor at public presentation.

1.10 Terminology is problematic and confusing. The insistence on the term “offender manager” does not sufficiently distinguish the work of the probation service.

1.11 We are finding little evidence to support the view that probation officers are incorrigibly “welfare-oriented” or unable to adapt to the changing demands of the role. Nevertheless, there is a danger that probation may lose its distinctive character, thus running the risk of losing experienced staff and failing to recruit high-calibre trainees from all sections of the community.

1.12 We would urge the committee to recognise the complex nature of probation work, the skills and knowledge required and the importance of its core values.

## 2. INTRODUCTION TO SUBMITTERS

2.1 Rob Mawby and Anne Worrall are very experienced criminal justice researchers who have, separately and jointly, undertaken funded research on the probation service, female offenders, prolific and other priority offenders, and the police. Their current research, *Probation officers, their occupational cultures and offender management*, is funded by the Economic and Social Research Council (Grant reference: RES-000-22-3979) and runs from April 2010 to November 2011. A summary of the research project can be viewed at: [http://www2.le.ac.uk/departments/criminology/news/crimnews/occupational\\_cultures\\_probation\\_officers](http://www2.le.ac.uk/departments/criminology/news/crimnews/occupational_cultures_probation_officers) Anne Worrall is a former probation officer and has had past responsibility for probation qualifying training at two universities. She is also a former criminologist member of the Parole Board.

## 3. SUBMISSION

3.1 This submission is based on emerging research findings and addresses the following questions:

*What is the role of the probation service in delivering “offender management” and how does it operate in practice? Is the provision of training adequate?*

3.2 The probation service has been through many changes during its history including, for example, four different training regimes in recent decades. During that time, qualifying training has moved steadily away from that required for generic social work and towards a specific focus on managing offenders. With each change, the probation service has demonstrated its willingness to adapt to contemporary society, while still insisting that its complex work requires a highly educated, skilled and reflective workforce. Our interviewees confirm that current training is exceptionally demanding, both practically and intellectually. Several spoke of it as being “transformative” and none was in any doubt that the primary role of the service is that of public protection.

3.3 Despite these changes the service has maintained certain core values (eg, recognising the human worth of offenders, belief in the ability of people to change) that have informed and guided probation work. Our research confirms that these values continue to exist across our sample which includes probation officers at the very start of their careers, more experienced and retired individuals, as well as CEOs of probation trusts. Participants have stressed the need to engage with and motivate offenders whose lives are often characterised by disadvantage, abuse and chaos, while recognising that offending is a choice that harms others and must be reduced. Several interviewees have pointed out that probation officers have always been concerned with assessing “risk” and reducing re-offending.

3.4 Therefore there is continuity and change in the role of the probation service: continuity in core values and in attracting people who are drawn to working with offenders; change in functions, structure, ways of working and sentencing regimes. Our research suggests that the service has been particularly good at attracting a diverse workforce, with good representation of women (including at senior levels) and black and minority ethnic workers.

3.5 In working with offenders through shifting contexts during changing times, we would argue that probation work is complex; to quote one of our interviewees, probation work “IS rocket science” and probation officers are the rocket scientists of the criminal justice system. Our research is suggesting it is possible to make a distinction between, on the one hand, probation work that was built on relationships with offenders and being close to the community and, on the other hand, the more recent offender management which tends to be office-based and withdrawn from the community. This changes the nature of the role of the probation service from one of managing change in people to a more pessimistic management of risky people. Probation officers become “project managers” with offenders as their projects, being managed through interventions provided by a range of state, private and voluntary bodies. Nevertheless, there is greater consistency in service delivery and more attention to achieving common standards, albeit at some cost to the creativity of individual workers.

3.6 The emerging data from our research suggest that Trainee Probation Officers (TPOs) on the brink of qualifying are joining a probation service that is highly ambivalent about its identity. They were drawn to the service commonly as a result of a commitment to help and change people and with a social welfare ethic. They start work in “offender management” having experienced training which leads them to question (or at least to reflect on) the efficacy of the new framework, though it is evident that some have found the enforcement ethos unproblematic.

3.7 Amid these tensions, routine daily probation work remains demanding and probation staff do good work over long hours. We have evidence of TPOs working 10–12 hour days in order to complete both university and office work. Relationships with other criminal justice agencies, especially the police, have improved out of all recognition and multi-agency work is now accepted as an integral part of the probation officer’s role.

3.8 One particular aspect of traditional probation work that has been lost is the routine home visit, for reasons of cost, time and perceived safety. As several of our interviewees have pointed out, however, the demise of the home visit means that probation officers have less affinity with local communities, less understanding of the realities of offenders’ lives and less contact with potentially supportive and rehabilitative relatives of offenders. This problem is exacerbated by the unwelcoming, high-security offices in which probation staff are frequently located, away from the communities in which local offenders reside.

3.9 The probation service is particularly poor at public presentation. In recent years, it has too frequently found itself reacting to adverse publicity when things “go wrong” and its attempts to present the positive aspects of its work at a national level have appeared ineffectual and counter-productive. Public awareness of day-to-day probation work is low. While acknowledging the vacuum that exists between the service and the national media, our research suggests that the lone voice of NAPO has not always helped the service’s image in the public mind. The establishment of the Probation Chiefs Association may go some way to remedy this. At a local level, the picture is more positive and we have evidence of good relations between local services and local press.

3.10 Terminology is problematic and confusing. The insistence on the term “offender manager” does not sufficiently distinguish the work of the probation service, since it is a term also used by the police and the prison service to mean slightly different things. It is difficult to see any rational reason for the political drive to eliminate the word “probation” from criminal justice vocabulary. Referring to offenders as “clients” is now widely accepted to be outdated, though some of our interviewees expressed a preference for the term “probationer”.

3.11 We are finding little evidence to support the view that probation officers are incorrigibly “welfare-oriented” “sandal-wearers” or unable to adapt to the changing demands of the role. Nevertheless, there is a danger that probation may lose its distinctive character, thus running the risk of losing experienced staff and failing to recruit high-calibre trainees from all sections of the community. Our research suggests that a few disillusioned TPOs are already contemplating leaving the service or taking their creativity into voluntary work in their own time.

3.12 We would urge the Committee to recognise the complex nature of probation work, the skills and knowledge required and the importance of the core values of probation work. The probation service has shown itself to be highly adaptable but it is important to preserve what probation officers have traditionally done well. Reducing them to de-skilled office-bound technicians or spreading provision too widely across the private and voluntary sectors will be wasteful of a highly educated and creative workforce. The criminal justice system, probationers and wider society will suffer as a consequence.

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**Written evidence from Christopher Hignett (PB 31)****EXECUTIVE SUMMARY**

My evidence will concentrate on the Committee's concern with the Probation Service's capacity to cope with a move away from short custodial sentences. It will be argued that over the past 12 years the Probation Service has grown increasingly successful at delivering a range of interventions that have come to be described as "Offender Management". The approach is characterised by highly risk averse practice with regard to the prevention of reoffending. Since the Probation Service's capacity to predict future offending remains limited, heavy reliance has to be placed upon the use of custody and short prison sentences to shore-up its claim to provide public protection. The Probation Service by becoming so closely involved with the prison has become part of the problem it was historically established to tackle—the excessive use of imprisonment. It is perhaps for this reason that the Probation Service has figured so little in recent proposals, such as those calling for Justice Reinvestment, to reduce the size of the prison population. However, it will be argued that the evidence exists to suggest the Service has not entirely lost its interest in assisting the courts to administer justice in the individual case by offering constructive alternatives to custodial sentences. To reinvigorate that commitment so that the Service could play a positive part in a "rehabilitation revolution" would require a more realistic appreciation of what sentencing policy is able to achieve as well as an unravelling of current administrative arrangements. The Service has to establish much closer relationships with magistrates, judges and the courts as well as the neighbourhoods they serve. From that stance the probation service could assist a wide range of individuals and organisations to help with the process of reintegrating offenders into the community without the need for so many short prison sentences.

1. It was not a new idea, but with the publication of its early paper "Joining Forces to Protect the Public" (Home Office 1998) the New Labour government made clear that if the probation service was to survive, public protection would have to be its principal goal. The paper experimented with ideas for a new name for the Service that would reflect the change of emphasis and suggested that a close relationship with the prison and its approach to offending was the way forward. In the subsequent 12 years, despite numerous twists and turns (McNight 2009), government policy for the probation service adhered closely to those proposals. Today the Service continues to exist via thirty five probation trusts, but these have been absorbed into the National Offender Management Service (NOMS 2006), whose dominant participant is the Prison Service. In terms of practice, defendants referred to the Probation Service by the courts, are now the subject of a set of processes described as "end to end offender management" (NOMS2006). It was not an easy task to put all aspects of these processes in place either, but Ministry of Justice statistics (MoJ 2010a) suggest that all probation trusts are now achieving the forty targets for which the successful delivery of offender management calls.

2. But adopting the goal of public protection led to the processes of offender management being suffused with a strongly risk averse approach to the possibility of reoffending. A great deal of effort has been expended seeking to predict the likelihood of such an eventuality and the harm that might be caused, so as to allocate resources accordingly. Ministry of Justice publications suggest that some progress has been made in terms of predictive capacity (MoJ 2009), but it remains the case that these efforts are prone to all the pitfalls associated with applying averages to individuals. As a consequence, to minimise the possibility of making the "wrong" prediction of reoffending, probation staff have to be prepared to make greater use of custodial recommendations in pre-sentence reports and when community based penalties are breached. Similarly, with those released on licence from custodial sentences, the first priority lies in the enforcement of licence conditions via recall to prison, rather than resettlement, to keep reoffending to a minimum. In these ways the modern probation service has become heavily dependent upon the prison and custodial sentences, both short and longer term, to try to fulfil its aim of providing public protection. It is not surprising, therefore, that the Justice Committee should question whether the Probation Service would be capable of coping with a move away from the use of short custodial sentences.

3. Of course, the Probation Service does not act alone and it is the Courts, through their sentencing, who are responsible for sending people to prison. Even so, the Probation Service's move to a close involvement with the prison stands in stark contrast to the Service's original aim to offer the Courts, via the Probation Order, a way of dealing with defendants that sought to avoid custody and which placed the onus on the defendant to demonstrate that they could live within the law without need for further sanction. In the interests of joined up thinking, a merger between prison and probation effectively closed down the competition for the defendant's future that had previously existed between the Services. While not the only factor leading to increased prison numbers it is hard to avoid the conclusion that this union has played a significant role.

4. Space does not permit a full account of how this change of focus has developed since 1998. It is perhaps sufficient to say that probation staff worked hard to adopt the Offender Assessment System, (OASys), despite its lack of user friendly attributes. My colleague, Will Watson, will, I believe, have supplied the Committee with an account of the short comings of this over elaborate tool (Watson 2010). A massive increase and transfer of resources took place to enable cognitive behavioural programmes to be introduced. A draconian enforcement policy which left officers with increasingly little discretion as to how to work with their cases was implemented, while the need to avoid risk was periodically reinforced by enquiries from Her Majesty's Inspectorate of Probation into serious further incidents (HMIP 2006). Driven forward by constant restatement of targets and associated league tables, a profound change in the ethos of the Service was achieved. From being the Court's

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social work service the Probation Service has become, in effect, the community based arm of the prison service making liberal use of short and longer term custodial sentences.

5. There is no doubt that the Probation Service was the recipient of substantial increases in funding during the period. The Centre for Crime and Justice Studies (Mills, Silvestri, and Grimshaw 2010) has recently published a detailed attempt to breakdown where the money went. As the Committee will have access to this work there is no point in repeating its findings here. The Committee will also be aware of the large amount of money spent, and seemingly wasted, trying to devise a computer system that could cope with the complex problem of allocating each offender and then monitoring them through the offender management process.(National Audit Office 2009).

6. This growth in expenditure and huge expansion in prison numbers by 20,000 places might have been worthwhile if it could be shown to have reduced crime or reoffending. Unfortunately there is little evidence to suggest that the Probation Service's reorganisation and embracing of offender management has had any impact under either heading. As has been noted by the present Minister of Justice (Clarke 2010a, 2010b) crime rates have fallen across a number of jurisdictions regardless of sentencing policy. His own contribution, when Chancellor of the Exchequer, to the steady growth of the economy and the improved possibility of employment or training for young people, has arguably had as much to do with these reductions as any aspect of penal policy. Reconviction rates are said to have declined, but when actual and predicted rates are compared they have remained remarkably stable across the years and between different sentence types. (MoJ 2010c). Figures for serious further offences have also maintained stability and, as is noted year after year in the cohort studies, arise, in numerical terms, much more frequently from those assessed as low or medium risk.

7. It remains the case that the composition of the prison population continues to reflect the over representation of disadvantaged groups within society, women and ethnic minorities being especially effected. Efforts by black staff to tackle the over representation of black young people were rapidly stamped upon with the introduction of accredited programmes. More recently despite efforts to respond to Baroness Corston's (Corston 2008) proposals to reduce the number of women going to prison there has been no lasting change in these figures.

8. Nevertheless, it has been argued by Professor Ken Pease (Pease 2010) that we get good value for our prison population and that we should not be seeking to reduce it. Even if reoffending rates for short term prisoners are high, the incapacitation effect is worth the money. Pease seeks to attack Andrew Bridges (Bridges 2010) for his recent calculations regarding the marginal cost for both short term and indeterminate sentences, but never directly undermines Bridges calculations, except to claim that he uses too high a figure for the average cost of a prison place per year. In Bridges defence it could be said that he almost certainly does choose the right figure, it being a ploy of the prison service to suggest that this average cost should be calculated without reference to expenditures, such as those attributable to headquarters and escort duties. The real strength of Pease's paper lies in the evidence he produces in favour of situational approaches to crime reduction, which appear to be much more effective than sentencing policy.

9. Reviewing the ever increasing prison population, its costs and implications for liberal democracy, those who questioned the validity of New Labour's policy, especially when it was proposed to build Titan prisons, began to argue for a fresh approach.(Howard League 2009, Centre for Social Justice 2009, Local Government Information Unit 2009) As the Committee will be aware, having produced its own enquiry into Justice Reinvestment (HC Justice Committee 2010), proposals to move the budgets of criminal justice agencies into local hands, to be spent on more relevant crime reduction measures, have come increasingly to the fore. Justice Reinvestment sees some place for community orders and might be thought a natural focus for probation service work. But, in reality, the probation service, as currently configured and wedded to its use of custody, seems to be seen as the part of the problem that needs to be tackled and receives limited recognition.

10. I wish to point to the evidence and suggest how the Probation Service, rid of its NOMS connection, could play a much more significant part in a Rehabilitation Revolution and assist in the task of reducing short prison sentences.

11. A "Rehabilitation Revolution" requires as stark a reconceptualisation as that which was attempted in "Joining Forces to Protect the Public". It should be acknowledged that the courts and sentencing policy are principally about administering justice in the individual case. While those passing sentence will take account of the public interest, this is not necessarily coterminous with public protection, which is only one factor that the Court must consider. Similarly, the Court may hope that the defendant will not reoffend, but the prevention of reoffending is only another consideration when seeking the sentence that justice may require in any particular case. Courts serve the purpose of administrating justice so as to mark out the boundary of the acceptable behaviour that the law requires. Prisons and noncustodial penalties are unlikely, therefore, to be able to make more than a marginal contribution to reductions in crime and reoffending. These are wider objectives and need to be pursued through more specific social policies. Freed from the unrealistic tyranny of trying to provide public protection, community orders can be used for the more realistic goal of allowing the defendant the opportunity to demonstrate their ability to live within the law and make restitution.

12. It will be necessary to unravel NOMS so that the Probation trusts become genuinely independent and local. Magistrates and Judges need to become significant members of the boards of Trusts from which they are currently excluded. Trust staff should be free to offer advice to courts, which may allow them to make less use of custody, on the basis of what is appropriate to local circumstances and those of the defendant. Such advice



should involve many more individuals and organisations than simply the probation service, drawing on contributions from all those in business, the churches and voluntary organisations disposed to work positively to reintegrate the offender into their community. Trusts must also have the funds to encourage these local groups to want to take on work with and for local offenders. Probation staff themselves need to be ready to leave their offices and computers behind and be available to visit and support those in the community willing to take on the formidable task of reintegration.

13. The contributions of researchers like Shadd Maruna (Maruna 2001) and Fergus McNeil (McNeil 2009) now offer a better understanding of how persistent offenders work their way out of offending via such means as narrative reconstruction and the acquisition of social capital at its different levels of operation. Central to this understanding is the appreciation that it is the determination of the offender to make changes in their lives that is crucial and that that determination is rarely capable of being forced upon the offender by outside agencies, be they well intentioned or punitive. Principally what is needed is time for the individual to develop their thinking and perspective on their lives and ready access to those locally who can provide a relationship that promotes encouragement, hope and opportunity.

14. This work is what the probation service was originally formed to undertake and still informs many practitioners' views. It also touches directly on the role of requirements in orders and Ken Clarke's reference to the conundrum of making community orders appear sufficiently demanding and tough (Clarke2010a). What amounts to being tough differs depending upon the perspective that is being taken. In the interest of looking tough to the outside world there is a temptation to add requirements without regard to how manageable these will be for someone whose offending is already indicative of their limited capabilities. It is not too surprising therefore to find that only a comparatively small range of extra requirements are used. When requirements are employed, they need to be kept relevant to the task of aiding with the process of desistance, rather than added to enhance the punitive aspect of a community order or to meet the target of some programme.

15. Current figures for probation workloads (MoJ2010d) suggest that probation officers still make proposals for community penalties and they are accepted. It is noticeable, however, that it is the suspended sentence that is growing in use at the expense of the community order and the suspicion must be that this trend represents another attempt to appear tough. Only determined leadership from Government and the Courts can break the tendency to suck lesser offenders into more serious sentences. To this end, the review of sentencing that is promised for the autumn has a crucial role to play.

16. Probation staff still regularly attend court, even if this appears sometimes to be more for the purpose of prosecuting breach actions than helping courts to resolve problems associated with offending. Nevertheless, it ought not to be too difficult to revive that older tradition to assist what may hopefully be a new generation of Community Justice Courts, with tackling the problems that give rise to offending.

17. It remains the case that training to work in the probation service is still in place and the subject of active debate as to its content and method of delivery (NAPO 2010). It seems timely to suggest that it will need to include training in conflict resolution and restorative justice as approaches that will be at least as relevant as those of assessing risk of reoffending, if probation officers are to help local people cope with their local offenders without ready resort to custody. The increasing prominence being given to work such as Fergus McNeil's (McNeil and Weaver2010), that clearly derives from social work thinking, suggests that the possibility of reviving social work in the penal system in this country may not be as lost a cause as had seemed once to be the case.

18. Reconstituting a Probation Service built around its traditional injunctions to advise, assist and befriend but informed by current thinking on how to promote desistance would almost certainly contribute to a lessening of the use of custody and a fairer society, one of whose indicators should be a falling prison population. As Ann Owers (Owers 2010) made clear in her valedictory address to the Prison Reform Trust, it has been the rising numbers of prisoners that has constantly undermined efforts to create more positive regimes for those who have to go to prison. If for no other reason, the Probation Service should be charged with doing all in its power to reduce short custodial sentences.

CHRISTOPHER HIGNETT, BA CQSW

Between 1973 and 2006 I worked as a probation officer and senior probation officer in London, working in and leading field teams, and a community service team in Tower Hamlets, Hackney and Islington. I was part of the ILPS Demonstration Unit and I later spent five years in the ILPS Research Dept. I was Programme Manager in Islington, Camden and Haringey for the last part of my career. Since retiring I have undertaken work for Surrey Probation Service and Hertfordshire University. With my Colleague, Mr William Watson, I formed the Campaign for the Reinvigoration of the Probation Service in December 2008.

September 2010

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## Written evidence from Together (Working for Wellbeing) (PB 32)

### 1. EXECUTIVE SUMMARY

1.1 Together (Working for Wellbeing) is a national mental health charity, which through its Forensic Mental Health Practitioner Services has over the last 15 years supported the work of the courts and offender management with offenders and defendants with mental health needs.

1.2 Genuine collaboration and partnership is one of the key factors in the successful delivery of probation services to effectively protect the public and reduce re-offending. It needs to be the thread that runs through all aspects of criminal justice service provision—commissioning, service interventions and the knowledge and understanding of staff.

1.3 Harnessing the resources of all agencies could more effectively meet the needs of offenders who present with complex needs and promote creativity in community sentencing as an alternative to short-term custody.

1.4 Community and voluntary organisations have a key role to play in the delivery of probation services. This should be one that supports the probation service to discharge its legal and statutory responsibilities of offender management rather than promoting standalone delivery by a variety of providers. This risks the development of uncoordinated services that are expensive and unaccountable.

### 2. INTRODUCTION

2.1 Together (Working for Wellbeing) is a national mental health charity that has been supporting people with mental health problems over a number of decades. For the last 15 years, the organisation has been working in partnership with London Probation Trust (LPT) through its Forensic Mental Health Practitioner (FMHP) Service to support the work of the courts and offender management to more effectively meet the needs of defendants and offenders with mental health problems. In a year, the service on average screens over 6,000 defendants at court and offers an assessment, liaison and offender management support service to over 1,800 service users within London. More recently the service was a key delivery partner in the National Mental Health Court Pilot at Stratford Magistrates' Court.

2.2 In 2009, the partnership was cited as a practice example in the report by Lord Bradley of his review of people with mental health and learning disability needs in contact with the criminal justice system. Together is also a member of the National Advisory Group, which supports the work of the Health and Criminal Justice National Programme Board and the implementation of the national delivery plan.

2.3 The Service Manager of the Together FMHP Service has a background in forensic psychology and extensive experience of working within the criminal justice mental health field within the community and voluntary sector. She is currently on a part-time secondment with the National Mental Health Development Unit supporting the unit's work around the offender health strategy. Practitioner staff within the service have relevant professional and academic qualifications as well experience of working in mental health in a range of settings.

2.4 Together has worked in close collaboration with probation staff over a number of years to support the delivery of offender management services. Since 2006, this work has been supported formally through a contract with the probation service, including a recent successful re-tendering of the contract for a further three years.

2.5 This submission is based on the experiences of Together, as a community and voluntary organisation (CVO) partnership agency with the probation service within London.

2.6 Data collated from the Offender Assessment System (OASys) has indicated that across London, around half of probation caseloads have mental health problems and traits indicating personality disorder. The link between mental health and offender behaviour is now well documented. Associated needs, “criminogenic” needs, such as homelessness, unemployment, alcohol and substance misuse are also factors that may lead someone into a offending. A multi-agency response is required to meet these needs from a number of specialist service providers with the shared aim of improving their mental wellbeing and social circumstances and reducing the risk of further offending.

2.7 The key drivers for the development of the Together FMHP Service reflected the need to provide interventions to address the impact of criminogenic needs on offending and probation staff’s limited knowledge of relevant health and social care provision and referrals pathways with the result that vulnerable offenders were at risk of not receiving the appropriate care and support.

### 3. *Are probation services currently commissioned in the most appropriate way?*

3.1 There should be greater flexibility in terms of the decision-making processes around how commissioning should take place.

3.2 Together’s recent experience of re-tendering with the probation service has been extremely negative. The tender documents were confusing and the service specification inaccurate. Clarification sought by Together indicated that the procurement department was very unclear as to what was being commissioned and how this should be achieved. Once Together was appointed as the preferred supplier, negotiations regarding the contract were protracted and overly-complicated—the procurement department continued to have difficulties with understanding the aims and objectives of the service, which was reflected by the continuing factual inaccuracies relating to the service specification. Any risk associated with the contract, including potential withdrawal of funding by other agencies, was initially placed firmly with Together rather than being shared by both parties and had to be continually re-negotiated before the final contract could be agreed. There were also occasions when the approach and attitude of the procurement department towards Together lacked any professional courtesy. The process has taken over one year to complete, from the completion of the expression of interest documents by Together to the signing of the contract by both parties. This has included a five month period when Together has been out of contract.

3.3 From monitoring and performance reviews of the service provided by Together, the probation service had indicated its satisfaction of the outputs and outcomes being achieved by the organisation. Together and the probation service has utilised a successful collaborative approach in meeting the needs of offenders with mental health problems and had established a mutually trusting and professional relationship on a practice and operational level. Service developments in response to changing legislative context, for example the Criminal Justice Act (2003), could only have been achieved with this level of partnership. Whilst every effort was made by Together to work with the probation service in relation to the new contract, there were times when the organisation had to question whether it wanted to enter into a new contract at all.

3.4 If the provision of probation services is going to attract the right providers with the right expertise and experience to deliver high quality, cost-effective services, the commissioning process will need to be clearer, more expedient and within a context of partnership.

#### 3.5 Recommendations for action:

- Consider commissioning approaches that include both open and closed tenders and preferred provider frameworks.
- Consider commissioning for partnership—that harnesses resources to meet the identified needs of service users; that doesn’t prohibit the involvement of smaller CVOs; that generates creativity rather than targets; that can generate new sources of income (for example, funding from grantmaking foundation and trusts).

### 4. *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?*

4.1 Together does not consider that it has the necessary experience to comment on the effectiveness of LPT as it only relatively recently achieved trust status.

4.2 We do consider that one of the main roles of the probation service in delivering ““offender management”” is to discharge its statutory duty and responsibilities in terms of enforcement of community sentences. Working on a daily basis with offenders of all level of risk, we see the importance of there being a single statutory agency that is clearly accountable for offender management, but one that can be supported through partnership arrangements in the delivery of probation services.

4.3 When community sentences include requirements that are generally less used by the courts, as with the Mental Health Treatment Requirement (MHTR) and/or the offender has multiple needs requiring a multi-agency response, the probation service’s response can be patchy and limited. An example of this is a community

order with a standalone MHTR—in these cases, probation is required to undertake *order* management—this is when the Offender Manager has limited contact with the offender, as the requirement is being fulfilled by the treating team of a health agency but does have a duty to ensure compliance and to take enforcement action if necessary. There have been many cases that Together has become aware of when the order was not managed appropriately—for example, when liaison has not happened between the probation service and health agency regarding offender compliance with the requirement.

#### 4.4 Recommendations for action:

- Consideration that the legal responsibilities and accountability for offender management remains with the probation service as a statutory provider.

### 5. *Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

5.1 The probation service has developed good working relationships with the courts, but there is a general lack of understanding by probation of some of the complex issues facing offenders, such as mental health. This, in turn, impacts on the information and recommendations presented to the courts in probation reports.

5.2 Magistrates and judges are able to effectively utilise the full range of community sentences when presented with robust assessment information and recommendations that clearly account for the drivers of the offending and issues of public safety. To this end, Together supports pre-sentence report (PSR) authors by undertaking comprehensive mental health and social care assessments at pre-sentence report stage to ensure that there is an understanding of the needs of the offender, the interventions required to address those needs and the services able to provide those interventions. The information is incorporated into the PSR report stage allowing the PSR author to make recommendations that ensures that any health care plan is an integral part of sentence planning.

5.3 For offenders with more serious mental health concerns, the mental health assessment may need to be undertaken by a psychiatrist—this not only allows for the appropriate level of assessment, but also the opportunity for an offender to be considered for a Mental Health Treatment Requirement (MHTR) as part of a community order if this is deemed appropriate. However, there are many pitfalls in the attempted use of this requirement particularly in terms of accessing psychiatric reports for court as they are not considered to be “core business” by many psychiatrists. There is also limited understanding both on the part of criminal justice agencies and psychiatry as to the function and purpose of the MHTR. The construction of the requirement could also be considered a barrier for its use as, for example, it requires an assessment by a Section 12 approved psychiatrist and consent of the offender. An informal review of some London boroughs last year by the Together FMHP Service indicated that many of the orders with a MHTR were not working properly in terms of liaison between probation and health services or had been imposed by the court without the required assessment reports and care plans in place ie they were not legal.

5.4 Other requirements could be utilised more effectively as alternatives to the MHTR. For example, Together Forensic Mental Health Practitioners often provide mental health interventions to offenders under offender management of the probation service as part of the Specified Activity Requirement or Supervision Requirement ie the practitioner is named on the order. This is generally applied to cases where it has been assessed that the mental health needs are mild to moderate, are the primary drivers to the offending behaviour and that a level of compliance may be required to facilitate the offenders’ engagement with interventions to address the needs. For offenders with more serious mental disorder, the Specified Activity Requirement could be used as a replacement for the MHTR, with similar mechanisms applying in terms of naming the provider on the order. This would enable a wider range of mental health professionals to undertake the assessment (as opposed to being limited to a section 12 doctor), make the necessary recommendations and provide the most appropriate interventions as well addressing the issue of consent where it could be considered in the best interests of the offender to impose such an order.

#### 5.5 Recommendations for actions:-

- Assessment and review of the effectiveness of the MHTR and consideration of stopping its use in its current form.
- Review of alternative requirements and how they can be used more creatively to address the social care and health needs of offenders.

### 6. *What role should the private and voluntary sectors play in the delivery of probation services?*

6.1 Community and voluntary sector organisations should have a role in providing criminal justice services through supporting the delivery of offender management in partnership with the probation service. We would not advocate that CVOs, or indeed the private sector, provide standalone offender management services with statutory responsibilities of enforcement. We would consider this as potentially creating expensive and uncoordinated service provision, which runs the risk of no, one agency being accountable for the statutory duties relating to offender management.

6.2 We do consider that the voluntary sector has a strong role to play in the engagement of offenders to improve outcomes for them around their health and criminal justice needs.

6.3 The approach taken by Together in supporting the delivery of offender management has been one of partnership and collaboration with the probation service. The longevity and recognition of the partnership, the development of a responsive and flexible service model to support effective community orders, and outcomes that indicate improved mental wellbeing and enhanced social participation and integration provides some evidence that CVOs have a key role to play in the support of offender and order management. Whilst Together can take a formal role in supporting offender management, which includes providing probation with information to support breach and recall decisions, as well as inputting information directly onto probation systems, the strength of the service model is supported by the fact that actions relating to enforcement remain firmly and explicitly with the National Probation Service. This allows Together, as a CVO, to do what it does best—engage hard-to-reach groups who respond to negotiating and complying with state systems with confusion at best and with hostility at worst.

6.4 CVOs can provide a range of services that directly support the delivery of probation services:

- Specialist assessment, including enhanced risk assessment, and reporting to inform community sentencing decisions.
- Tailored interventions as part of offender management aimed at improving health and wellbeing and reducing re-offending.
- Liaison with/referrals to health and social care provision.
- Integrated record keeping and information sharing.
- Co-ordination of other CVOs to provide services as part of sentence planning.
- Advice, guidance, consultation and training to probation staff.

These services also provide the mechanisms not only to divert offenders away from custody when appropriate to do so but also provide the support in the community to address criminogenic need, another key role for the CVO—to support offenders’ engagement with community sentences as an alternative to custody when public safety issues allow.

6.5 Recommendations for action:

- Greater engagement of CVOs to support the probation service in the delivery of offender management including capacity building to understand the criminal justice system and how to work within its structures and legislation.
- Investment in collaborative working practices that recognises the need for genuine partnership and best practice along the whole offender care pathway rather than creating standalone criminal justice services.

*7. Does the probation service have the capacity to cope with a move away from short custodial sentences?*

7.1 Probation staff have high caseloads of offenders with wide ranging needs and risk concerns. As already described, the probation service struggles to manage the large number of offenders with low level offending but who have multiple needs. Any significant increase in the numbers of offenders subject to community sentences with resources at their current levels would have an impact on probation’s capacity to effectively meet those needs and to discharge their statutory responsibilities.

*8. Could probation trusts make more use of restorative justice?*

Together does not have any experience of working with probation trusts around restorative justice and is not able to comment.

*9. 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?*

9.1 As previously described, the probation service often demonstrates a lack of understanding of offenders with multiple needs or who have particular needs and vulnerabilities.

9.2 The Together Service was developed in response to the probation service struggling to manage offenders with mental health needs effectively both in terms of the accurate assessment of needs and ongoing offender management. Whilst the introduction of the Offender Assessment System (OASys) has potentially provided the mechanisms for more comprehensive assessment, it is dependent on probation staff asking the right questions of offenders to get an accurate picture of the offender’s overall situation, including risk concerns. It also requires probation staff to analyse that information and apply a level of knowledge and understanding in terms of its relationship to offending behaviours—however when probation staff are faced with assessing and understanding complex needs, they often fail to input the right information into the assessment, and thus fail to get the necessary information out. With only a partial or inaccurate assessment, recommendations made by probation to court will fail to address health and social care needs as well as the offending behaviour.

9.3 Without timely recourse to specialist services for advice and support, probation staff often resort to making blanket referrals to a range of services that may not be appropriate to the needs or level of need of the offender. For example, referring an offender to community mental health services when the level of mental

health need could be managed by the person's GP. This inappropriate use of services by probation often jeopardises effective inter-agency working, a particular concern in the management of higher risk offenders.

9.4 In terms of women and black and minority ethnic people, accessing a diverse ranges of services is likely to be required to meet their specific needs—for example, local women-only and culturally specific services. Probation's knowledge of the range of services in the community is often limited, often requiring community services to take a proactive approach in profiling their provision to local probation offices. As an organisation co-located in probation offices, Together has certainly seen first-hand the benefits of having community agencies working "out of" probation offices in terms of raising the awareness amongst probation of the distinct needs of different offender groups and ensuring effective access to the most appropriate services.

9.5 Recommendations for action:

- The probation service to undertake regular equality impact assessments of all aspects of its provision of criminal justice services.

10. *Is the provision of training adequate?*

10.1 The training provided to probation staff around health issues, including mental health and personality disorder, and its impact on offending is limited. Staff are not trained to deal with related factors that contribute to offending and we also understand that probation staff do not receive any formal training around working with vulnerable adults. Probation practice also appears to be very much focused on identifying criminogenic needs, but perhaps is not so strong at understanding and delivering the interventions that would best meet those needs. This lack of understanding of the interaction between needs and offending results in probation staff not gaining a picture of the "whole" person and missing vital information that would contribute to more effective offender management.

10.2 As part of Together's contract with the probation service, the organisation provides training in many aspects of mental health to probation staff. This is generally based on a training needs analysis. As a result of that analysis, the experience of Together is that there are recurring themes identified for training by probation staff—for example, understanding and knowledge of mental health legislation, such as the Mental Health Act (83), and frameworks such as the Care Programme Approach (CPA); understanding of care pathways; knowledge of mental disorders, including personality disorder; crisis management; use of requirements related to mental health, such as the Mental Health Treatment Requirement.

10.3 Recommendations for action:

- In-depth training of the needs of vulnerable adults, including the social aspects of health and disease and the impact on offending.
- Greater use of CVOs in the training of probation staff—such organisations generally have greater knowledge of the issues faced by people with multiple needs as well as knowledge of and extensive links to community service provision.

BACKGROUND TO INQUIRY

Following the creation of the National Offender Management Service (NOMS) which brought together prisons and probation in 2004, the previous Government carried out a programme of reform, converting probation boards into probation trusts, which are contracted to deliver local probation services. This was to be followed by the introduction of competition for some aspects of delivery. In addition, the concept of "offender management" has evolved considerably since the Offender Management Act 2007 was passed. The coalition Government has announced that it wishes to introduce a 'rehabilitation revolution' that will pay independent providers to reduce reoffending, paid for by the savings this new approach could generate within the criminal justice system.

September 2010

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**Written evidence from Jeremy C Britton, Avon and Somerset Probation Trust (PB 33)**

1. *Are probation services currently commissioned in the most appropriate way?*

1.1 I would respectfully wish to recommend consideration of what surely must be the way forward for probation: the commissioning of all services by local probation trusts. Such a move would give clear recognition of sound principles of trust status. Devolving decision making through decentralization of power would provide local trusts with the ability to determine and commission the best providers available to meet local need.

1.2 Clearly, decision making needs to be based on sound business principles. The skills and wealth of experience at all levels (probation boards, chief executives, wider management and operational staff ) demonstrates that it is local trusts that are best placed to determine who to commission to deliver services, serve local communities and offer best value to the taxpayer. Indeed, any alternative surely brings in to question

the purpose of trust status and the relationship between central Government and trusts operating within the public sector.

1.3 The current arrangement, NOMS, has had a significant negative impact on probation during the last five years. NOMS has involved considerable bureaucracy and often meaningless change. For example, the change of name from *community service* to *community punishment* and then *unpaid work* but *community payback* for branding purposes whilst the media largely still refers to *community service*.

1.4 Probation has seen increases in funding but this has not reached the front line to the level suggested and widely reported. NOMS operating costs, failed IT projects and inefficient buildings maintenance contracts have diverted additional money away from core service delivery.

1.5 Policy and decision making has increasingly been decided centrally without consultation, often based on consultancy advice, whilst the valuable experience of highly trained and skilled probation staff has increasingly been sidelined. The result has been frustrated and demoralized staff, continually responding to endless directives in which they have had no input and directives that often serve central priority rather than local need. Indeed, increasingly, priorities and focus have moved away from front line delivery and serving local communities. I am frequently asked by staff: “*why are we being asked to do this?*” and “*why is money being spent on that?*”

1.6 The contestability model, leading to an offender management/interventions arrangement, has also created unnecessary difficulties including conflicting priorities, duplication of process and a lack of cohesion.

1.7 From my experience, probation trusts are ready and waiting to accept the responsibility that trust status should surely have realised a year ago and be able to determine their own local practice. Such a move would result in immediate efficiency gains:

- allowing local boards, chief executives, and their staff to fully apply their knowledge and expertise;
- removing bureaucracy, duplication and box ticking;
- controlling the business and carrying out the responsibilities that would; and
- allow trusts to exercise powers commensurate with trust status.

1.8 Of course, a simplified structure would address the current need to achieve significant financial savings within the public sector and would realise considerable reductions in operating costs as a proportion of overall probation financing.

1.9 Devolved power would require accountability. At a local level this could be scrutinised through current partnership arrangements, successful outcomes requiring effective partnerships with police, local authorities, health and housing providers. Further, courts create the work of probation and therefore probation must be in a position to continue to respond effectively, offering the best possible community sentences, ultimately protecting the public and punishing while effectively rehabilitating offenders. Clearly, the proper maintenance of this relationship would provide further local critique.

1.10 National scrutiny arrangements could be reformed as appropriate to address the revised commissioning model and to ensure compliance in respect of key Government targets.

1.11 When considering much of the work of the probation service—prisons, whilst key partners, should not be considered the exclusive partners that the current NOMS model dictates. The clear focus on prisons driven by NOMS has marginalized probation. It is well documented that senior appointments largely come from a prison background, as a result, probation no longer has a voice or proper central representation. This is of particular concern at the present time since it appears to leave the probation message being heard through often emotive media commentary which can be misleading and therefore damaging, undermining and unrepresentative of the professional work of probation.

1.12 *Recommendation:* The Justice Select Committee should recommend a structure involving probation trusts as commissioners of all services within probation.

## 2. Does the probation service have the capacity to cope with a move away from short custodial sentences?

2.1 Clearly, my own area of responsibility, unpaid work/community payback, will be a primary sentencing option as a result of any decision to reduce short term prison sentencing. I believe that trusts’ community payback units are well placed to deliver on any such outcomes due to tried and tested structures and processes, implemented by skilled staff, often with many years experience. Indeed, nationally, probation trusts are currently delivering in well in excess of five million hours of unpaid work every year. Communities within my own area benefitted from over £900,000 worth of work in the last financial year (2009–10).

2.2 I have no doubt that the majority of staff across community payback units will continue to create opportunities to work increasing offender numbers wherever possible, within sensible limits. This has been the case over a significant number of years: In 2004–05, a regular maximum group size in Avon and Somerset was six. That figure is now at least eight with many supervisors prepared to take ten offenders where the risk assessment allows and the placement can adequately accommodate. This has increasingly ensured that community payback is a particularly competitive sentencing option.

2.3 While the above approach benefits reduced costs and increased throughput, understandably, managing such numbers in the community can present challenges. Reflecting society generally, community payback is increasingly dealing with more challenging offender behaviour. In my own probation trust, supervisors are trained and supported in managing risk and dealing with difficult situations but as lone workers, in the community with eight or more offenders, we recognise that our staff can be vulnerable at times.

2.4 Further, while increasingly sentencing to unpaid work, on occasions, courts need to give a more decisive message to offenders who are in breach. Where an offender is clearly not willing to engage and will not comply with such a disposal, revocation rather than allowing an order to continue repeatedly, will ensure the integrity of the disposal. It will also support the ability to determine and plan expected attendance and therefore accommodate larger groups of offenders.

2.5 The introduction of branded high visibility clothing has been hugely positive but with increased visibility naturally comes the opportunity for criticism as community payback staff try to effectively engage larger groups of offenders.

2.6 Indeed, while community payback rightly promotes the opportunity for the public to nominate projects, the projects suggested will often not usefully engage eight or more (often fit, young) offenders for up to seven or eight hours at a time. Therefore, trusts need to communicate with the public to ensure that they understand the types of projects that are normally suitable and explain why some projects will reluctantly be rejected. At the same time, trusts need to continue to develop placements linked to local action groups and crime and disorder partnerships, since much of this work is recognised by and has the confidence of the public.

2.7 The issue for probation trusts in respect of this work surrounds the taking of work from paid employees. Therefore, if community payback is to be completely effective in partnership with other Government departments and fully realise the huge potential to do good, there needs to be serious consideration of this specific issue/concern at a national level with clear negotiation as necessary. For example, a project maintaining the grounds of a National Health Service hospital was recently rejected within my own probation trust due ultimately to the possible impact upon existing paid employees.

2.8 Importantly, Government needs to recognise the issues that present themselves on occasions as a result of increased throughput and actively support the excellent work of the majority of staff within community payback.

2.9 *Recommendation:* Probation trusts are well placed to deliver on any such decision to reduce short term prison sentencing due to tried and tested structures and processes, implemented by skilled staff, often with many years experience. However, to achieve greater reliance on popular non-custodial sentences such as community payback, some transfer of resources will be necessary.

September 2010

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**Written evidence from Malcolm Lacey, Chief Probation Officer, Dorset, 1982–97 (PB 34)**

CRIME REDUCTION BY THE PROBATION SERVICE

EXECUTIVE SUMMARY

1. Increasing use of fast track reports:
  - devalues skills of probation officers in engaging with offenders in order that appropriate rehabilitative and restorative programmes may be offered to the court;
  - fails to intervene in the crisis that the court appearance entails when defendants are most open to change; and
  - does not use the multi-disciplinary skills necessary for long-lasting change which include health, psychiatric, addiction, and education.
2. Key importance of offender using the information that the various professions have given him or her and helping them to take responsibility for changing their behaviour.
3. Offenders lack psycho-social skills. Most offenders respond positively to cognitive behavioural groups provided on an intensive basis.
4. Huge cost, both financial and social, to society if intensive intervention is not provided as shown by Sainsbury research.
5. Two-thirds of prisoners indicate they would like to change but don't know how to access the resources they need.
6. Key importance of developing networks within the community that can offer friendship, assistance and advice.
7. Prisons should be accountable to local Probation Services for providing programmes in prison that can be used and followed up in the "real world".



## A MULTI-DISCIPLINARY, CRISIS INTERVENTION, AND COMMUNITY NETWORK APPROACH TO CRIME REDUCTION BY THE PROBATION SERVICE

### REPORTS

In any one year, probation officers will prepare around 200,000 Pre-sentence Reports and will be supervising around 200,000 people. About three-quarters of the reports are for magistrates' courts and about a quarter for the crown courts. Fast delivery PSRs make up nearly 40% of all PSRs, a proportion that has grown rapidly. This is crazy. It is, nevertheless, a consequence of the history of PSRs which, for most of the history of the Service, were prepared by the local probation officer who would, for the most part, supervise the offender if he or she decided they could offer something to prevent further re-offending. In essence—and this is not meant to be belittling—it was “I have a hunch I can get on with/influence/offer some practical help and advice to this person”. The fast track report is crazy for three reasons.

First, it undervalues what the probation officer does. He or she is the only person in the court process charged with trying to understand why the offender has reached the point at which he now stands and to work out ways in which he might take responsibility for making amends and, in the longer term, for changing his behaviour. It also has the effect of demonstrating to the offender that no-one is taking his predicament seriously; he is caught up in a process from which he can gain nothing—no incentive, no insight, no help, no challenge to his assumptions or his patterns of behaviour.

Second, a court appearance is a life crisis for the offender whatever the bravado with which some of them confront it. We know that a life crisis is a key moment when change—behavioural change—is more possible than at any other time. It is a moment, lasting no more than six weeks at the most. Current arrangements squander the potential of that moment.

Third, we know that a probation officer's caseload is, in the main, made up of young men who are persistently committing relatively serious offences. “There is substantial evidence that offenders as a group are significantly atypical of the general population in terms of the constellation of personal difficulties that they face. Commonly they will have a range of associated psychosocial problems such as unemployment, housing difficulties, poor educational achievement, disruptive family arrangements and mental health problems; a substantial minority will have attempted suicide, or misused drugs and alcohol. For a substantial subgroup of offenders, their difficulties have been lifelong; almost a third have been in care as children and they show significantly more disrupted and difficult behaviour and problems than those who have not been in care.” (Ford, Pritchard and Cox 1997). In addition, they are more likely to be heavy smokers and to be more accident prone than the general population.

It will not have gone unnoticed that these ideas are contained in the government Green Paper *Engaging Communities in Criminal Justice*, where Community Courts are perceived as Problem Solving Forums which engage a wide range of professionals as well as local community contacts. The Government seems to have stepped back from the cost of providing purpose built centres. Instead, it proposes to test other models, based on existing magistrates' courts, involving multi-agency working and “virtual problem-solving teams”. Repeat offenders would go before the same judge, or magistrates, who would review their progress. Perhaps we are on the brink of constructing a new “narrative” about the role of the probation officer and the links that should embed the service in the local community.

### MULTI-DISCIPLINARY APPROACH

I don't want to downgrade the importance of “hunches”; indeed I think they are vital especially in the assessment of risk where the prickling of the hairs on the back of the neck tells us something is going on even if we are not quite sure what. But I want to suggest that it should be only a part of a much more extended assessment. That assessment would take place in a probation centre which would:

- include amongst its staff a psychologist;
- a nurse;
- an employment adviser;
- rapid referral to psychiatric services; and
- have formal arrangements with the local college of further education for entry into appropriate courses.

Every offender would:

- See a nurse to check on their general level of health, with reference to diet and fitness and including their use of drugs, alcohol and tobacco.
- Undertake tests to determine their levels of literacy and numeracy.
- A personal history and risk assessment.
- Current housing.

The probation officer should be responsible for drawing all the information together and discussing it with the defendant. If in doubt about the implications of the findings, he or she should convene a case conference

at which the defendant should normally be present. This should always happen when the offence has been a violent one or there seems to be a substantial risk of violence.

#### TAKING RESPONSIBILITY

Now for the key point. It may have appeared that the collection of a far wider range of information is the major change I am seeking and, clearly, I do see that as being of great importance. The greater change I am arguing for is a change in the ownership of the information. *It belongs to the defendant*. He has provided it and it is for him to decide what use he makes of it. At the moment it is usually the probation officer who uses the information in order to suggest what they should do with or to the defendant. This is with the best intentions but there will be a tendency to view the defendant as the object of an investigation not the main actor who has to make decisions about what use he is going to make of what he has learned. This tendency has been strengthened by the abolition of “consent” to any order that might be made. The abolition of consent has not been seen to be important.

It is instructive to go back to the 1907 Probation of Offenders Act. The defendant was not asked to give his consent but to “enter into a recognizance”. It is a significant change from the passive to the active mood. In the assessment process I envisage, the defendant would present to the court a short, signed, document with three elements:

- I take responsibility for what I have done.
- I will make amends as far as I can.
- I will undertake the following activities to improve myself.

This would be accompanied by the probation officer’s report which would give the evidence on the sincerity of the defendant’s offer, the background that had led to it and, of course, relating it to the seriousness of the offence and public safety. The probation officer provides an independent, impartial account as happens at the moment. Having helped the defendant to prepare a life-plan, he or she has to stand back and make a judgement on whether it will work. So much social work is on this edge of ‘helpful distrust’, of advocacy and scrutiny. It seems an impossible dream but probation officers know it is possible and that disasters happen when the work gets too far away from that edge.

Having said that, it may be the case that it is practically and emotionally too onerous and confusing for one person to combine befriending and therapy with the scepticism required of checking—in both the senses of investigating and stopping. This is an area that needs more exploration.

#### THE PROCESS OF SUPERVISION

There is a wide recognition that the probation service should have a lot of links into other statutory and voluntary agencies and that much of the work of rehabilitation should be undertaken by them. This is very positive but in all the talk of commissioning, partnership, inter-agency co-operation it sometimes feels that there is a hole where the defendant should be. In truth, probation officers know that effective change only takes place when they engage with the offender, that is to say, consent is gained even if it is not articulated. However, it is preferable to use positive words such as engagement, contracting, “entering into a recognizance”.

For most offenders, a cognitive behavioural group would be an essential part of their rehabilitation. They should be required to attend two sessions a week starting after no more than four working days; if they miss a session, then they would re-enter the course at the point at which they left, not the group in which they were. It is a step in the learning process which has to be recovered, not a detention. This puts the emphasis on learning all the necessary social skills. When the content of these groups is boiled down, they focus on genuineness, empathy and non-possessive warmth, that famous therapeutic trinity (Truax and Carkhuff) which are in fact the essence of living together in a civilised way. In other words, knowing and being able to control oneself; being able to get into another person’s world and imagine how they feel; and expressing oneself in an open and non-defensive way. Such groups also enable them to challenge each other which, again, we know that participants find both helpful and authentic.

In addition, other activities would be undertaken to remedy the conditions highlighted in the assessment. This is why assessment based, as it is currently on self report is so inadequate. Home, employment and social (peer group) network contact is surely imperative in knowing about the problems to be resolved and why a single supervisor is no longer a viable or valid model. The task of the probation officer is to ensure that the offender carries out his part of the contract but also, and crucially, to help the offender make sense of the various experiences he is going through.

This is not the place to go into the managerial issues of this suggested change except to say that the logistics must be very carefully worked out. The organisation will be different in different areas. The concept that has to be grasped is that we are introducing people into a programme, tailored to individual needs, and not, primarily, into a relationship. The model is an educational rather than a therapeutic one. In doing so, we can have the paradoxical effect of increasing contact time probably five times or more than in the conventional reporting model.

There's no point in glossing over the fact that it is very hard to get alienated young men motivated enough to participate. We do need to take breach action and to have an understanding with the courts that such action is disciplinary rather than punitive and that it is an unavoidable element of the change process. These young people have deeply ingrained patterns of behaviour which to us seem self-destructive but which for them have held many rewards, not least of companionship and release from depression.

The Sainsbury Centre for Mental Health has just reported that up to 80% of crime in the UK is committed by people who had behavioural problems as children and teenagers, costing as much as £60 billion a year. Only one child in 20 has a conduct disorder but they go on to commit 30% of crime at a cost to society of more than £22 billion a year. A lifetime of crime committed by a single prolific offending person's behaviour can cost up to £1.5 billion. Another 45% of children have mild or moderate behaviour problems, and go on to commit half of all crime at a cost of £37 billion a year. The Report maintains that early intervention programmes can significantly reduce crime levels. (*The Guardian 23 Nov 2009*)

Other research has shown that two-thirds of crime is committed by around 6–7% of all offenders—namely those prolific offenders identified in the previous paragraph. At some point they will all be on the probation caseload. They are those same children which the Sainsbury Report has identified, only by the time they reach the probation service their behaviour will have become much more damaging and their attitudes more deeply embedded. Even so, some two-thirds of those questioned while in prison expressed the wish to change— they recognise the desolation of their lives but lack the skills to ameliorate it. A vibrant, relevant probation centre offers an opportunity to gain just those skills and the support to help them through the rough times. The probation officer/Service/centre must always focus on the need of those in trouble need to get into wider community networks as soon as ever possible. That's where the voluntary agencies could be most help.

The Sainsbury Report emphasises how much support the parents of children with conduct disorders need. We should not forget that many of the young men coming onto the probation caseload are already parents or soon will be. Part of the group work undertaken at the centre should be intensive parenting tuition. Their own experience has been of inconsistent and unloving parenting. A volunteer ran a parenting group in a YOI and recalled teaching these 18 year olds how to sing the traditional nursery rhymes. It is hard to imagine a more poignant image.

Once they have completed the intensive part of their rehabilitation, they will need continuing support in consolidating their progress. In some cases, this will mean help in getting work or decent housing; in others, a shoulder to lean on, a helping hand in getting into new, non-criminal leisure activities, a sponsor. We should aim to interest various kinds of clubs to take one or two ex-offenders as members and within those clubs to have volunteers willing to introduce and integrate them. Recruiting volunteers seems to be getting more difficult and the Service will have to give some thought on how this might be overcome. If the Service runs the kind of intensive, crisis driven, citizenship courses that I have suggested, then it follows that we need to give them support as they make a re-entry into society. Beyond that, we must try to involve the community as a whole in this enterprise. The Service would need to invest in traditional community work; many of the communities from which offenders come are themselves lacking in investment. Helping those communities to achieve a robust kind of self-help would enable them to re-integrate ex-offenders without harm to themselves. The prize is very great. Sainsbury suggests that preventing one child in 25 from entering a life of crime would be cost-effective. I think we can do better than that.

A probation officer would of course still be responsible for each case. The aim is not to replace him or her with “cheap labour” but to work with individual volunteers and community groups in a genuine crime prevention project. He or she would be tasked with getting a grip on the process.

Establishing the same kind of network would apply to high risk offenders though a probation officer would work directly with the ex-offender with all the continuing assessment and close contact that that implies. Vocabulary is important; we need to have a convention whereby the criminal moves from defendant and offender to ex-offender and, hopefully, fellow citizen.

The service should capitalise on the meetings with magistrates who oversee the supervision that is taking place. Such meetings underline the seriousness with which the offender's behaviour is taken; but it also provides an opportunity for community representatives to reward the offender for the progress he is making—a novel and meaningful experience for most of them. It could also provide them with an opportunity to re-negotiate the deal.

#### RESETTLEMENT

This is a major part of the work. I doubt that it can be much improved without a major recasting of the penal system, along the lines set out by the Commission on English Prisons of the Howard League. They suggest a radical localisation with local authorities taking responsibility for prisons. Most crime is committed by local offenders who will return to the same area. Once local authorities begin to see the large, and largely ineffective, budgets now commanded by the National Offender Management Service, there will be immediate and powerful pressure to use community sentences.

In the meantime, prisons should be accountable to the local probation service for preparing a plan of activity within the prison that matches the assessment of what is necessary to prevent re-offending. Under the scheme

I am putting forward, many of the people sent to prison will have gone through the assessment process. That should be the basis of the plan to be followed.

Ex-prisoners released on licence should follow the same path as those offenders who have been placed under supervision—assessment if necessary, taking part in targeted courses and activities and community support.

September 2010

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### Written evidence from Durham Tees Valley Probation Trust (PB 37)

#### EXECUTIVE SUMMARY

The submission from Durham Tees Valley Probation Trust seeks to answer the questions posed on the role of the Probation Service as clearly as possible and with brevity. We have also, as requested by Sir Alan, during his recent visit to the North East, provided a submission which seeks to identify some of the barriers to working in ways recognised as being effective in reducing reoffending and costs.

This submission is underpinned by an understanding that the public are mistrustful of current sentencing arrangements. We believe the Criminal Justice System requires change which the public can accept and which involve:

- A clear focus on the development of outcome driven strategies (reducing reoffending) based on research evidence and which is cost beneficial in so far as resources are matched to the level of risk posed by offenders.
- The highest intensity of supervision should be concentrated on the highest risk offenders with less supervision with low risk offenders.
- Research evidence which shows levels of supervision for low risk offenders, in partnership with our Community Partners, can be reduced without increasing the risk of reoffending.
- Durham Tees Valley Trust's structured supervision programme which has been shown to be statistically significant in reducing reoffending. It has undergone peer review evaluation by a top international journal and publication is imminent.

#### 1. Are probation services currently commissioned in the most appropriate way?

1.1 The Offender Management Act 2007 provided for Probation Services to be commissioned by the DOM and delivered under Contract.

The aspirations that contracts be more reflective of local needs and risks has not materialised. Central control and influence over Contract content and volumes has remained, largely, unaltered. It is not clear whether the capacity for a shift from central to locally determined volumes is available for 2011–12. In the context of Contract discussions and negotiations there has been no movement towards increased local dialogue about the delivery of Probation Services which are effective in reducing reoffending.

#### 2. How effectively are probation trusts operating in practice? What is the role of the probation service in delivery of "offender management". How does it operate in practice?

##### Probation Trusts In Practice

2.1 Probation Trusts differ little materially from Probation Boards. It is not obvious to Trusts that Probation Governance is understood and appreciated by NOMS.

2.2 This might be due to:

- Trusts not yet being subject to less regulation and proper autonomy to operate at arms length from Government as a NDPB (ie being less risk averse and better at managing risk).
- Trusts having no freedom to control their own finances by, for example, being granted year end flexibility.
- Trusts having no freedom to control the regime within which offenders are managed.
- Having no different scope to be more innovative and outwardly focused (ie entering into joint ventures and starting social enterprises when these offered best solutions).

2.3 Trusts are demonstrating the capability to work more efficiently. Trusts have "delayed" and achieved greater efficiencies. Processes driving this (ie Specification Benchmarking and Costing Programme) take little note of effectiveness of services delivered).

2.4 Trusts are required to respond to the "law of unintended consequences" ie being required to manage complex and time consuming issues such as VAT and Corporation Tax.

## Probation Trusts and Offender Management

2.5 The term Offender Management is ambiguous. Current arrangements are overly complex and bureaucratic. It is not clear if the main purpose of Offender Management is to “administer” an offender through the different requirements of his/her sentence (ie is a background to other programming) or to be instrumental in addressing offending behaviour (ie is about effectiveness and is focused on outcomes).

2.6 The emphasis at present is on the former. This reflects a Performance and Management regime which emphasises outputs rather than outcomes. It results in the majority of Probation Staff who directly supervise offenders doing so as a background to other “programming”. This involves administering and/or brokering the activity of the minority of staff who deliver this “other programming” (ie Accredited Programmes; Community Payback).

2.7 There is an urgent need for Offender Management to be more directly concerned with addressing offending behaviour with the aim of achieving improved outcomes (rates of reoffending).

2.8 If the improved outcomes delivered by the adoption of “evidence based” supervision of offenders is to be realised, this approach needs to be taken “to scale”. To achieve this, supervision of offenders should be:

- Structured.
- Cognitive—behavioural.
- Delivered with integrity.

2.9 To achieve this, greater flexibility within a less regulated Performance and Management framework is required (see comments “Probation Trusts in Practice”).

How does it operate in practice?

2.10 The majority of Offender Managers time is currently devoted to the administration of Order and Licences. It acts as a background to other programming. In Durham Tees Valley, we are committed to evidence based practice. Our wish is to employ methods that can be shown to reduce reoffending. Durham Tees Valley has a structured supervision programme, Citizenship. This has, through independent evaluation been shown statistically to be effective in reducing reoffending. Our model has been accepted for publication by a top international journal having gone through a process of peer review.

*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?*

3.1 The Criminal Justice Act 2003 provides for a range of requirements to be included in community orders, not all of which are managed by the Probation Service, some are dependant upon Services commissioned from partner agencies or organisations. Best examples of this are Health in respect of Drug and Alcohol Treatment Requirements. Most requirements can be utilised fully by sentencers but the following constraints are noted:

- some areas 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 Mental Health Treatment, Alcohol Treatment or Drug Treatment;
- there are variances between areas in the use of electronic monitored curfews, particularly to re-inforce other elements of a community order or as an additional more onerous requirement following failure to comply;
- provision of accredited programmes is currently driven by targets set by the commissioners. These reflect centrally determined volumes, reflective of budget rather than local need and risk and not by need as assessed by Trusts advising Sentencers. Improved understanding and legislative initiatives have combined to create significant supply and demand issues for programmes addressing Domestic Violence and Sex Offending;
- areas, particularly smaller ones, cannot always start offenders on an accredited programme within the timescale that sentencers find acceptable. There exists a significant and growing tension between the need to manage Accredited Programmes efficiently and Audit Standards which are prison centre and uncoded; and
- the increase in the number of offenders with limited comprehension of English who therefore need interpreters has in some areas, particularly rural ones, limited their access to some provision such as accredited programmes and Community Payback.

3.2 Areas are able to provide sentencers with a wide range of Specified Activity Requirements to address issues such as lower level alcohol misuse, debt and money management, compliance and parenting skills. Areas have developed a range of provision for women offenders, thus reflecting a commitment to Corsten.

3.3 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.

3.4 Where offenders fail to comply, orders are rigorously enforced, a process which has been transformed over the last ten years. Probation staff have also developed approaches which are about achieving offender compliance, enforcement is used as one of a range of means to secure compliance. Probation staff have sought effective ways to ensure that offenders do not breach their orders. These include a more thorough exploration with individual offenders at induction of factors which might inhibit compliance (eg employment, child or dependant care responsibilities) and the use of text messaging to remind offenders of their appointments.

3.5 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, where necessary, rigorously enforced.

#### *4. What role should the private and voluntary sectors play in the delivery of Probation Services?*

4.1 The range and nature of needs and risks posed by offenders mean Probation Trusts cannot address these alone. We need the support, involvement and contribution of other sectors, particularly as we move to a more outcome based performance framework.

4.2 Durham Tees Valley believes and has evidence to support, that offenders risk of reoffending is reduced when “other”, community based organisations are involved in their management. Durham Tees Valley is supportive of a greater involvement for other sectors, where that involvement can demonstrably improve outcomes.

4.3 Durham Tees Valley believes this involvement can be facilitated through Probation as “Lead Provider”. Trusts should be enabled to Commission Services which improve effectiveness and efficiency. Structures which embed Trusts in partnership with local agencies should be maintained and strengthened. This can be achieved through further local partnership arrangements under the Crime and Disorder Act 1998 and exploiting Probation’s position as a Responsible Authority.

4.4 Trusts should be required to develop transparent and robust Commissioning arrangements based on recognised methodologies.

#### *5. Does the Probation Service have the capacity to cope with a move away from short custodial sentences?*

5.1 Capacity is a balance between available resource and an ability to prioritise in pursuit of an outcome, in this case reducing reoffending. The argument about limited resources is accepted in almost all areas of public service. It does not appear to be accepted in respect of sentencing. The case is made and the system currently operates in the context that sentencing should not be linked to resources and the justice system should be allowed to impose the appropriate sentence without being constrained by availability of resources or the effectiveness of those sentences.

5.2 If demand exceeds supply/availability of services, interventions and levels of supervision that can be provided are reduced. It would be more satisfactory if this allocation process was managed effectively at the point of sentence and that the Probation Service was consulted on issues of risk levels and quantity of care that were in their scope to manage effectively.

#### *6. Could Probation Trusts make more use of restorative justice?*

6.1 The short answer is yes. The long answer is concerned with clarity about what is meant by “restorative justice” and what outcome of restorative justice is sought. In common with the themes expressed in this submission (see Executive Summary) we would see a place for restorative justice if the outcomes sought were clear and understood (victim satisfaction, offender contrition, victim compensation, reduced levels of reoffending) and achieved by the schemes/arrangements adopted.

#### *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?*

7.1 The issues at the heart of this question is the extent to which different groups of offenders require different means of management reflecting the different needs driving their offending and the risk associated with those needs. Understanding the different issues driving offending by different groups is a pre requisite component of managing these needs and risk. A capability to “differentiate” these needs and risks at a local level is essential. The delegation of discretion to Probation Chief Executives is required to ensure a more “responsive” approach in pursuit of a common outcome goal. The effectiveness of discretion exercised should not only be judged by achievement of defined actions but also by HMIP.

#### *8. Is the provision of training adequate?*

8.1 The new Probation Qualification Framework (PQF) training arrangements for practitioner staff (PO and PSO staff) have only just been introduced this year, after several years of work on the revised arrangements.

8.2 The PQF ensures that PSO staff undertake a specified level of training immediately following their appointment and achieve an accredited qualification, which is a very positive development. We also now have

the facility to train existing staff through to qualified PO status, or to recruit direct entrants, and this provides Probation Trusts with much more flexibility in terms of staff development and workforce planning. The curriculum for each of the levels of training appears to be comprehensive and relevant, and will ensure skilled, qualified staff are available at both PSO and PO grades. We believe the current arrangements are more than adequate and very much welcome their introduction.

8.3 Within DTV Probation Trust, staff at all levels receive ongoing training and development, targeted at their specific needs and role. This is assessed and delivered at local Trust level with minimum resources and maximum effectiveness. These arrangements work well.

8.4 Overall, we believe it is essential that Probation staff are well trained and appropriately qualified. The current arrangements are perfectly adequate to deliver this objective.

September 2010

## Annex 2

### BARRIERS TO REDUCING RE-OFFENDING AND REDUCING COSTS IN THE NATIONAL OFFENDER MANAGEMENT SERVICE

#### CONTEXT

Probation Trusts, so far, differ little materially from Probation Boards.

- Trusts are not yet being subject to less regulation and proper autonomy to operate at arms length from Government as Non-Departmental Public Bodies (ie being less risk averse and better at managing risk).
- Trusts have no freedom to control their own finances by, for example, being granted year-end flexibility.
- Trusts have no freedom to control the regime within which offenders are managed.
- Trusts have no different degree of scope to be more innovative and outwardly focused (eg entering into joint ventures and starting social enterprises when these offer best solutions).
- Trusts are demonstrating the capability to work more efficiently.
- They have “delayed” and achieved greater efficiencies.
- Processes driving these efficiencies (ie the Specification Benchmarking and Costing Programme) take little note of the effectiveness of services delivered.
- Trusts are demonstrating the capability to deliver effective services. This is demonstrated by our contribution to year on year reductions in crime and re-offending. More can be done to increase effectiveness.

#### 1. POSITIVE FEATURES OF PROBATION TRUSTS WITH POTENTIAL TO REDUCE RE-OFFENDING AND REDUCE COSTS

1.1 The Durham Tees Valley (DTV) Strategy is:

- outcome driven (aimed at reducing re-offending);
- research evidence based (based on evidence from international literature and own evaluations of what reduces re-offending);
- cost beneficial (matches resources to the level of risk of the offence); and
- working to change the culture of the organisation to focus on reducing re-offending.

1.2 The DTV Trust is committed to evidence-based practice, and therefore wishes only to employ methods that can be shown to work in reducing re-offending. (Contextual issues set above mitigate aspects of this).

1.3 The DTV Trust has a structured supervision programme, “Citizenship”, which has through independent evaluation been shown statistically to be effective in reducing re-offending (evaluation peer reviewed by a top international journal).

1.4 International research evidence shows that high intensity supervision should be concentrated on the highest risk offenders with less supervision for low risk offenders. Trusts have some scope to differentiate (via Tiering) but more is required.

1.5 Based on research evidence the DTV Trust could, if permitted further, reduce the input to low risk offenders, in partnership with our community partners, without increasing the risk of re-offending.

1.6 The DTV Trust works jointly with other agencies (ie the Police and local authority partners) who share the main target of reducing re-offending. Partnerships have been formed with other voluntary sector agencies with the aim of mainstreaming offenders back into non-criminal justice community support.

## 2. BARRIERS TO REDUCING RE-OFFENDING AND REDUCING COSTS

### *Sentencing*

2.1 Research evidence has contributed to a reduction in re-offending through evidence-based offending behaviour programmes, and more recently through greater adoption of evidence-based offender management and offender supervision. The DTV Trust is striving to work as an evidence-based organisation. However this is inhibited by working within a criminal justice system where sentencing processes are not evidence-based.

- 2.1.1 At a macro level, the Probation Service is in the unenviable position of being unable to select the work it takes on to match the resources available to run the Service. The SBC Programme is designed to mitigate some of the capacity issues. It does not address the issue of selection. As sentencing is not evidence-based, it is difficult to anticipate the level of risk of the offenders who will be placed under community supervision, and the number of offenders to be managed. Although locally we are re-focusing our work to concentrate more resources on high risk offenders and devoting less resource to low risk offenders. It would be advantageous if this approach was adopted across the National Offender Management Service so that prison resources could be concentrated on the offenders at highest risk of re-offending and harm, with the Probation Service managing those offenders that have reduced their levels of risk or who have demonstrated the potential to do so.
- 2.1.2 The Probation Service manages a range of offenders from low to very high risk. Partly due to policy in respect of purposes of sentencing and in some instances subjective decisions about the level of risk of those released from prison. Some offenders at very high risk of serious harm are being supervised in the community; conversely many offenders with less serious crimes are in prison on short sentences. This system of sentencing and early release is not always transparent to the Probation Service, let alone the public, and should be rationalised.
- 2.1.3 As has been recognised, there is a need for a criminal justice system in which the public has confidence, with a focus on the protection of the public and a more open and accurate means of assessing risk of re-offending and risk of harm. The Secretary of State has said that sentencing processes will become more transparent to the public by introducing a minimum and maximum sentence, within which release will be earned while in prison. We do not think that this will be sufficient to change the public's perception of the transparency of the sentencing process, and suggest a more radical approach of evidence-based sentencing would be more appropriate.
- 2.1.4 Although it is accepted in the Health Service that there is a finite amount of money to be spent on health, this argument is not generally accepted when it comes to sentencing. The case is currently made that sentencing should not be linked to resources and the justice system should be allowed to impose the "appropriate" sentence without being constrained by availability of resources. This ignores the fact if demand exceeds availability, a reduction in the interventions and level (including quality) of supervision that can be provided follows. It would be more satisfactory if this allocation process was managed effectively at the sentencing level rather than being left to chance, and that Probation Services were consulted on the risk levels and quantity of cases that were in their scope to manage effectively, while reducing re-offending.
- 2.1.5 There is evidence that diversion schemes can reduce the numbers entering the criminal justice system. There is a need for provision of more pre-court diversion schemes for first time offenders and for those whose offending is more related to mental health problems than to criminality.

### *Need for Flexibility to Manage Offenders according to evidence-based practice*

2.2 The key role of the Probation Service is to reduce re-offending by offenders subject to supervision or post-release licence by working, directly and in partnership with other providers, on the issues which drive offending behaviour.

- 2.2.1 It is not clear if the main purpose of Offender Management is to "administer" an offender through the different requirements of his/her sentence (ie, is a background to other programming) or to be instrumental in addressing offending behaviour (ie, is about effectiveness and is focused on outcomes). We propose that this should be outcome driven (ie, reducing re-offending) and evidence-based (ie, based on research evidence of what is effective in reducing re-offending).
- 2.2.2 This should involve delivering Offender Management and offender supervision, for which the local Probation Service is the lead provider working with partners within, for example, local Crime and Disorder Reduction Partnership.
- 2.2.3 There is an urgent need for Offender Management to be more directly concerned with addressing offending behaviour with the aim of achieving improved outcomes (rates of re-offending).
- 2.2.4 If the improved outcomes delivered by the adoption of "evidence-based" supervision of offenders is to be realised, this approach needs to be taken "to scale". To achieve this, supervision of offenders should be:
  - Structured.
  - Cognitive-behavioural.
  - Delivered with integrity.



- 2.2.5 To achieve this, greater flexibility within a less regulated Performance and Management framework is required.

#### *Performance and Management Framework Requirements*

2.3 A range of targets and procedures mitigate against the key role of the Probation Service set out above: The current performance management framework arrangements have grown into cumbersome, complex arrangements with limited relevance to the achievement of outcomes. Some examples follow:

Offender Managers work in a context of:

- 4 Tiers of offenders
- 3 MAPPA levels
- different “layers” of OASYS assessment
- 2 types of court reports (fast and standard delivery)

- 2.3.1 There is a requirement to update OASYS throughout the Order, even for Tier 1 and Tier 2 offenders (low risk).
- 2.3.2 There is a requirement to commence within 6 weeks pre-programme work on an offender with a programme requirement, even when the offender is not programme-ready. This interrupts other work and means the pre-programme work has to be done twice.
- 2.3.3 A requirement is in place to see offenders at a regularity that is unrelated to the work that needs to be done and does not relate to officer judgement or discretion.
- 2.3.4 Sentencing which means that some offenders receive programme requirements when they are often too low risk and therefore receive service delivery inconsistent with their Tier level (eg some Domestic Violence perpetrators who wouldn’t otherwise be Tier 4—high risk).
- 2.3.5 A list of Performance Targets is attached which shows the targets which we suggest should be removed, to be replaced with one performance target (reducing re-offending) for the DTV Trust and the individual Offender Manager, for which both are accountable.

### 3. SOLUTIONS

3.1 Performance Targets should be replaced by one target outcome based performance measure, to “reduce re-offending”; each Offender Manager should have professional responsibility for meeting that target, incorporating all statutory and ethical requirements of offender management.

3.2 Quality of supervision should be emphasised rather than quantity.

3.3 At the change-over to the main target, “Citizenship” should be re-launched and Offender Managers given training in the key components of effective evidence-based practice: assessment of risk, need, and responsibility (ie intervention style to coincide with the capabilities of the offender).

3.4 Changes in practice should be evaluated to ensure that the changes are matching or improving on the individual target of reducing re-offending.

The DTV Trust would be willing to pilot and evaluate any scheme to reduce barriers as requested by the Justice Select Committee.

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### **Written evidence from Northumbria Probation Trust (PB 39)**

#### EXECUTIVE SUMMARY

Northumbria Probation Trust welcomes the opportunity to participate in this Inquiry and the following pages contain our detailed response to the key questions posed by the Select Committee. Our response may be summarised as follows:

- We question the current NOMS business model in terms of how it is set up for the commissioning of services, its sometimes intrusive interface with Trusts as supposed arm’s length providers and the unclear way in which local Probation Trusts are locked into restrictive national contracts for property and ICT.
- We emphasise the importance of the end-to-end Offender Management process which holds together and makes sense of the totality of intervention for individual offenders. We believe that diluting that process by contracting-out core elements is potentially risky.

- We stress the expertise and long experience that exists within Probation Trusts in commissioning services from other sectors and see no difficulty in expanding the amount of sub-contracting that takes place. Indeed we see some sentencing options, such as mental health treatment, as being very reliant on an active contribution from other agencies. We note some problems, however, in relation to the TUPE transfer of staff should existing tasks be contracted-out and in terms of how volumes may be specified in contracts where demand and capacity are largely in the hands of a third party, the courts.
- We welcome the potential to work with more offenders who currently receive short custodial sentences and come out of prison unsupervised. There is a caveat here, of course, in that Trusts would need the resources to do this additional work in a wider context of severe budgetary constraint across the public sector.
- Similarly, whilst we would welcome the opportunity to do more Restorative Justice work we are constrained by the NOMS Specification, Benchmarking and Costing and Best Value approaches which have put a price on our victim work, no doubt to be reflected in Trusts' contracts, which leaves a limited amount of room for expansion.
- Also on the same theme, all Trusts would be keen to work more differentially with groups of offenders presenting different mixes of risks and needs but, again, available resources and an increasing emphasis on NOMS specifying the detail of our work are potential barriers. Nevertheless, Northumbria has a good record of innovative, cross-agency work with women offenders, for example, and highly developed multi-agency public protection arrangements.
- We comment positively on recent internal changes to how probation staff are trained and on the emerging potential for us to generate income by offering more training than currently to other agencies.

We commend our full submission to the Inquiry and would be more than willing to provide further evidence if needed.

Northumbria Probation Trust's response to questions posed by the Justice Select Committee:

*1. Are probation services currently commissioned in the most appropriate way?*

1.1 The 35 Probation Trusts created in April 2010 are arm's length providers of services to regional Directors of Offender Management (DOMs) operating now in a National Offender Management Service (NOMS) business model featuring active contract management, a national performance framework, tight budget control and potential competition from other providers. However, we are not sure whether this model is the most effective way of commissioning probation services. We have, effectively, two commissioners. Firstly we have the DOM and secondly we have NOMS / Ministry of Justice. We believe that having both does not provide the most effective commissioning model. Overall, we believe the current model does not work effectively for the following reasons;

- There is a conflict with the principle established by NOMS of probation trusts as arm's-length operators.
- The way in which the DOMs' regional offices have been set up are inappropriate. Currently, our "commissioner" also holds our budget thereby creating a conflict of interest.
- The lack of a competitive market obviously limits what "real" commissioning can be but the removal of demand management from the commissioner also limits effectiveness. No commissioner can truly buy services with unknown and uncontrollable demand.

1.2 We also believe that for a commercial model to work, trusts need to have more freedom from the restrictive national contracts agreed by NOMS for areas such as estates and facilities management and for ICT. For example, it seems illogical to us that all trusts pay the same flat rate per square metre for their property regardless of location. In order to be truly competitive Northumbria should work to true North East property costs not a notional national average. We believe Trusts should have control over all of their assets, including property, and the freedom to acquire and dispose of them in a commercial way.

1.3 In relation to ICT, we accept the need for an overarching strategy across the wider Ministry of Justice and the potential benefits of economies of scale but the current national contract does not fit with an approach in which Trusts are expected to be responsive to locally identified needs and work collaboratively with local partnerships. In our view, future contracts should agree key specifications within a framework which allows local flexibility through a range of approved suppliers. Such an approach would, in our view, maximise the benefits of large scale procurement whilst at the same time allowing Trusts to select services that are most suited to local needs.

*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?*

2.1 The performance of Probation trusts is a matter of public record: they are measured on a wide range of targets in the Probation Trust Rating System (PTRS) although we would welcome a move from an over-reliance on many numerical measures to fewer outcome measures, more qualitatively by HM Inspectorate of

Probation, by DOMs under their contract management arrangements and, from this year, as part of local authority scrutiny arrangements given that trusts are now part of the responsible authority for community safety.

2.2 One major strength of probation is its involvement at all stages of the criminal justice process, from providing information in bail decisions, through the provision of pre-sentence reports to court and the delivery of community sentences to the supervision of prisoners post-release: in the case of Life sentences this can literally mean till the offender dies. Offender Management (OM) is thus seen as providing a consistent thread in an end to end process by allocating an Offender Manager to an offender, for the duration of at least the current contact, starting either pre- or immediately post-sentence. Done well, OM can create a positive, proactive and motivational relationship between supervisor and offender, maintain the best possible, up to date assessment of risk and needs and broker exactly the right package of interventions

2.3 For the individual offender, regardless of who provides each element. OM can be the glue that holds the work with an individual together.

*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?*

3.1 As far as we are aware no probation trust provides the full menu of accredited programmes and other options created under the 2003 Criminal Justice Act but all will work with local sentencers, through well-established liaison systems, to offer a menu of options which best meets local needs in the context of limited resources. We believe that some requirements need further development on an inter-agency basis as their availability can be patchy even within the same probation trust catchment area. We are thinking particularly of requirements concerning drug and alcohol misuse and the provision of mental health treatment requirements where success depends on active support from health providers and commissioners.

*4. What role should the private and voluntary sectors play in the delivery of probation services?*

4.1 Probation services have previously had targets (reaching 7% of total budget at one point) for spending on the commissioning of offender-facing services from the private and voluntary sectors. Most services achieved that target and some over-achieved it. When the value of externally-generated income (European Social Fund, Single Regeneration Budget etc) was taken into account the sums being managed and the added value achieved were considerable.

4.2 Currently, there is no spending target. Various sums of money have been taken from trusts and pooled with other agencies' funding to create, for example, Supporting People budgets to provide supported accommodation for all vulnerable groups in a locality. The spending by trusts on outsourced offender services is thus much less than it once was, though the expertise still exists within probation to administer the more modest budgets now allocated to sub-contracting (in Northumbria this is currently about 1% of our budget).

4.3 We believe probation trusts would welcome an expanded local commissioning role. However, we do believe that certain core aspects of our work, such as offender assessment, managing risk etc, should remain within probation trusts. The real value is around commissioning those activities that provide the added value / wrap around offender services. We believe that organisations should play to their strengths, delivering what they have the skills and capacity for, eg the private sector is successful in running electronic monitoring. The voluntary sector is successful in adding value but neither sector wants to run, or is equipped to run, the full scheme of offender management. We believe that our strengths include the core service of offender management and report writing for sentencers.

4.4 That said, there are some potential barriers such as TUPE arrangements applying to the contracting-out of existing services. We also feel there will be problems over volume targets which may be summarised in the so far unanswered question of what would happen if an external provider were to meet all delivery targets well before the end of the financial year?

4.5 Probation trusts will generally have no objection to supporting a role for the private and voluntary sectors in the provision of some offender services. However, other key partners will also need to subscribe to that direction of travel. How far will partners like the Police be willing to engage with other sectors on the sharing of highly sensitive information in relation to public protection? There is a risk in diluting the invaluable end to end Offender Management process if parts of it were to be contracted-out.

*5. Does the probation service have the capacity to cope with a move away from short custodial sentences?*

5.1 Yes, given the resources to deal with a greater number of offenders in the community. Those who have been given a community sentence rather than a short. The custodial one will tend to attract more requirements, and thus more costs, than average. Any significant increase in community sentencing could be funded by a proportion of the savings made from a reduction in custodial sentencing.

5.2 Northumbria has particularly strong relationships with its courts and this is evidenced by the fact that our rate of imprisonment in Magistrates Courts cases is only 2.1% whereas the national average is 4%. Put another way, we are already trusted to deal with a higher risk group of offenders in the community than is usual. If the government is considering targets for more community sentencing care must be taken to ensure

that the extra cases genuinely come from those who otherwise would have gone into custody and not from those who may have had fines and discharges. Any targets might have to be differential ones, depending on the existing sentencing patterns in individual trusts.

*6. Could probation trusts make more use of restorative justice?*

6.1 Probation trusts all work with victims of sexual and violent offences where the offender has been sentenced to at least 12 months in custody. As part of that statutory role many trusts also offer elements of restorative justice (RJ). For example, Northumbria has facilitated exchanges of letters between offenders and victims where both parties agree and we have also gone further by setting up a limited number of face to face meetings. The main barrier to extending this work is cost. Trusts have recently gone through both a NOMS Best Value review and a Specification, Benchmarking and Costing (SBC) appraisal of victims work and the costs that are now expected to be incurred in this work do not allow for any easy expansion into more sophisticated RJ approaches. Should NOMS wish trusts to do more, the expertise certainly exists in probation if the funding is available and if contracts are varied to commission the extra work.

*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?*

7.1 There has been much renewed interest in women offenders since Baroness Corston's report on women in the justice system. In Northumbria each local OM team has appointed a "women's champion" and all locations have women-only reporting times. There is support across the trust for the development of "one-stop shops" for women with a range of problems, including offenders, in the main centres of population. Newcastle upon Tyne already has two such facilities and rural Northumberland has developed a "virtual" service which includes, for example, staff from outside agencies spending some of their time on our premises and in other, neutral locations. One of our women's champions was shortlisted in the first NOMS national Probation Awards in 2009.

7.2 In other parts of the country we know some trusts have developed great expertise in working with BME offenders though this has never needed to be a high priority in Northumbria given local demographics.

7.3 Across the whole of England and Wales the probation service displays a high level of skill in dealing with offenders posing a risk of harm to the community. This is only made possible with the support of our partner organisations including the Police within Multi Agency Public Protection Arrangements (MAPPA). For prolific offenders who do not pose a risk of serious violence or sexual offending most trusts also have well-established Prolific Offender Schemes, often with significant extra resourcing drawn in from Police, local authorities and other partners. Many of these schemes are now being extended to a more holistic "integrated offender management" approach to involve, for example, short term prisoners not subject to licence supervision on release. The potential for further development of this work, and for making a real impact on reoffending rates, is huge.

*8. Is the provision of training adequate?*

8.1 Yes. We have only recently implemented a new national qualifications framework for probation staff and this has seen many improvements including the fact that our staff can become qualified Probation Officers without needing to resign, take a pay cut and risk not having a job at the end of their training. As well as these changes to how people qualify as Probation Officers we also have very good arrangements for the NVQ training of Probation Services Officers and our support staff. We are also committed to maintaining a range of non-accredited but otherwise excellent short courses on aspects of our role such as enforcement, pre-sentence report writing, risk assessment and management, public protection and safeguarding children, mental health, working with racially motivated offenders, working with female offenders and (very soon) work with offenders who are armed forces veterans. These courses are based on locally identified needs and make full use of local partnership arrangements to ensure effective dissemination of knowledge across criminal justice agencies in Northumbria. This ability to reflect local need in addition to the more generic probation qualification and NOMS programmes is an important part of our commitment to addressing the concerns that affect the local community across Northumbria.

8.2 Northumbria recognises the new environment that the creation of probation trusts has brought and has ensured that its training provision reflects this. In addition to our core service delivery training we have active programmes on leadership and management development that support the effectiveness of our management team.

8.3 Training within Northumbria has been rated as high quality in both the most recent HMIP Inspection and its most recent Investors in People (IiP) Assessment. Further evidence of this is our ability to "sell" our expertise to others and recently Northumbria staff have trained local Police and Prison staff in a variety of risk assessment and management methods. This perhaps reflects that though not as well funded as these agencies, our expertise is such that we are the first port of call for in-depth training in areas such as risk assessment.

## Written evidence from the Criminal Justice Alliance (PB 40)

### EXECUTIVE SUMMARY

The Criminal Justice Alliance (CJA) is pleased to have the opportunity to submit evidence to this Inquiry. This submission briefly considers those questions posed by the Committee on which we have a view. In particular, the CJA welcomes the Committee's recognition of the needs of particular groups within the probation services' caseload in setting its terms of reference, and this response looks at what more could be done to meet the needs of women, young adults, offenders with addictions, and mentally disordered offenders.

### ABOUT THE CRIMINAL JUSTICE ALLIANCE

The CJA is a coalition of 48 organisations—including campaigning charities, voluntary sector service providers, research institutions, staff associations and trade unions—involved in policy and practice across the criminal justice system.<sup>14</sup> The CJA works to establish a fairer and more effective criminal justice system.

### SUBMISSION OF EVIDENCE

#### *Background*

1. During the last decade, the provision of probation in England and Wales has undergone three major restructures, with the creation of a National Probation Service (NPS) in 2001, the creation of the National Offender Management Service (NOMS) in 2004 and the significant restructuring of NOMS in 2008. NOMS has also been subject to a number of further restructures that have affected probation services, while the creation of probation trusts has consumed considerable resources as areas prepared for trust status. This will clearly have had an impact on the work of the probation service, and the Centre for Crime and Justice Studies (CCJS) has concluded that “since the creation of the NPS, there has been almost constant change, to the point of disruption at times, in the work of supervising offenders.”<sup>15</sup>

2. As a result of these reorganisations, it is difficult to measure accurately changes in expenditure on the probation service, but Jack Straw, the then Justice Secretary, claimed in February 2009 that there had been a 70% real terms increase in probation budgets in the preceding 12 years<sup>16</sup> and the CCJS has concluded that “spending in local probation areas has increased over 60% in real terms over the last ten years. Were central probation spending to be taken into account (by the National Probation Directorate and then by NOMS), this increase would have been considerably more. However, it is important to note that the pace of this increase has significantly slowed since 2005–06”.<sup>17</sup>

3. However, during this time the number of people under probation supervision has also grown significantly, with the CCJS adding that, despite an overall increase in expenditure greater in percentage terms than the population increase, “for probation, the trend of increased operational and frontline staffing clearly ended in 2006. As a result, recent years have seen a reduction in staff working directly with those subject to probation supervision at a time when the caseload continued to grow.”<sup>18</sup>

4. It is important that the structural changes that the probation service has undergone and its growing caseload are taken into account when considering the work of the probation service and in the recommendations of this Inquiry.

*Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

5. There are concerns about the operation of the Community Order (CO) and the Suspended Sentence Order (SSO) that suggest that they could be doing more to rehabilitate offenders.

6. In particular, some of the potential requirements of the Orders appear not to be available in some areas and some sentencers may not know what is available in their area, with an evaluation of sentencers' views concluding that “there was a clear lack of knowledge about the availability of requirements; and all requirements were not available in each area”.<sup>19</sup> A survey of probation staff also discovered concern about

<sup>14</sup> Although the CJA works closely with its members, this submission should not be seen to represent the views or policy positions of each individual member organisation. For a full list of the CJA's members, please see <http://www.criminaljusticealliance.org/organisations.htm>

<sup>15</sup> P 40: Oldfield, M and Grimshaw, R with Garside, R and Silberhorn-Armantrading, F (2010) *Probation Resources, Staffing and Workloads, 2001–2008*—available at [http://www.crimeandjustice.org.uk/opus1756/Probation\\_Resources.\\_Staffing\\_and\\_Workloads\\_2001–2008\\_revised\\_edition.pdf](http://www.crimeandjustice.org.uk/opus1756/Probation_Resources._Staffing_and_Workloads_2001–2008_revised_edition.pdf)

<sup>16</sup> <http://www.justice.gov.uk/news/sp050209.htm>

<sup>17</sup> P 37: Mills, H, Silvestri, A and Grimshaw, R with Silberhorn-Armantrading, F (2010) *Prison and probation expenditure, 1999–2009*—available at [http://www.crimeandjustice.org.uk/opus1793/Prison\\_and\\_probation\\_expenditure\\_1999–2009.pdf](http://www.crimeandjustice.org.uk/opus1793/Prison_and_probation_expenditure_1999–2009.pdf)

<sup>18</sup> P 38–39: Mills, H, Silvestri, A and Grimshaw, R with Silberhorn-Armantrading, F (2010) *Prison and probation expenditure, 1999–2009*—available at [http://www.crimeandjustice.org.uk/opus1793/Prison\\_and\\_probation\\_expenditure\\_1999–2009.pdf](http://www.crimeandjustice.org.uk/opus1793/Prison_and_probation_expenditure_1999–2009.pdf)

<sup>19</sup> P 39: Mair, G, Cross, N and Taylor, S (2008) *The community order and the suspended sentence order: The views and attitudes of sentencers*—available at <http://www.crimeandjustice.org.uk/sentencersviews.html>

the limited availability of some requirements, in particular the alcohol and mental health treatment requirements,<sup>20</sup> while probation officers have also reported that there are issues related to the monitoring of prohibited activity and exclusion requirements, which they consider to be unenforceable.<sup>21</sup>

7. Evidence to the Fawcett Society's Commission on Women and the Criminal Justice System also suggested that magistrates thought that they were well informed about the range of COs but that there were limitations in the information about the services which were actually available in their local area.<sup>22</sup> One magistrate suggested to Fawcett's Commission that the issue is resourcing and the availability of programmes, saying: "I think there is plenty of information regarding COs, it's just a pity the money doesn't seem to be there in order for them to be carried out effectively ... Personally I don't feel at present that many of these orders actually work."<sup>23</sup>

8. Possibly as a result of these factors, some requirements are rarely used by sentencers. For example, despite the fact that at least 40% of offenders on COs are thought to have a diagnosable mental health problem, only 686 Mental Health Treatment Requirements (MHTRs) commenced in the year to 30 June 2008 out of a total of 221,700 requirements issued with COs across the country.<sup>24</sup> In 2006, only 725 of the 203,323 requirements commenced under COs were MHTRs and only 164 of the 60,185 requirements commenced under SSOs were MHTRs.<sup>25</sup>

9. It is essential for effective rehabilitation that all the requirements for the CO and the SSO are available in every area, that the probation service has sufficient funding and support to provide robust community sentences, and that sentencers are aware of what provision is available in their local area (with the probation service playing a central role in providing sentencers with information) and have confidence in it. Evidence suggests that this is not currently the case, and addressing this should be a priority. However, while it is essential that the most appropriate requirements are available, that is not to say that sentencers should be encouraged to "overload" offenders with multiple requirements on every order, which would simply make breach more likely.

*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

10. The CJA strongly endorses the use of community sentences as preferable to custodial sentences where an offender does not pose a threat to public safety. However, we recognise the need to ensure that demands placed on the probation service are matched by appropriate new resources. Given the current financial climate, this is likely to require savings to be made elsewhere.

11. While reductions in the use of short prison sentences will not lead to straightforward cashable savings, the Ministry of Justice must look to fund increased spending on probation services by making savings in the prison system's costs. This will require a substantial and sustained reduction in the prison population, which will in turn require more fundamental reform of the use of prison than solely reducing the use of short custodial sentences. A package of reforms to significantly reduce the use of prison and shorten prison sentences would allow for an end to the current prison-building programme and, in time, would enable current prisons to close. This would free up significant resources to spend on providing sufficient capacity in the community.

12. This model of "justice reinvestment" was explored extensively in a previous Justice Committee inquiry.<sup>26</sup> The CJA strongly endorses the recommendations of that inquiry, and encourages the Committee to continue to urge the Government to implement its recommendations.

*Could probation trusts make more use of restorative justice?*

13. At present the availability of restorative justice is extremely limited. The CJA supports introducing restorative justice across the criminal justice system, which would reduce reoffending and improve the experiences of those victims who choose to take advantage of this approach. All victims and offenders should have access to good quality restorative services. In particular, the Government should prioritise the introduction

<sup>20</sup> Mair, G and Mills, H (2009) *The Community Order and the Suspended Sentence Order Three Years On: The views and experiences of probation officers and offenders*—available at <http://www.crimeandjustice.org.uk/sentenceshreeyearson.html>

<sup>21</sup> P 46: Mair, G And Mills, H (2009) *The Community Order and the Suspended Sentence Order three years on: The views and experiences of probation officers and offenders*—available at [http://www.crimeandjustice.org.uk/opus1292/Three\\_years\\_on.pdf](http://www.crimeandjustice.org.uk/opus1292/Three_years_on.pdf)

<sup>22</sup> P 28: Commission on Women and the Criminal Justice System (2009) *Engendering Justice—from Policy to Practice: Final report of the Commission on Women and the Criminal Justice System*—available at <http://www.fawcettsociety.org.uk/documents/Commission%20report%20May%2009.pdf>

<sup>23</sup> P 28: Commission on Women and the Criminal Justice System (2009) *Engendering Justice—from Policy to Practice: Final report of the Commission on Women and the Criminal Justice System*—available at <http://www.fawcettsociety.org.uk/documents/Commission%20report%20May%2009.pdf>

<sup>24</sup> P 5: Khanom, H, Samele, C and Rutherford, M (2009) *A Missed Opportunity? Community sentences and the Mental Health Treatment Requirement*—available at [http://www.centreformentalhealth.org.uk/publications/missed\\_opportunity.aspx?ID=594](http://www.centreformentalhealth.org.uk/publications/missed_opportunity.aspx?ID=594)

<sup>25</sup> P 92: Bradley, K (2009) *The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system*—available at [http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_098698.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_098698.pdf)

<sup>26</sup> House of Commons Justice Committee (2009) *Cutting crime: the case for justice reinvestment*, First Report of Session 2009–10, London: The Stationery Office Limited.

of widespread use of pre-sentence restorative justice for adult offenders, which Ministry of Justice research has demonstrated could reduce the frequency of reoffending by 27% following serious crimes,<sup>27</sup> while post-sentence restorative justice should also be offered. The probation service should play an active role in ensuring that restorative justice is available wherever the offender and the victim want it, working closely with the other relevant agencies.

*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?*

14. Research by the CJA's members has demonstrated problems with the use of community sentences for different groups of offenders.

#### Women

15. It is widely-recognised that women who offend have distinct needs and distinct offending behaviour. As research for the Fawcett Society concluded, "it is clear that women offenders' needs tend to be complex and interlinked, often encompassing problems with health, childcare, finances, housing, education, training and employment and experience of victimisation, and thus presenting a challenge to existing agency boundaries, both local and national."<sup>28</sup>

16. Yet the existing evidence does not suggest that community sentences are sufficiently tailored to meet these needs, despite the flexibility offered by the 12 "requirements" available as part of the CO and the SSO. Research by the CCJS on the use of these sentences for women has suggested that "while [these] orders offer courts and the Probation Service the opportunity to make sentences that are more innovative and responsive to the circumstances of offenders, and so potentially more effective, there is limited evidence that this is happening in practice".<sup>29</sup>

17. There is also concern that the probation service's focus on high-risk offenders results in women offenders, who tend to pose lower levels of risk, receiving limited attention and support. Where women do pose a higher level of risk, they may be placed on mixed-sex programmes or on programmes far from home, both of which discourage compliance.

18. Investment in credible and appropriate alternatives to custody for women is essential. Programmes need to be developed in the community which are specifically designed for female offenders and specifically address their needs, while women-only programmes should also be provided. As well as reducing reoffending, community sentences designed specifically for women would also help to reduce the rate of breach, as they would better fit with women's needs and responsibilities. The establishment of the Together Women Programme and the subsequent Ministry of Justice funding for women's centres were a positive step forward in this regard, and must be maintained.

19. In addition to developing more women-specific provision, the Fawcett Society's Commission on Women and the Criminal Justice System has proposed that the specified activity requirement could be used to refer women to voluntary sector organisations for specified programmes or requirements can be used to ensure women receive drug or mental health treatment.<sup>30</sup> This should be considered.

#### Mentally disordered offenders

20. As mentioned previously, there is concern about the scarce use of the MHTR as part of a CO or SSO. The Centre for Mental Health has concluded that this requirement has potential value for offenders with mental health problems, but "that the MHTR needs substantial reinvigoration and reinvention as a widely recognised and utilised non-custodial option".<sup>31</sup> At present there appears to be confusion or reservations among professionals of all agencies as to its scope and its potential use. In addressing this, a protocol is needed at a local level between probation and health services about the management of people on the MHTR, while Lord Bradley, in his review of people with mental health problems or learning disabilities in the criminal justice system, also recommended that local agencies and services, including the probation service, need to work together to better meet the needs of offenders with mental health problems, including in the provision of

<sup>27</sup> Shapland, J, Atkinson, A, Atkinson, H, Dignan, J, Edwards, L, Hibbert, J, Howes, M, Johnstone, J, Robinson, G and Sorsby, A (2008) *Restorative Justice: Does Restorative Justice affect conviction. The fourth report from the evaluation of three schemes*, Ministry of Justice Research Series 10/08, London: Ministry of Justice.

<sup>28</sup> p 51: Gelsthorpe, L, Sharpe, G and Roberts, J (2007) *Provision for women offenders in the community*—available at [http://www.fawcettsociety.org.uk/documents/Provision%20for%20women%20offenders%20in%20the%20community\(1\).pdf](http://www.fawcettsociety.org.uk/documents/Provision%20for%20women%20offenders%20in%20the%20community(1).pdf)

<sup>29</sup> p 37: Patel, S and Stanley, S (2008) *The Use of the Community Order and the Suspended Sentence Order for Women*—available at [http://www.crimeandjustice.org.uk/opus629/The\\_\\_Use\\_and\\_Impact\\_of\\_the\\_Community\\_Order\\_and\\_Suspended\\_Sentence\\_Order\\_for\\_Women.pdf](http://www.crimeandjustice.org.uk/opus629/The__Use_and_Impact_of_the_Community_Order_and_Suspended_Sentence_Order_for_Women.pdf)

<sup>30</sup> p 28–29: Commission on Women and the Criminal Justice System (2009) *Engendering Justice—from Policy to Practice: Final report of the Commission on Women and the Criminal Justice System*—available at <http://www.fawcettsociety.org.uk/documents/Commission%20report%20May%202009.pdf>

<sup>31</sup> p 37: Khanom, H, Samele, C and Rutherford, M (2009) *A Missed Opportunity? Community sentences and the Mental Health Treatment Requirement*—available at [http://www.centreformentalhealth.org.uk/pdfs/Missed\\_Opportunity.pdf](http://www.centreformentalhealth.org.uk/pdfs/Missed_Opportunity.pdf)

psychiatric reports and advice to the courts.<sup>32</sup> The CJA supports the implementation of the Bradley Review in full.

#### Offenders using drug and alcohol

21. Drug and alcohol use is extremely common among offenders, and access to evidence-based drug and alcohol treatment is effective in cutting reoffending. However, while there is some excellent work going on in some areas, the criminal justice system is still failing to rehabilitate too many offenders with addictions to drugs and alcohol. There has been a welcome and important increase in investment in drug treatment in recent years but there remains a shortage of appropriate and effective services. Alcohol treatment within the criminal justice system is also particularly limited in scope and effectiveness, with the requirement to attend alcohol treatment rarely given as part of a community sentence, despite being an available option, and research by the Institute for Criminal Policy Research for the Ministry of Justice finding that there are “high levels of largely unmet alcohol-related need within NPS caseloads”.<sup>33</sup>

22. Addressing drug and alcohol use is central to effective rehabilitation and the probation service must play its part in ensuring that high quality drug and alcohol treatment is available across the criminal justice system, as well as working to develop genuine integrated offender management to facilitate better links between prison and community services for offenders with addictions (and for all offenders).

#### Young adult offenders

23. Young adults aged 18–24, who constitute less than 10% of the population, make up one-third of the probation service’s caseload. Despite this, the criminal justice system does little to recognise young adults as a distinct group and the work of the Transition to Adulthood (T2A) Alliance,<sup>34</sup> to which the CJA has contributed, has demonstrated the limitations of the criminal justice system in effectively preventing reoffending by young adults aged 18–24.

24. This is supported by research by the CCJS on the use of the CO and the SSO for young adult offenders, which concluded that “it would appear that the overall pattern of use of the CO and the SSO tends to work against what is known about young adults’ needs and the factors associated with their offending. There is therefore a case for reviewing the responsiveness in sentencing for young adults”.<sup>35</sup>

25. The CJA advocates the recognition of young adults as a distinct group within the criminal justice system and this should be applied to the work of the probation service. There has previously been recognition by the probation service that community sentences for young adults should be tailored to their specific needs, with the introduction, in 2003, of a community programme aimed specifically at young adults aged 18–20, the Intensive Control and Change Programme. This programme was discontinued following the introduction of the generic CO. More recently, the Ministry of Justice has funded the Intensive Alternative to Custody pilots specifically for 18–25 year old men who are at risk of a prison sentence of up to 12 months. Through this approach, community provision can be better tailored to the individual needs of offenders, with mentors provided to help them comply with the order.

26. The provision of these programmes suggests that the Ministry of Justice and the probation service are aware of the specific needs of young adults, and community provision must be developed in every area, taking into account the outcomes of the Intensive Alternative to Custody pilots, that addresses the specific needs of young adults and the causes of their offending. The existing requirements could also be used more creatively. As the Centre for Crime and Justice has concluded, “there is clearly scope for more innovation—from probation officers when making proposals and from courts when passing sentence”.<sup>36</sup>

27. Improvements should also be made in the transitional arrangements and communication between youth offending teams and the probation service in a way that recognises the significant culture shift between the youth and adult criminal justice systems. At present, the level of support that young people receive in the youth justice system while under the age of 18 is considerably higher than young people over the age of 18 receive in the adult justice system and it is essential that steps are taken to manage the transition between the two systems as effectively as possible.

<sup>32</sup> Bradley, K (2009) *The Bradley Report: Lord Bradley’s review of people with mental health problems or learning disabilities in the criminal justice system*—available at [http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_098698.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_098698.pdf)

<sup>33</sup> p 30: McSweeney, T, Webster, R, Turnbull, P and Duffy, M (2009) Evidence-based practice? The National Probation Service’s work with alcohol-misusing offenders, Ministry of Justice Research Series 13/09—available at <http://www.justice.gov.uk/research-paper-alcohol-misusing.pdf>

<sup>34</sup> For more information on the T2A Alliance, see <http://www.t2a.org.uk/alliance>

<sup>35</sup> p 27: Stanley, S (2007) *The Use of the Community Order and the Suspended Sentence Order for Young Adult Offenders*—available at <http://www.crimeandjustice.org.uk/opus255/community-order-2007.pdf>

<sup>36</sup> p 27: Stanley, S (2007) *The Use of the Community Order and the Suspended Sentence Order for Young Adult Offenders*—available at <http://www.crimeandjustice.org.uk/opus255/community-order-2007.pdf>



28. In addition, the probation service should be enabled to work with the voluntary sector to provide support for every young adult (aged 18–24) leaving custody, regardless of the length of sentence of their sentence. This would help to ensure that young adults leaving prison re-establish links with their family and community and contribute to preventing reoffending.

*Is the provision of training adequate?*

29. The training of probation staff should provide more information on the specific needs of the groups of offenders set out above. For example, the Centre for Mental Health has recommended that NOMS should provide detailed information for probation officers on how to manage the MHTR while probation officers also require training and information on mental health awareness and sentencing options, in order to increase their knowledge of mental health issues.<sup>37</sup> Lord Bradley’s review also argued that “many probation staff are unsure of how they should manage offenders on their caseloads with mental health problems”,<sup>38</sup> suggesting that “all probation staff (including those based within courts and approved premises) should receive mental health and learning disability awareness training”.<sup>39</sup> Similarly, research for the Fawcett Society has suggested that probation-wide training on women’s needs is required<sup>40</sup> and research by the Institute for Criminal Policy Research has suggested that “there is considerable scope for improving the scale, quality and monitoring of training being offered to offender managers to better equip them to more effectively deliver brief interventions to alcohol-misusing offenders”.<sup>41</sup>

## CONCLUSION

30. The Criminal Justice Alliance welcomes this Inquiry. The probation service is a key part of the criminal justice system, yet it is widely perceived that its role and authority have been eroded in recent years. It is essential that steps are taken to restore the probation service to a central role within the criminal justice system and to fund it accordingly. This would help to reduce reoffending, but the probation service must also do more to meet the specific needs of offenders and to make sure that all the 12 “requirements” of the CO and the SSO are available to, and known to, sentencers in every area.

September 2010

## Written evidence from the Cambridge and Peterborough Probation Trust (PB 41)

### 1. Are probation services currently commissioned in the most appropriate way?

The Cambridgeshire and Peterborough Probation Trust (CPPT) considers that the most effective commissioning arrangements are managed as close as possible to the point of delivery and will involve a range of organisations working together, within contractual arrangements to achieve a common outcome. In the case of the Probation Service this is the reduction of offending from offenders thereby reducing the number of victims of crime and protecting the public.

The most effective commissioning arrangements will include the following facets:

- Identifying the need that is to be met. This would be the criminogenic needs of offenders,
- Consulting local stakeholders to ensure that the criminogenic needs are correctly identified and to explore the opportunities for delivery, and
- Realistic specification of services to be provided and effective performance management arrangements.

The current commissioning arrangements for the Probation Service are not as effective as intended, mainly because a regional commissioning basis is too remote from the communities in which the services are to be delivered. Probation Trusts have the infra-structure and local partnership arrangements to be able to engage effectively with local partners.

<sup>37</sup> p 40–41: Khanom, H, Samele, C and Rutherford, M (2009) *A Missed Opportunity? Community sentences and the Mental Health Treatment Requirement*—available at [http://www.centreformentalhealth.org.uk/pdfs/Missed\\_Opportunity.pdf](http://www.centreformentalhealth.org.uk/pdfs/Missed_Opportunity.pdf)

<sup>38</sup> p 66: Bradley, K (2009) *The Bradley Report: Lord Bradley’s review of people with mental health problems or learning disabilities in the criminal justice system*—available at [http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_098698.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_098698.pdf)

<sup>39</sup> p 69: Bradley, K (2009) *The Bradley Report: Lord Bradley’s review of people with mental health problems or learning disabilities in the criminal justice system*—available at [http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_098698.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_098698.pdf)

<sup>40</sup> p 51: Gelsthorpe, L, Sharpe, G and Roberts, J (2007) *Provision for women offenders in the community*—available at [http://www.fawcettsociety.org.uk/documents/Provision%20for%20women%20offenders%20in%20the%20community\(1\).pdf](http://www.fawcettsociety.org.uk/documents/Provision%20for%20women%20offenders%20in%20the%20community(1).pdf)

<sup>41</sup> p 30: McSweeney, T, Webster, R, Turnbull, P and Duffy, M (2009) *Evidence-based practice? The National Probation Service’s work with alcohol-misusing offenders*, Ministry of Justice Research Series 13/09—available at <http://www.justice.gov.uk/research-paper-alcohol-misusing.pdf>

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?*

(a) *How effectively are probation trusts operating in practice?*

CPPT, as it became a Trust on 1 April 2010 differed little in practice from its previous existence as a Probation Board. This is largely because of the absence of most of the promised “freedoms” for Probation Trusts that were identified during the Trust transition programme. It is disappointing that the previous administration would not allow Trusts the freedoms that would allow them to achieve their full potential. The governance arrangements for Probation Trusts give the potential for greater autonomy and flexibility. This is very important if a Trust is truly to be able to meet local needs. The lack of year end financial flexibility is a good example of the potential of Probation Trusts not being met because of unnecessary constraints that have been put in place by the previous government. The ability to carry resources forward from one year to another would mean a much better use of public funds which would more effectively meet local needs.

(b) *What is the role of the probation service in delivering “offender management” and how does it operate in practice?*

There is currently a lack of clarity about what the term “Offender Management” means, and CPPT believes that offender management should mean the effective engagement of Probation staff with offenders to impact positively on their offending behaviour, achieving a reduction in offending behaviour.

Within NOMS it seems that currently offender management is seen as primarily an administrative process, within which the offender manager is responsible for overseeing and sequencing interventions with the offender. This, in our opinion, ignores the capability and potential of offender managers to engage positively with the offender to reduce their offending behaviour. The professional base, training, skills, knowledge and experience of Probation staff put them in the best position to supervise offenders effectively.

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?*

(a) *Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences?*

The Criminal Justice Act 2003 provides for a range of additional requirements to be included in community orders, not all of which are managed by the Probation Trusts. Most of these can be utilised fully by sentencers but not all of the requirements are available. In CPPT there is not a Senior Attendance centre, something which would be welcomed by sentencers in the county. There is also very little provision for mentally disordered offenders and an insufficient provision of alcohol services for offenders. The provision of services in Probation Trusts is currently primarily driven by a target driven environment rather than one which is based primarily upon local need. This refers to the point made earlier in the submission about regional commissioning being less effective than locally based commissioning in meeting local need. Magistrates and Judges are affected in their ability to match sentences to need by a lack of consistent provision.

(b) *How effectively are these requirements being delivered?*

CPPT is increasingly able to provide sentencers with a wide range of Specified Activity Requirements to address the needs of specific offender groups such as women offenders and specific issues such as lower level alcohol misuse, debt and money management, compliance, and parenting skills.

When offenders fail to comply with their Community Orders, CPPT has a rigorous process for enforcing orders and licences. In 2009–10 CPPT had an enforcement performance of 97%. CPPT staff also work to achieve a greater compliance among offenders. This includes a more thorough exploration with individual offenders at induction of factors which might inhibit compliance (eg employment, child or dependant care responsibilities) and the use of text messaging to remind offenders.

4. *What role should the private and voluntary sectors play in the delivery of probation services?*

CPPT considers that offender supervision and the primary responsibility for commissioning offender services should be with Probation Trusts for reasons that have previously been explained.

Private and voluntary sectors should have a significant role in the delivery of interventions to offenders. There is considerable expertise in both sectors which when combined with a Probation Trust’s ability to supervise offenders effectively and to commission services locally, would create a very powerful delivery base, one which would have a good chance of success and one that meets the coalition government’s policy drive for “Open Society.”

5. *Does the probation service have the capacity to cope with a move away from short custodial sentences?*

At the present time CPPT does not have the capacity to supervise an additional large number of offenders who might be sentenced to a Community Order rather than a short term of imprisonment. There would need

to be a re-direction of resources from the Prison Service to Probation Trusts to allow for an increase in staffing levels to supervise a significantly increased number of offenders.

It is important to state that while CPPT does not currently have the capacity; it most certainly has the capability to supervise an increased number of offenders. The professional base of our staff, the training, skills, knowledge and experience mean that staff are well able to increase their capacity. However, for this to happen there needs to be some de-regulation of restrictive and overly bureaucratic requirements on Probation Trust. There is an unnecessarily high level of central and regional reporting that takes up a significant amount of Probation Trust resources. A recent research project has shown that offender managers spend up to 70% of their time inputting data to computers. If this was reduced by half it would allow a significant increase in the time that Probation staff could spend in direct face to face contact with offenders.

*6. Could probation trusts make more use of restorative justice?*

CPPT would wish to extend the use of Restorative Justice, using the models of practice that are in existence in the Youth Offending Service. Restorative Justice is very effective in positively affecting the behaviour and attitudes of offenders.

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 extended and strengthened.

*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?*

CPPT works with partners to deliver effective services to different offender groups. It is vital that the Trust engages well with partners and community groups to ensure that the needs of all offenders are met. This is particularly important for the “hard to reach” group of offenders, particularly BEM offenders. In CPPT there are effective arrangements in place for the Trust to engage with partners and community groups. It can never be said that an optimum performance in this regard has been achieved. CPPT is always responsive to the changing needs of local communities, and these can change considerably over short periods of time. For example, the migration of East European workers to Cambridgeshire has provided the Trust with delivery challenges which can only be properly met when working in effective local partnership.

*8. Is the Provision of Training Adequate?*

CPPT has, like all other Probation Trusts, introduced the new Probation Qualifying Framework (PQF) in April 2010. It provides a vocational qualification at Level 3 for Probation Service Officers (PSOs) leading to an identified route into a Level 5 qualification for Probation Officers should they choose to undertake it. There is also a direct graduate entry pathway which is as yet untested because reductions in recruitment mean that the new qualification will be slow to start. CPPT has recruited new staff directly onto the new graduate training scheme because of the need in the Trust for qualified Probation Officers in the future. However this is not common across all Probation Trusts.

CPPT does not consider that there is sufficient training in place for middle and senior managers. There has in the recent past not been a significant focus in NOMS in the provision of management development training. The significance of this gap is in the development of future leaders in the Probation Service. Without such a focus there has to be a risk to the longer term succession planning capability of Probation Trusts.

*September 2010*

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**Written evidence from Humberside Probation Trust (PB 42)**

**INTRODUCTION**

1. Humberside Probation Trust became one of the six “first wave” Trusts in April 2008 and prior to this was one of 42 Probation Areas under the National Probation Service. We are a medium sized probation service covering four local authorities. We currently employ 400 full time equivalent staff in nine locations, including two Approved Premises. We supervise approximately 4,400 offenders at any one time; about 70% of these offenders are serving a community sentence or have been released on licence and the remaining 30% are serving a custodial sentence. The Trust prepares over 4000 reports for the magistrates and crown court each year.

2. Humberside has been a high performing Probation Trust for the last decade, consistently achieving excellent performance against government targets under the different rating systems that have been in operation over this period.

## EXECUTIVE SUMMARY

3. The current structures for commissioning inhibit the development of innovative approaches to deliver the outcomes required. Trusts should be given more freedom to decide how we achieve the most cost effective services in localities to meet the outcomes expected by government policies.

4. Humberside Probation Trust has an excellent track record of high performance against government targets. We have a “can do” culture and despite reductions in funding over the last two years we have a staff group who are skilled in managing offenders and highly committed to protecting the public and reducing offending. A reduction in bureaucracy and greater flexibility to exercise professional judgement would facilitate the opportunities for innovation and more effective use of resources.

5. Humberside Probation Trust already commissions or jointly commissions offender services from a range of voluntary sector providers. We support the use of the private and voluntary sector in delivering services where they provide value for money and support the delivery of the outcomes required. Probation Trusts, through their work with local statutory and voluntary sector agencies, are best placed to undertake this commissioning.

6. The Intensive Alternative to Custody (IAC) pilot project in Hull has demonstrated that with adequate resourcing Humberside Probation Trust, with its statutory and voluntary sector partners, is able to provide local and successful approaches to tackle the re-offending of those who would previously have received short prison sentences. It has the confidence of sentencers and could be rolled out nationally with the redirection of resources.

7. We support the development of restorative justice options where these have demonstrated effectiveness and value for money.

8. Probation staff always seek to tailor their interventions with offenders to secure the best possible outcome with the resources available.

9. The training arrangements for most staff are satisfactory but improvements are required in the arrangements for the development of managers.

### *Are Probation Services currently commissioned in the most appropriate way?*

10. As one of the first Probation Trusts the commissioning of Probation Services is still in its infancy. We enjoy a good relationship with the regional Director of Offender Management (DOM) and aim to work with him to develop appropriate probation services in Humberside and the Yorkshire and Humberside Region. However, the structures for commissioning and continued central control, including estates and facilities management, inhibit the development of appropriate strategic commissioning of services at the local level.

11. As a Trust Board serving local communities we believe that we are best placed to consult with local communities and commission services from a range of providers to deliver effective services. We already work with local authorities and other local partners to jointly commission services where appropriate and commission services from the local voluntary sector where they add value to our work and can provide innovation.

12. It is our intention that as we develop our strategic commissioning approach we will increasingly tailor the delivery of probation services to meet the needs and expectations of local communities. We have a high profile in Community Safety Partnerships and work with our local authorities, health commissioners, police commissioners and the prisons to secure the best services to protect the public and reduce re-offending.

### *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?*

13. Within the current environment we are operating effectively as a Trust, meeting the expectations of performance and managing our activities within the budget allocated. We have made significant efficiency savings during the last two years and demonstrated a “can do” attitude in responding quickly to new circumstances.

14. However, our experience as a Probation Trust is that we have not been provided with the business flexibilities that were anticipated and that this has restricted our capacity for innovation and the more effective management of our resources. In particular we would welcome:

- Greater flexibility in managing our finances, for example the lack of any year end flexibility restricts opportunities to innovate and plan over a longer period,
- A reduction in volume of performance measures which can result in complex bureaucratic systems to ensure accurate measurement and performance management, and
- More flexibility in the application of national standards so that local professional judgement can be exercised to ensure the effective direction of resources towards reducing re-offending.

15. The management of offenders to protect the public and reduce re-offending is the core activity for Probation Trusts. The models of offender management are well documented elsewhere. Over many years we have developed high standards and high levels of expertise in the proper management of offenders in the

community. This expertise is recognised by our partners in local areas. We are leading the development of integrated offender management approaches in each of our local authorities. Probation staff have an understanding and awareness of the assessment and management of risk by offenders that is second to none and while we believe that this skill and experience can be shared and developed with others it has been gained by thorough training and supervision. In order to protect the public it is important that future developments in the probation service do not dilute this expertise.

*Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

16. The majority of the requirements are able to be used by sentencers but there are constraints. The use of some requirements such as accredited programmes and unpaid work, while important in addressing offending behaviour and providing reparation has been influenced in previous years by government volume targets set for each Trust. The better understanding of domestic violence across agencies has resulted in higher demand for domestic violence programmes than the capacity available and is rationed through higher thresholds for suitability for the programme.

17. The provision and delivery of requirements for health related interventions—alcohol treatment, drug rehabilitation and mental health treatment all depend on the availability of resources being made by other agencies. This relies on influencing those agencies to identify this provision within their priorities, and joint commissioning approaches in each local authority/PCT area. The requirements for speedy justice can mean that there is insufficient time for adequate assessments by other agencies to ensure that a particular requirement is appropriate.

18. Humberside Probation Trust operates an Intensive Alternative to Custody (IAC) programme in Hull through pilot funding. This programme has been operating since April 2009 and has been very successful in diverting offenders from short custodial sentences and meeting the requirements of sentencers. There is more flexibility in the programme to tailor the interventions to what will best assist the rehabilitation of the offender. It is our view that a greater flexibility to sequencing and tailoring interventions with offenders during the progress of a community sentence has the potential to increase the effectiveness of community orders.

19. Greater use is now being made of the specified activity requirement in order to introduce more flexible and less expensive programmes to support the rehabilitation of offenders, including programmes for encouraging compliance and shorter programmes for lower risk offenders.

20. Some of the prohibitive requirements are used infrequently due to the difficulties of “policing” compliance but requirements such as the curfew requirement backed by electronic monitoring is used constructively by offender managers and the courts.

*What role should the private and voluntary sectors play in the delivery of probation services?*

21. The private and voluntary sectors already have and should continue to have a role in the delivery of services that are aimed at rehabilitating offenders as long as they provide value for money in the services they deliver. We believe that Humberside Probation Trust has the experience and commitment to commission the most cost effective services to reduce re-offending. Offender assessment and management are the core activity of the Trust with a particular emphasis on the management of risk of serious harm and public protection. The robust MAPPA partnerships draw on a wealth of experience and knowledge and are critical to fulfilling public protection responsibilities. Fragmentation of this responsibility and offender management risks placing the public at risk. The complexity of this work should not be underestimated.

22. There are opportunities to further involve the private and voluntary sector. Humberside Probation Trust already commissions the voluntary sector for work on alcohol and drug use, improving employability and access to employment and mentoring of offenders in a range of activity. There is scope to extend the involvement through a reassessment of the priorities for intervention and a focus on those interventions that evidence suggests are more effective in reducing re-offending. This will require greater flexibility in the operation of a community order and performance measures. Our best experiences have been through the development of partnerships with organisations that have an investment in the local areas. We believe this could be developed to engage local neighbourhoods and citizens supporting local measures to reduce offending in their locality.

23. The potential complexities of TUPE and pension issues in commissioning the private and voluntary sector to deliver probation services should not be underestimated and will need to be addressed creatively to enable further involvement of these sectors. In addition, the current position is that local voluntary sector providers would need to build up their capacity over time to take a greater role in providing offender services.

*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

24. Humberside Probation Trust has seen funding reductions in recent years and our headcount has reduced by over 10% in the last two years against a background of a stable workload. Back office costs have been reduced through sensible efficiencies and the application of shared services. However, the impact of the reductions has been steadily increasing workloads for front line staff.

25. There is currently no capacity to take on the significant additional work that would arise from a move away from short term sentences. Indeed we believe that rising workloads for front line staff are risking the level of our effectiveness in protecting the public and reducing re-offending.

26. Humberside Probation Trust has operated an Intensive Alternative to Custody (IAC) project since April 2009. Our experience is that through the allocation of additional resource we can be effective in providing, with our statutory and voluntary sector partners, interventions that are tailored to the individual offender to reduce re-offending. The additional funding for this project ends in March 2011 but has been shown to be at a lower cost per offender than imprisonment. If the Probation Service is to supervise additional offenders there will need to be a transfer of resources or a significant shift in the demand on probation services through changes in sentencing practice. In addition some capacity could be created through more flexibility in the application of national standards and the management of lower risk offenders, although this is unlikely to create anything like the capacity required to manage offenders who will have higher risks of re-offending.

*Could probation trusts make more use of restorative justice?*

27. Community payback clearly has a restorative element and Humberside Probation Trust operates a low cost and effective service for local communities. There is scope to increase the use of single community payback orders for low risk offenders with the restorative element being the prime purpose of sentencing. This would build on the work we undertake with local authorities in identifying projects supported by local neighbourhoods for community payback activity.

28. There are other models and examples of restorative justice being used with adult offenders. Humberside Probation Trust supports the use of these models where there is evidence of effectiveness. Their operation would require a reallocation of existing resources or the identification of new resource for this provision to be developed

*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?*

29. Humberside Probation Trust has developed specific provision for women offenders, particularly in response to the Corston report. This includes the "Together Women Programme" in Hull and alternative reporting arrangements for women in each of our major locations. Group programmes and individual interventions are provided where possible.

30. Offender managers aim to tailor interventions to take account of the diverse needs of individual offenders. The relatively small proportion of BME offenders in Humberside mean that separate group provision is not feasible but we use interpreters where necessary and take a pride making every effort to address the needs within the resources available. We have regular training to raise awareness of the needs of different groups of offenders, including black and ethnic minority people, foreign nationals, asylum seekers and travellers.

31. Our resource levels mean that we do not have specific provision for young adults but recognise that this group, in transition to adulthood, does require an approach by offender managers which takes account of their levels of maturity.

32. Humberside Probation Trust has well developed processes to assess and manage offenders who present the highest risk of harm and highest risk of re-offending. MAPPA provides a robust model to manage those offenders who are assessed as presenting a high risk of serious harm to others. The processes require the proper allocation of resources to ensure the system works effectively and the co-operation of partners from both responsible authorities and duty to co-operate agencies.

33. The Prolific and Priority Offender (PPO) schemes are well developed in Humberside which and won a national Butler Trust Award in 2008. Partnerships and jointly located teams with the police in each local authority ensure that offenders who present the highest risk of re-offending are targeted for more intense intervention. These schemes have now been extended to develop Integrated Offender Management schemes to focus on a wider group of offenders. The evidence from all of these schemes is a very significant reduction in re-offending by these individuals than would have been expected and they have contributed to reductions in crime in each local authority.

*Is the provision of training adequate?*

34. The new Probation Qualifying Framework is supported by Humberside Probation Trust and provides opportunity for career development within the service. The experience of the previous arrangements, the Diploma in Probation Studies, was that it produced high quality probation officers able to develop in their role to meet the demands and complexities of managing offenders. The new framework, with the important retention of a higher level academic qualification, is also expected to produce high quality probation officers.

35. The new vocational qualification for Probation Service Officers (PSOs) at level 3 is welcomed and builds on the training that has been available to this grade in recent years.

36. The in-house training provided by Humberside Probation Trust is highly regarded by staff and provided at low cost. Where necessary we combine with other probation areas in the region to provide training courses and also provide training to local voluntary organisation in working with offenders.

37. One area of difficulty is the training for accredited programmes, which is organised nationally and is insufficiently flexible to meet local needs. This has caused problems in the capacity of the Trust to deliver some programmes, particularly the domestic violence programme.

38. Despite the excellent in-house training in Humberside the lack of any formal post qualifying training for probation officers is a gap. For many years there has also been a gap in the provision of any consistent national leadership and management development training. Advantage is taken of local opportunities for management development but this is largely at middle management level.

*September 2010*

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### **Written evidence from the London Probation Trust (PB 43)**

#### **1. EXECUTIVE SUMMARY**

1.1 We believe that probation trusts are well placed to deliver the Government's rehabilitation agenda, to protect the public and to reduce crime as commissioners and as providers. We can best do this in conjunction with other statutory agencies, and with voluntary and private sector organisations.

1.2 Probation trusts need to move away from numerical targets to outcome measures shared by all the agencies delivering services to offenders.

1.3 The Community Order with 12 requirements is overly complex. A return to a generic order would allow interventions to be effectively targeted post sentence and reduce the need to return to court when circumstances change, which is expensive for both probation and the courts.

1.4 Probation Trusts alone do not have the capacity to deal with an increased workload. The way forward should be through local commissioning to provide for specific local needs and the shared ownership of local offenders. A redistribution of resources away from prisons to the community might be prudent.

1.5 Probation trusts could make more use of restorative justice. There may be some scope to extend Community Payback, which is one element of restorative justice already embedded in probation.

1.6 The probation service has an excellent track record of dealing appropriately with a wide range of different groups of offenders. Greater opportunities for locally commissioned services would build flexibility into the probation's response to the needs of diverse groups.

#### *2. Are probation services currently commissioned in the most appropriate way?*

2.1 No. Currently probation services are commissioned by the National Offender Management Service. In turn, probation trusts provide adult offender services in the community themselves or commission voluntary or private sector organisations to deliver services to offenders on their behalf. There are potential efficiency and cost savings to be made by reviewing these arrangements to allow probation trusts more flexibility to commission directly, thereby also meeting the needs of local communities more effectively.

2.2 Probation trusts should also be empowered to establish joint commissioning arrangements with local authorities and other external agencies. This should:

- minimise the duplication of services offered to offenders by the various agencies;
- provide greater consistency and continuity of the services offered to offenders (pre, during and post supervision); and
- encourage a greater sense of collective responsibility for improving the services provided to vulnerable adults and to local communities.

2.3 As statutory organisations, probation trusts will always be bound by legislation to provide a number of services that will need to be measured against pre-defined inputs and outputs. However, there are a number of areas where outcome based commissioning could be done jointly by probation trusts and local authorities (and where appropriate health) with each agency sharing the responsibility for making sure that those outcomes are achieved.

2.4 Currently probation trusts have limited ability to undertake long term financial planning. Annual budgets are reactive and often the weighting is influenced by political imperatives. There is also little incentive for probation trusts to look for long term financial savings or income generation, as savings and earnings are generally not retained by the service but instead subsumed centrally.

2.5 London Probation Trust (LPT) has experience both as a commissioner of services and as a provider. This experience, together with the professional expertise within the organisation, means LPT is well placed to take on the responsibility of commissioning services for adult offenders in London based on a best value model and using in-house provision, the voluntary and community sector or private sector as appropriate. We are well

placed to deliver the Government's rehabilitation agenda, to protect the public and to reduce crime as both a commissioner and a provider.

2.6 LPT has local strategic links and works closely with local partners including the police, local authorities and, to a lesser extent, health services through Community Safety Partnerships. We are a responsible authority and help to develop and implement borough based community safety plans to help reduce crime. In future, regardless of the commissioning model adopted, probation trusts will need to strengthen these links as local authorities commission services for offenders who are their local citizens.

*3. 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?*

3.1 Probation trusts are operating effectively given the legislation and constraints surrounding their performance management framework. The probation service supervises all offenders sentenced to over 12 months in custody and those made subject to Community Orders. The introduction of trusts has enabled probation areas to focus on a new delivery model built around Local Delivery Units. While it is too early to assess the full effect of the move to trust status, it has been a positive move and has reinforced the need for probation to focus on meeting the needs of offenders and the community in collaboration with partnership agencies. In such a collaborative model, the offender manager acts as the "broker", or principal agent, responsible for managing risk and overseeing the delivery of a tailored package of supervision and intervention as determined by the court.

3.2 Currently probation trusts are assessed for effectiveness according to their ability to meet a number of output-orientated targets. A great deal of time and energy is spent on counting and recording performance that would be better spent on engaging with offenders. Probation trusts should be assessed against fewer outcome orientated targets which are shared by those agencies delivering services to offenders, with probation trusts ultimately responsible for the performance of any services they commission. Probation services should continue to focus on delivering offender management of cases where there is a medium, high and very high risk of harm to the public and should be empowered to commission the voluntary and private sector to deliver interventions and offender management for those offenders where the risk of harm to the public is lower.

3.3 In the future, trusts should be looking to maximise their capacity to income generate either on their own or in partnership with a view to making most efficient use of resources available within their area.

*4. Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

4.1 The separation in commissioning arrangements between probation trusts and courts/sentencers means that there is an inherent tension between what is demanded of probation services and what can be delivered.

4.2 LPT works across 32 London boroughs, the Corporation of London and numerous health trusts. We are able to take a regional view of services available for offenders with mental health, alcohol and other health needs. What we see is uneven provision across London which does not meet all the criminogenic needs of all offenders.

4.3 In order to even up provision, LPT commissions services for alcohol users, some limited services for those offenders with mental health problems and, largely through European Social Fund Money, innovative education, training and employment opportunities for offenders who are "hard to reach".

4.4 LPT has been involved in a Mental Health Court Pilot in Stratford Magistrates' Court. The project has brought together probation staff, the judiciary and local mental health services to establish better outcomes for offenders with mental health problems. Early indications suggest that the project has been successful. Following the expiry of the initial funding from Her Majesty's Court Service, LPT has worked alongside a voluntary sector organisation, Together Working for Wellbeing, and secured further funding for the next three years.

4.5 The Community Order with 12 requirements is overly complex and bureaucratic. A return to a generic order would allow intervention to address offending related need to be effectively targeted post sentence and reduce the need to return to court when circumstances change, which is expensive for both probation and courts.

4.6 Sentencers' confidence in Community Orders could be reinforced by reducing the resource put in to telling them what probation will do, and moving towards a more outcome based approach where they get better information on what we have done.

4.7 This would also support a move away from costly court enforcement processes towards a system where court enforcement resources and further sentencing is only used for those cases where all else has failed. Evidence from research on desistance from offending suggests that the creation of a non offending identity is important—so, apart from being expensive, an early return to court at the point of difficulty may have the counter-intuitive effect of making compliance less likely.



5. *What role should the private and voluntary sectors play in the delivery of probation services?*

5.1 The private and voluntary sector can play an important part in delivering probation services and partnerships between key organisations and probation trusts could support an enhanced rehabilitative service. Probation trusts should be empowered to manage and build upon these relationships, ideally as a commissioner of their services in accordance with the identified needs of the local community.

5.2 By engaging private and voluntary agencies in the delivery of interventions, probation trusts would be able to focus more of their energies and resources on the supervision of offenders and on the effective management of their risk.

5.3 Local commissioning would best support the effective use of the voluntary and private sector and enable tailored packages of interventions to be delivered according to the identified needs of local communities. This opportunity for probation trusts to work with local providers would build the connection between trusts and the communities they serve. Probation trusts would be responsible for overseeing the quality of the interventions delivered by agencies.

5.4 London Probation Trust already commissions services from many voluntary and some private sector organisations who deliver interventions to offenders. These relationships have been developed to cover gaps in provision or to extend or complement one-to-one delivery. Full expansion of these could allow probation trusts to provide an enhanced service and expand the numbers of lower risk offenders who can be offered a local appropriate service to reduce reoffending and interrupt a pattern of repeat short periods of imprisonment. It would also improve offender access to services for assistance with issues such as housing, literacy and numeracy, employment and training, substance misuse and mental health for vulnerable adults.

6. *Does the probation service have the capacity to cope with a move away from short term custodial sentences?*

6.1 Probation trusts alone do not have the capacity to deal with an increased workload likely to emanate from a move away from short term custodial sentences without either readdressing provision or expansion with partner agencies. The way forward should be through local commissioning to provide for specific local needs and the ownership of local offenders. A redistribution of resources away from prisons to the community might be prudent.

6.2 A joint approach by the agencies engaged in addressing the needs of offenders susceptible to short term prison sentences would undoubtedly give probation trusts more capacity to deal with a reduction in short term custodial sentences. A multi-agency network in place to provide prevention (police) and various community based interventions (private and voluntary sector organisations, Drug Intervention Programme, etc), working together with probation services might increase the quality of the high level of supervision required by those offenders most susceptible to reoffending and most likely to receive short term sentences.

6.3 For instance, literacy remains a barrier to employment and rehabilitation. Interventions that address this would be effective, but currently literacy and numeracy support is not funded for offenders. Better targeting of some of the resource of the Department for Work and Pensions and the Department for Business, Innovation and Skills, particularly where commissioned services are not available, could bridge this gap.

6.4 In some cases, a short period of custody will be the only appropriate sentence for an offender (for instance, where all other possible community options have been exhausted). However, with an appropriate redistribution of resources and increased engagement with voluntary and private sector organisations, probation trusts would be better able to provide packages to the courts which could divert offenders away from custody.

7. *Could probation trusts make more use of restorative justice?*

7.1 Probation trusts could make more use of restorative justice but would need to target the appropriate model of restorative justice to the type of offence, offender and victim. There is evidence available to indicate that restorative justice can work both as a means of reducing reoffending and in providing a service to victims.

7.2 It is important to note that restorative justice is not a cheap response to crime, as practitioners involved need to be highly trained to undertake the potentially difficult work. However, it does provide probation trusts with the opportunity to undertake further partnership work with the private and voluntary sectors. For example, London Probation Trust hopes to work with Victim Support in one of their forthcoming restorative justice initiatives.

7.3 Probation trusts looking for the most cost effective use of resource may look to recommending a diversionary restorative justice sentence for those offenders assessed as appropriate and willing to participate in reparative work or victim contact.

7.4 Community Payback, which is both respected by the courts and valued by communities who benefit from the work, is the most obvious form of restorative justice already embedded in probation. Probation trusts might consider developing this requirement further to increase the involvement of specific victims of crime as well as the community as a whole. While it would make sense for this to be balanced against a wider placement strategy that supports outcomes of increased employability, general public confidence and reduced delivery

cost, the opportunity to nominate a project or influence the type of work done could offer victims a tangible opportunity to have their voices heard.

7.5 Conflict resolution may also have a key role tackling serious group offending and youth crime, by providing a means for addressing issues for both victim and perpetrator (important as often the victim/perpetrator roles are interchangeable). This could help offenders to address the root of their offending behaviours, reintegrate with their community and so assist in the development of exit routes from gang affiliations that are likely to lead to further reoffending.

*8. 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?*

8.1 Probation trusts must aim to target resources and energies to best meet the diverse needs of offenders in order to support their rehabilitation. However, this will need to be balanced against the need to consider both economies of scale and whether the cost of a bespoke service is justified, in terms of its effectiveness, compared to generic service delivery.

8.2 Voluntary and private sector organisations within local communities who are working to support diverse groups often have a better understanding of the needs of the community and of service users. Greater opportunities for locally commissioned services, with probation trusts tasked to contribute to any national strategies for managing different offender groups through a centrally determined policy on outcomes, would build flexibility in to the probation service response to the needs of diverse groups.

8.3 LPT has been proactive in working in partnership with various private and voluntary sector organisations to develop tailored provision for various specific offender groups such as women, and black and minority offenders. However, in some instances LPT is constrained by a lack of direct control in the commissioning of these organisations, which makes it harder to meet the specific needs of the differing offender groups.

8.4 Currently the majority of services for women offenders are commissioned directly by the Ministry of Justice and probation trusts have no input into the relevant service level agreements and so no influence on the services being provided.

8.5 Greater control over the commissioning of services would also free up probation trusts to work directly with organisations within communities to help remove any barriers groups of offenders may face (language being the most obvious) in trying to access support services or programmes aimed at addressing their offending behaviours.

8.6 LPT has made substantial progress in its work managing young adult offenders and has developed strong links with the London Youth Justice Board and Youth Offending Teams (YOTs) at a local borough level. Young offenders are a priority given the prevalence of serious group offending in London within this age group. However, the prescribed cut-off point between youth and adult services at 18 makes it harder to maintain the continuity of case management of young offenders, despite clearly defined procedures for case transfer between London YOTs and LPT.

8.7 A move by both probation and prison services, as well as other community services, to basing the management of offenders between the age of 16 and 21 on emotional maturity might greatly improve the continuity and consistency of the support they receive before, during and after their sentence. With this support network in place, more extensive multi-agency supervision of young offenders focusing on social reintegration would be possible. London Probation Trust recognises that there are often fewer community services and resources for offenders aged 18 and above than there are for offenders aged 17 and under, which may impact on reoffending outcomes for young adults.

*9. Is the provision of training adequate?*

9.1 The new Probation Qualification Framework (PQF) has only just been introduced with a first intake in LPT starting in June 2010. Early indications are that it will facilitate a smoother pathway to a workforce of qualified offender managers, equipped at both Probation Service Officer and Probation Officer level to manage the range of offender risk need and complexity as appropriate.

9.2 Under the PQF, degrees deemed relevant to access a quicker route to qualified Probation Officer status are those made up of at least 50% criminal justice, community justice or policing. This rightly reflects the role of probation as a central criminal justice agency. However, other core elements of what being a probation officer entails in practice, such as dealing with families and managing offender integration will benefit from embracing learning from other disciplines. The probation service would therefore benefit from opening up the post graduate diploma to graduates from a wider range of relevant disciplines.

9.3 Much benefit could also be gained by having certain modules in a range of professional degrees taught and completed on a multi disciplinary basis (eg forensic psychology, nursing, social work or policing). With the increased use of distance learning, this becomes an increasingly practical option.

9.4 Probation trusts also need to find the resource to provide staff with opportunities for continuous professional development to ensure the provision of the highest quality supervision and risk management of

offenders. Training needs to be ongoing to ensure that all offender managers are able to adapt to the changing priorities of government and the communities they serve.

9.5 Management training is especially important as managers are being asked to take on more work in response to reducing budgets, but LPT has had to reduce the numbers of managers undertaking management qualifications in response to financial constraints. Given its importance, probation trusts will need to consider carefully how reductions to training budgets might be managed and how to deliver staff development opportunities in new cost effective ways, such as the increased use of e-learning.

*September 2010*

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**Written evidence from the Chair and Chief Executive Officer, Avon and Somerset Probation Trust  
(PB 45)**

**1. SUBMITTED BY AVON AND SOMERSET PROBATION TRUST (ASPT) BOARD CHAIR AND CEO**

1.1 The Trust Board members collectively bring a wealth of qualification and experience from public, private and voluntary sector. Board membership is geographically representative of the urban and rural local communities the trust serves.

1.2 Both the Board Chair and Chief Executive Officer have substantial operational and leadership experience within the probation service. The CEO has notable experience in innovative multi agency approaches to crime and was most recently instrumental in the trust's development, with partners, of a leading Integrated Offender Management project in Bristol that was adopted as a national pilot scheme. Following her appointment in 2008 Avon and Somerset saw the fastest performance improvement of any Probation area in England and Wales at that time. Those high levels of performance have been sustained under the leadership of the current Board.

1.3 The Chair has current experience on the board of a major third sector housing and care provider. He has worked as an advisor to the Home Office and MoJ on the introduction of commissioning and contestability to the probation service and extending it in the prison service. He was a lead author of Improving Probation and Prison Services—Public Value Partnerships, Home Office, 2006. He was a member of the senior management team (the Commissioning and Contestability Team) and as an advisor within MoJ to the Bill Team which led to the introduction of the Offender Management Act, 2007, which enables a competitive environment for the Secretary of State to contract for probation work. The Chair also worked on strategies to increase the role of the third sector in probation service delivery and improve services for women offenders

**2. EXECUTIVE SUMMARY**

2.1 It is the opinion of this Board that probation services are not commissioned in the most appropriate way. Currently probation trusts are contracted with and those contracts are based predominantly on historic and centralised process targets disaggregated from national targets and requirements. The current structure does not have the alignment to adequately reflect local needs and priorities. The role of sentencers in the commissioning process has been largely overlooked despite their crucial role in representing their local communities and establishing demand.

2.2 In general, as evidenced by the rigorous assessment and qualification process of trust application, the 35 probation trusts are effective in delivering offender management and can demonstrate significant business capability.

2.3 Sentencers can and do access the interventions ASPT delivers. However, in the current commissioning arrangement demand for interventions can be unaligned to supply. The wider role of sentencers as commissioners of probation work requires proper incorporation in the commissioning model.

2.4 The private and voluntary sectors have potential to play a greater role in the delivery of probation services, especially in the delivery of support services and interventions. Offender management should be delivered by appropriately qualified and managed staff employed by the probation trust.

2.5 In the opinion of this trust, Integrated Offender Management is the preferred model of offender management. IOM presents important opportunities for a new way of working that delivers greater capacity within existing resources.

2.6 Trusts and other providers can and should make more use of restorative justice, not just as a sentence but as a diversion from prosecution in appropriate cases. Probation trust experience of work with victims of crime is a valuable resource in this development. Restorative Justice has an important part to play in the IOM model of delivery.

2.7 The Probation Qualification Training Framework is broadly welcomed by ASPT, and especially the attention paid to the development of "probation service officers" (a group of staff who do not possess a probation officer qualification) who are thereby enabled to take on a greater range of functions that deliver best value for money.

2.8 NOMS commissioning arrangements do not deliver probation services that have sufficient local coherence. The current arrangements fail sufficiently to recognise important features of Probation trust governance and are inappropriately prison service oriented. Trusts are unnecessarily curtailed in business freedoms that are essential to thrive in the commercial environment that we welcome.

2.9 Probation trusts are both well placed and appropriately skilled to commission probation services that are relevant to local communities, better aligned with sentencer demand and developed in alliance with other local community providers. The trust recognises key strategic relationships with police, local authority and sentencers as of greater priority in achieving outcomes than the current primary strategic alignment with the prison service.

### 3. CONTEXT INFORMATION

3.1 Avon and Somerset Probation Trust is not protectionist of the public sector. Our trust is intent on commissioning and delivering high quality and effective services to our communities, in partnership with others, to protect the public and reduce offending and the damage caused to victims and families through such behaviour. We are a high performing and innovative trust with a balance of senior managers drawn from professional backgrounds in probation and other sectors. The majority of our Assistant Chief Officers do not have a background as Probation Officers.

3.2 The trust is entirely open-minded to change and development. Central to our approach to offender management is the development and implementation of the Integrated Offender Management model delivered jointly with the police and other local partners. IOM schemes nationally vary considerably and any reference we make is to the model operating in Bristol.

3.3 The trust has substantial proven capacity for innovation in utilising diverse delivery models for services to offenders and communities. Such an example is the creation, by this trust, of a Social Enterprise, the Restore Trust, that delivers important education and training opportunities by restoring local properties. Restore Trust has been successful in attracting resources to support the rehabilitation of offenders and is delivering excellent results.

3.4 Our work with offenders is based upon a thorough recognition of the centrality of victims and communities in our work. The statutory service probation trust staff deliver to victims of serious crime is frequently overlooked and this omission gives a distorted perception of the organisation's core values, beliefs and skills.

3.5 The promised advantages of trust status have not materialised. This is especially true in relation to business freedoms needed to operate effectively in the commercial environment that this trust welcomes. For example trusts are not permitted financial year end flexibility and this both militates against good business planning and creates disincentive for other organisations to invest in probation delivery.

3.6 Contrary to current perceptions the National Offender Management Service (NOMS) as created in 2004, was based on new commissioning principles. NOMS was re-launched in 2008 with an overwhelmingly prison service senior management. The following two extracts come from the NOMS website as of 7 September 2010,

“Effective commissioning will ensure that the most appropriate services are available to meet offender needs, at the right price and at the right time. The NOMS commissioning system is continually developing. Between now and 2010 we expect to deliver a significant step change in the way we commission services from the public, private and third sectors.”

“The probation Trusts will act not only as providers of court services and offender management, but also as local commissioners. They will be responsible for commissioning interventions and other services from the best providers in the public, private or third sector, in accordance with the need for efficiency and effectiveness and in line with value for money principles. They will also represent NOMS and in work with local communities to reduce re-offending.”

3.7 There is only limited evidence that NOMS engages with local offender and community needs in the development of its commissioning system, and as indicated already NOMS has, at best, a contracting top-down approach. Further, whilst the approach of Probation Trust as commissioner is sound there is little evidence that NOMS has developed the intent beyond making the statement. It is an approach that we as a trust welcome, but it does require the business flexibilities, currently denied to trusts, to implement effectively.

3.8 Overall, the creation of NOMS has done little for probation delivery or development and certainly it is hard to justify the expenditure on NOMS in relation to benefits realised. Our trust has utmost respect for, and excellent relationship with the regional South West DOM team but we do not believe the structure for commissioning achieves best performance, quality and value for local communities.

3.9 Offender management, through one responsible person managing offenders through their complete sentence is without doubt the right principle. However effective join up between prison and probation delivery has not been achieved to the extent that might have been reasonably expected over a nearly seven year time frame. Indeterminate public protection sentence progression is an outstanding and costly example of this failure. It is the opinion of this trust that the prison service is not the organisation with which probation trust primary strategic partnership should exist.

3.10 The delivery of probation services is rooted in ensuring the offender's capacity to thrive as a responsible citizen in their local community. The primary strategic partners of the probation trust are the police, local authorities and other community organisations providing services to offenders. Whilst prisoner sentence plans require close liaison with colleagues in the prison service it is proper that the prison service priority is with the management and delivery of safe and secure custody and not community provision and supervision.

3.11 Our trust would strongly argue that the strategic alignment of the commissioning and delivery of probation services is with other community based provision with the police and local authorities as key partners. We are keen to engage with the proposals around a local criminal justice/crime commissioner with a clearer focus on community provision. If there is to be a major reconfiguration we would argue that it is time to separate probation delivery from the prison service and align it instead more closely with the police.

*4. Are probation services currently commissioned in the most appropriate way?*

4.1 Probation services are not commissioned in the most appropriate way. At best probation trusts are contracted with. Contracts are based predominantly on historic and centralised process targets disaggregated from national targets and requirements. This approach itself is a manifestation of an historic resource allocation model from the centre to probation areas based on a complex formula addressing both workloads and demographics, which over time did little to address existing resource imbalances between probation areas that had built up over time before the resource allocation model was implemented.

4.2 Commissioning, in the sense that commissioning is a process through which local needs are assessed and met within nationally defined priorities, does not happen. It is also not clear how decisions are taken about services to be commissioned nationally and more locally and what the roles are of DOM teams and trusts in managing demand.

4.3 The current contracting approach is essentially one derived from the prison service experience with a focus on centralised managerial command and control with little regard for the different governance arrangements in place and operating environment for probation trusts. This has led to unreasonable centralised monitoring and contract compliance demands on executive time disproportionate to the value that such activities generate.

4.4 It is the opinion of this Trust that probation services should be commissioned by Probation Trusts as intended by the OM Act.

*5. 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?*

5.1 Avon and Somerset Probation Trust can demonstrate effective governance of performance, quality and value in accordance to the work contracted by the Director of Offender Management.

5.2 It is noted that HM Inspectorate of Probation who assess the quality of the delivery of offender management will only utilise trust assessors who have an appropriate professional (probation officer) qualification to make judgement about offender management cases assessed. The trust accords with this view that staff holding the recognised qualification are essential in key elements of effective offender management and supervision. This is not to overlook the very important incorporation of work by staff with other qualification. The Trust recognises there is an important place for properly selected work to be undertaken by staff who are not qualified probation officers.

5.3 The Trust is proud of the statutory service it provides to victims of serious sexual and violent crime and considers this element of its work as fundamental in the delivery of effective offender management. It is, in our experience, a significant advantage that an organisation delivering offender management has appropriate direct experience and knowledge of perspectives and requirements of victims of crime.

5.4 The current delivery contract between the Trust and Secretary of State does not include delivery of probation services to short term sentenced prisoners, many of whom present significant risk of re-offending. Operating within existing resources Avon and Somerset Probation Trust has developed Integrated Offender Management (IMPACT) approach with the police and others where offenders presenting a high risk of acquisitive re-offending are targeted. Included are short term prisoners who are assessed as highest risk of re-offending. The IMPACT scheme piloted in Bristol is currently being rolled out throughout Avon and Somerset.

*6. Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

6.1 There are circumstances where demand is not in alignment with supply. Within this Trust area the notable shortcoming is with the alcohol services commissioned. In relation to requirements provided by the Probation Trust the challenge is to ensure that the flow and volume of delivery meets that of court demand and the current commissioning arrangements do not support this well.

6.2 The degree to which sentencers receive data to inform what is in effect their commissioning role and its impact upon the provider is a matter that the trust is working hard to develop. Our local research suggests that

sentencers, as representatives of their local communities, welcome provision of such information and are open to understand more fully and be better informed about the impact of their “spending” activities.

*7. What role should the private and voluntary sectors play in the delivery of probation services?*

7.1 Currently ASPT expends approximately 20% of its budget on private and voluntary sector services. This includes direct offender services, support services and most substantially property and IT services delivered through national contract. The property and IT contracts are recognised as not delivering value for money as emphatically expressed in the KPMG study of probation undertaken for MoJ (2008).

7.2 The private and voluntary sectors clearly have a significant role in the delivery of probation services but it is the opinion of this trust that offender management should be undertaken by appropriately qualified/trained staff employed and managed by the trust and that other services should be commissioned by the trust. Probation trusts commissioning to local needs within a national framework are well placed to identify where private and voluntary sector providers represent best value for money. It is crucial for such competition to take place that trusts should be able to operate with the same business freedoms as private and voluntary sector partners.

7.3 A commissioning model needs to be agreed to determine how probation trusts should be the local commissioners working closely with the newly proposed police local criminal justice/crime commissioners.

7.4 Offender management remains a cornerstone to future delivery with appropriate national consistency and sufficient assurance for ministers in meeting public protection objectives. Contracting for Offender Management services with a variety of providers risk serious fragmentation. It is the strong opinion of this Trust that Integrated Offender Management (IOM) approaches, aligning probation, police and other local organisations, is the most constructive future course.

*8. Does the probation service have the capacity to cope with a move away from short custodial sentences?*

8.1 The Bristol IOM (IMPACT) has extended capacity within existing resources for offender management to those offenders released from custody who present the most likely risk of re-offending. Targeting is based upon assessed risk of acquisitive re-offending and not on the type of sentence. The Bristol IOM model is equally applicable to those offenders presenting the most serious risk of harm.

*9. Could probation trusts make more use of restorative justice?*

9.1 Trusts and other providers can and should make more use of restorative justice, not just as a sentence but as a potential diversion from prosecution in appropriate cases. Our IOM is making progress in this matter.

9.2 Probation trusts have valuable experience of working with victims of serious crime relevant skills gained that should be applied to restorative justice development.

*10. 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?*

10.1 Probation trusts as providers have a very proud and effective history of addressing diversity and equalities issues. The Trust performance analysis incorporates diversity criteria for improvement purpose. It will be important for any providers of probation delivery to at least meet or exceed the current attention paid to diversity and equalities.

*11. Is the provision of training adequate?*

11.1 In general the Probation Qualification Training Framework is welcomed by ASPT, and especially the attention paid to the development of probation service officers (who do not have a professional qualification to operate as a probation officer) but who are thereby enabled to take on a greater range of functions delivering increased value for money.

11.2 For the future more competitive environment, training will need to encompass greater commercial awareness by all staff as work proposed and undertaken by our staff has a financial implication and needs to be better understood in a value for money framework.

11.3 In this respect, providers coming into the probation delivery market will also need appropriately recognised training for staff as a basis for consistent performance.

## Written evidence from Transition to Adulthood Alliance (PB 46)

### ABOUT THE TRANSITION TO ADULTHOOD ALLIANCE

1. The Transition to Adulthood (T2A) Alliance aims to raise awareness of the distinct needs of young adults, aged 18–24, in the criminal justice system and to secure policy change to improve their lives. Convened by the Barrow Cadbury Trust, its membership encompasses academics, campaigning organisations and practitioners, including 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, Revolving Doors Agency, the Young Foundation, Young Minds and Young People in Focus.

2. The T2A Alliance launched a consultation document in July, “A New Start: Young Adults in the Criminal Justice System”<sup>42</sup> which proposed 21 policy recommendations. During a three month consultation period, views were sought from politicians, policy makers and practitioners. Over 300 individuals and organisations contributed to the process, including statutory and voluntary groups, young people and ex-offenders themselves. This consultation culminated in the “Young Adult Manifesto”,<sup>43</sup> launched in November 2009 calling for 10 pragmatic policy changes for this age group. The Alliance also works with practitioners and statutory bodies to raise awareness of the distinct needs of young adults and to provide support and guidance for them.

### ABOUT THE T2A PILOT PROGRAMMES

3. The Barrow Cadbury Trust has established three pilots to test different approaches to improving services and support for young adults in the criminal justice system. In 2009, the Trust set up pilots 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. These pilots run for three years and will receive a formative evaluation by Oxford University’s Centre for Criminology, and an outcome-based evaluation by young people’s charity Catch22.

4. 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.

5. The Worcestershire pilot offers a flexible, community based, one to one support and mentoring project using paid staff and local volunteers. The project embeds the principles of service user involvement and is clearly aligned to and supported by Probation, YOS, Youth Service, Connexions, Children’s Services, Police and Prison to promote new practice and to shape local policy.

6. 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 of mentoring, motivational work, attitudinal work, combined with competent practical support in areas such as housing, benefits and employment, training and education.

### INTRODUCTION

7. The T2A Alliance welcomes this important inquiry by the Justice Select Committee into the role of probation services; this inquiry is of key significance at a time of great upheaval within the system alongside tightened budgets. The Alliance particularly welcomes the remit of the inquiry into to the role of the probation service in handling different groups of offenders appropriately, particularly young adults. Our response will focus on: commissioning of probation services; magistrates and judges; the role of the private and voluntary sector, probation service ability to cope with the replacement of short custodial sentences and the introduction of restorative justice and the needs of young adults.

### COMMISSIONING OF PROBATION SERVICES

8. The T2A Alliance does not have a view on who should deliver probation services. However, through the Alliance practice and policy work, we would argue that any commissioning arrangement should reflect the following principles:

- Take account of the various transitions of young people involved in criminal justice and respond appropriately. The transition from youth offending service to probation is often poorly administered and details are not passed from one service to another. Smart commissioning could bridge the gap across the services and provide a more seamless transition, commissioning services that work across age brackets or involve several agencies together.
- As well as pooling resources across traditional age barriers, commissioning should facilitate multi-agency working across agencies both inside and outside the criminal justice system. MAPPA has been shown to provide a good model for pooling resources across agencies to achieve good outcomes. The total place pilots also offer a promising model for more innovative commissioning that focuses on shared outcomes.

<sup>42</sup> 65The report is enclosed as supplementary evidence.

<sup>43</sup> The report is enclosed as supplementary evidence.

- Represent *realistic* investment in order to support good outcomes—immediate cost savings are valuable but not as valuable as long-term savings through reduced reoffending.
- Be sufficiently flexible to allow the provider to innovate and respond both to local needs and to the needs of individuals they are working with.
- Reflect the comprehensive research evidence on the importance of building relationships as key to desistance and facilitating appropriate case loads so that these relationships can be built.
- Reflect the evidence on maturity and the “age crime curve” in relation to desistance.
- Involve offenders and their families, across the various parts of the criminal justice system.<sup>44</sup>

*Are magistrates and judges able to utilize fully the requirements that can be attached to community sentences? How effectively are these being delivered?*

9. Young adults often have high levels of complex needs yet the criminal justice is failing to cope with these through traditional justice interventions. For example, Probation officers point out that not all twelve requirements of Community Orders are readily available, the two most commonly cited as missing being alcohol treatment and mental health requirements<sup>45</sup>—both identified as key needs of young adult offenders. The Sainsbury Centre for Mental Health also identified serious gaps in provision for the mental health requirement.<sup>46</sup> Mental health treatment requirements are used in less than one percent of Orders, despite evidence showing that nearly half of all offenders could benefit from this option.

10. Community sentences are proving disproportionately challenging for young adults to complete. Currently, young adults often receive the most punitive community sentences. Curfews, banned activities and unpaid work are common, making it harder not to breach the order, but lack the necessary support for young adults to fulfil the requirements. As a result of a breach, there are rapidly rising numbers of young adults ending up in prison.<sup>47</sup> At present, limited supervision and the inflexible nature of requirements are setting up young adults to fail.

11. For young women community sentences requirements can be even more difficult to comply with. In taking evidence for our Green Paper, *A New Start*, the T2A Alliance heard from one policy panel that some women with chaotic lives often fail to attend unpaid work requirement days simply because they are unable to arrange for childcare. Community sentences need to work better for vulnerable women with chaotic lives, childcare responsibilities and debt or financial worries. Gender specific provision, especially for women with mental health problems, should be available in the community. Research into the Community Order and Suspended Sentence Order for women found that “*style and content of the sentence and the way it is managed are at least as important for women as the form and type of requirements*”<sup>48</sup> More account, therefore, should be taken of the needs of young women in serving their sentence—specifically, their poor self-esteem, mental health problems and being the primary carer for a family.

12. The T2A Alliance further recommends that Community sentences be supported by resourcing that ensures that all 12 requirements introduced by the Criminal Justice Act 2003 are available to the courts and that there are not significant waiting periods before an offender can begin an Order.

13. We also recommend that more use should be made of existing sentences to treat alcohol misuse and mental health problems with the necessary expansion of treatment provision, as proposed in the Bradley Review (published in 2009).

14. Finally many of these support needs are difficult to meet through a “one size fits all” adult justice system that treats all offenders over 18 as fully mature adults. The T2A Alliance has recommended that the government consider how maturity and developmental stage could be taken into consideration in the sentencing of young adults. We recommend a UK pilot based on maturity assessments and drawing on practice in Germany for sentencing those aged 18–21 (or even up to 24) under juvenile law, depending on the nature of the crime and level of maturity.

15. Research by Matrix found that diversion from trial under adult law to trial under juvenile law following maturity assessment is likely to produce a lifetime cost saving to society of £420 per offender, and that the costs of maturity assessments are likely to be paid back within five years of implementation.<sup>49</sup>

*What role should the private and voluntary sector play?*

16. Our pilots have shown the benefits of support delivered outside the traditional boundaries of probation—both outside the physical building but also outside the constraints of a model focused on risk and protection.

<sup>44</sup> A New Start, p.14

<sup>45</sup> Cabinet Office, Short Study on Women Offenders, May 2009, p.16

<sup>46</sup> Sainsbury Centre for Mental Health (2009) A Missed Opportunity: Community Sentences and the Mental Health Treatment Requirement

<sup>47</sup> Partridge, S., Harris, J., Abram, M. and Scholes, A. (2005) The Intensive Control and Change Programme Pilots: A Study of Implementation in the First Year London: Home Office—cited in The Use of the Community Order and the Suspended Sentence Order for Young Adult Offenders, p.1

<sup>48</sup> Patel, S. and Stanley, S. *The Community order and Suspended Sentence Order for Women*, CCJS, May 2008

<sup>49</sup> Matrix Evidence, Economic Analysis of interventions for young adult offenders, November 2009



The Oxford University Centre for Criminology's interim evaluation of the T2A pilots found that many T2A service users appreciated the role played by T2A workers in addition to probation.

17. There already exists a body of literature on the distinct qualities of the voluntary sector. However, in terms of criminal justice interventions, the voluntary sector may be better equipped and able to include the community's voice in the way services are designed and delivered, offer participation of service users, and to work more closely with offenders and their families. The T2A Alliance believes that the consistent and meaningful involvement of the community, offenders, and their families, across the various parts of the criminal justice system is essential to improving it,<sup>50</sup> in the same way that contact between prisoners and their families is widely recognised as a significant factor in reducing reoffending.<sup>51</sup>

18. Equally, ex-offenders need to make strong links with statutory and voluntary agencies in the community who can support them after release from prison or after their community sentence is completed. Planning for resettlement should start from the moment a person enters custody and must include the voice of the young person and their families. The government should enhance the role of ex-offenders in providing resettlement support, and should encourage prisons to allow ex-offenders to volunteer in prisons (as demonstrated by St Giles Trust's Through the Gates programme, and the Prince's Trust's 1:2:1 projects).<sup>52</sup>

*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

19. Short custodial sentences of less than twelve months are responsible for the highest rates of reoffending among all age groups, with approximately 60% reconvicted within a year in 2008. In that year, the average sentence length for young adult offenders was 11.6 months, and the majority of people sentenced to this length of time in prison had not committed a violent offence. The T2A Alliance therefore recommends the abolition of the use of short sentences of less than six months for young adults convicted of non-violent offences. However, this must be premised on the principle of justice reinvestment where cost savings from a reduced prison population are invested into community provision that addresses the specific needs of young adults and the causes of their offending. This would require the expansion of community-based drug, alcohol and mental health treatment tailored to young adults.

20. Research for T2A by Matrix found that diversion from custody to community sentences via changes in sentencing guidelines is likely to produce a lifetime cost saving to society of more than £1,032 per offender. The costs of changing sentencing guidelines are likely to be paid back within three years of implementation.<sup>53</sup>

*Could probation make more use of restorative justice?*

21. The T2A Alliance fully endorses the use of restorative justice with young adult offenders. The Prison Reform Trust's recent research on restorative justice in Northern Ireland has also shown that diverting young people into restorative solutions can be highly effective. Among young people under 18 in Northern Ireland, for example, 40% who had gone through the restorative justice conferencing order committed another crime within a year, compared to 71% of those who had been put in prison.<sup>54</sup> We welcome the Justice Minister's recent commitment to maximize restorative justice opportunities throughout the criminal justice system (22 July 2010).

22. T2A 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 (following a police triage service.) Matrix found that it is likely to produce a lifetime cost saving to society of almost £7,050 per offender. The costs of RJ conferencing are likely to be paid back within the first year of implementation. During the course of two parliaments (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.<sup>55</sup>

*Does the probation service handle different groups of offenders appropriately, eg women, young adults, black and minority ethnic people?*

23. The probation service, and the various agencies that comprise the criminal justice system, are failing to meet the needs of young adult offenders. Despite making up less than 10% of the population, young adults represent a third of people sentenced to custody each year,<sup>56</sup> take up a third of the probation service's caseload and commit an estimated third of all crime.<sup>57</sup> Young adults have some of the highest reoffending rates of all groups in the system. The high reoffending rates and disproportionate involvement of young adults in trouble with the law demonstrates the need for a new approach.

<sup>50</sup> A New Start, p.14

<sup>51</sup> Action for Prisoners' Families, (revised May 2010) Three Year Strategy, 2009–2012, p. 1

<sup>52</sup> A New Start, p. 38

<sup>53</sup> Matrix Evidence, Economic Analysis of interventions for young adult offenders, November 2009

<sup>54</sup> Prison Reform Trust, Making Amends: restorative justice in Northern Ireland, October 2009

<sup>55</sup> Matrix Evidence, Economic Analysis of interventions for young adult offenders, November 2009

<sup>56</sup> Offender Management Caseload Statistics, Ministry of Justice, 2007, Table 6.6, p. 64.

<sup>57</sup> Bowles and Pradityo, *Commission on Young Adults and the Criminal Justice System: Summary of Costs and Benefits*, Centre for Criminal Justice Economics and Psychology, University of York.

24. In addition to their disproportionate involvement in crime, a further reason for a distinct approach is that young adults have needs and characteristics, which are different from those of the general adult population. Many young adults experience levels of emotional maturity similar to that of younger teenagers and those who have had more difficult childhoods take longer to mature than those who have had a more positive upbringing. These needs and characteristics are set out in detail in “Universities of Crime: Young Adults, the Criminal Justice System and Social Policy”, a report from the T2A Alliance. This report is enclosed as supplementary material to this evidence.

25. The Oxford Centre for Criminology Interim evaluation of T2A pilots highlighted promising practice for working with young adults after prison or whilst on a community sentence that the T2A Alliance would like to see implemented more widely. These features were highlighted as valuable by service users themselves and included: working intensively with young adults during transitions; achieving diversion, resettlement, desistance and better life-chances; engaging with diversity, difference and the hard-to-reach and service-user involvement.<sup>58</sup>

26. These four elements are difficult for probation service to implement and achieve given difficulties previously mentioned in this submission—particularly that of high caseloads, limited time with service users, focus on risk management rather than improving the life chances and resettlement of ex-offenders, and finally an approach that does not give sufficient weight to participation of service users and their families.

#### T2A PILOTS AND RELATIONSHIPS

The T2A pilots provide a holistic approach to working with young adults recognising the difficulties they face during their transition to adulthood and the additional support they require. Their way of working fits with the conclusion of France and Homel that “what young people value is not programmes but a supportive relationship with a non-judgemental adult who is able to help them navigate their way through difficult circumstances.”<sup>59</sup> Some examples of the support received by young adults on the pilots are: helping young adults attend their appointments; assisting the young person in signing on to Job Seekers Allowance; helping to claim housing benefit; accessing voluntary services for additional support, such as alcohol problems; family mediation and working with the young adult on budgeting and essential life skills.

27. The T2A Alliance therefore recommends that intensive support is made available for every young adult (aged 18–24) leaving custody regardless of their length of sentence. Regular contact with prisoners needs to begin before release, and every young adult who requests it should have access to through-the-gate mentoring support upon release. Mentors can play the role of significant adult, in the absence of family and help provide extra support in accessing employment, training, housing and other needs identified.

*September 2010*

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### Written evidence from UNISON (PB 47)

#### INTRODUCTION

1. UNISON is the largest trade union in the criminal justice sector with over 50,000 members working across the police and probation services and CAF/CASS. We currently have 5,000 members working for the 35 probation trusts and this membership is spread across all grades of staff. We have strong levels of membership amongst PSO offender managers, community payback supervisors, approved premises officers and admin and clerical grades.

2. Investment in probation across England and Wales grew considerably for the period 2000–01 to 2007–08. This period saw a real attempt to drive up the level of professionalism in Probation, with increasing sophistication and a range of new offender management services. These developments have driven improvements in the work with offenders to reduce levels of re-offending and provide substantial alternatives to custody which are both restorative and rehabilitative. Critically the emphasis on public protection and multi agency working has increased the potential to manage dangerous offenders in the community on release from prison. The integration of approved premises as a key mechanism to manage the most dangerous offenders has also made a significant and positive difference.

3. The increased levels of investment have also been a consequence of greater demand for probation work and a greatly increased prison population. As investment went up so did the demands on the service and these demands have outstripped the supply of resources. It is worth noting that there are fewer front line probation staff today than in 2003 (CJSM 07–10)

4. UNISON believes that probation services in England and Wales could be managed more effectively with more resources being dedicated to actually manage, supervise and support offenders. We do not however believe that another wholesale reform of probation is needed. This would simply be counter-productive and add to the long list of changes and reforms which probation has been the victim of. Each change takes a degree

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<sup>58</sup> Oxford Centre for Criminology, Interim Report: User Perspectives on T2A Pilots, May 2010

<sup>59</sup> France and Homel, 2006, p.9

of time to become operationally effective and yet this time is often cut short often in response to some media coverage of a supposed probation failing.

5. UNISON is sceptical about the “payment by results” “rehabilitation revolution” and consider it to be an attempt to disguise what will be significant cuts to direct service provision and an attempt to bring in large private sector organisations to provide service which will neither be cost effective and likely to fail.

6. We strongly support the Government’s emphasis away from custody especially for short sentences which are not effective. Probation is an effective option and one that is less costly than incarceration. However to support a move away from the ever increasing use of custody will require an appropriate transfer of resources, not a cuts Agenda.

## 7. EXECUTIVE SUMMARY

- The regional commissioning of Probation Services via the Directors of Offender Management (DOMs) is bureaucratic, expensive and at odds with the Governments’ localism agenda.
- The DOMs Offices and NOMS regional machinery should be dismantled and Probation Trusts empowered to commission locally for local needs.
- Stronger joint working with local public sector providers/partners should be encouraged.
- Probation Trusts should be properly and democratically accountable. The Board Structure of Trusts should be reformed to provide a majority voice for elected councillors and magistrates/ judges. This will strengthen magistrates” and judges” understanding of the work of Probation.
- The Voluntary Sector should continue to develop appropriate local partnership arrangements with Probation Trusts.
- The experience of the private sector in Probation has been a disaster. The failing Home Office Facilities Management contract; the problems with contracting out unpaid work in London and the failed Bail Hostels contract point to an immature market in probation services. None of the private providers working in Probation has added value.
- The private sector is not geared up to run the “rehabilitation revolution”. Instead there will need to be proper resourcing of Probation Trusts to oversee the Government’s plans to increase the proportion of community sentences.
- Current professional training provision in the Probation Service is good, but needs to be extended to the workforce at large, not just Offender Management Staff.
- The principles of Enhanced Community Punishment (ECP) should be re-introduced to unpaid work with appropriate resources.

*Are probation services currently commissioned in the most appropriate way?*

8. No. UNISON believes that the current model of commissioning in probation is bureaucratic, expensive to administer and at odds with the concept of local decision making. The commissioning arrangements, contract monitoring, compliance and quality assurance functions all divert resources away from service delivery. The office of each regional Director of Offender Management costs at least £1 million per annum—money which would be better directed to front line services. If the cost of regional commissioning is effectively £1 million per annum per region, then real savings generated through commissioning have to exceed £1 million per annum before the taxpayer sees any real return.

9. If the Government is truly committed to “localism” then the regional DOMs offices should be abolished and probation trusts should work under the umbrella of NOMS at a national level linked in the Ministry of Justice. NOMS would identify what services Ministers require to be provided and would leave the 35 local trusts to either provide them directly or work with local partners in a local delivery model.

10. UNISON does support the need to have a strong national focus for probation work via NOMS and a clear link with political decision making at a national level. The current national links between Trusts, NOMS and Ministry of Justice have started to become more effective recently and we would be in favour of the retention of these links to provide the national focus and oversight for what happens locally.

11. One of the alternative models of commissioning that should be explored is working in closer alliance with other local public sector providers notably local government. Strong relationships with local government have existed in the past. Multi agency teams already exist with youth offending teams a good example.

*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?*

12. Although probation trusts are relatively recent creations, they are of course building on what has gone before, in the form of probation boards, areas and committees. Although UNISON does have concerns about the capacity of some trust managements to deliver effectively, we believe that the 35 local probation trusts do a good job and deliver effective probation services to local communities. The meeting of national targets and the reports of the HMIP both demonstrate an effective and improving approach and dedicated and skilled staff.

13. UNISON has a concern about the lack of local accountability of probation trusts as community based services. The lack of local magistrates, judges and serving local government councillors on trust boards weakens a trust's ability to represent the communities it serve. We feel that local accountability is important with this work and being able to respond to local community needs should be a priority. The composition of trust boards should be changed to lever in more local accountability, included councillors, magistrates and judges.

14. The delivery of offender management is the primary purpose of a probation trust. The need to have a single delivery body is critical to having an effective service in which information on offenders is shared amongst professionals and managed in a appropriate way to reduce risk and protect the public.

15. Offenders' risk profile is fluid and when it changes, a single body is able to absorb that change within its resources. It is clear that probation trusts take the protection of the public as their most important function and this should continue to be the key focus of any reforms suggested. It should be noted that to manage risk effectively particularly amongst the group of offenders who are the biggest risk to the public, requires resources and prioritisation.

16. In general a probation trust uses its staffing resources to best manage the offenders it is required to supervise. Currently two distinct groups of staff engage with offenders for the purposes of offender management. The probation officer (PO) will supervise the offenders who they have classified through the OASYS (risk management tool) protocol as presenting the highest risk of harm to the community. The probation services officer (PSO) will work with those who are classified as being of less risk. A common definition used in the management of risk is the tier of offender, which ranges from tier 1 to 4; 4 being the most serious. Tier 4 offenders are almost exclusively managed by probation officers and this proportion is reduced down as we move down the tiers.

17. Currently probation officer grade staff must hold a degree and further professional qualification, most likely to be the DipPS (diploma in probation studies) or Dip-SW (diploma in social work). Training arrangements for staff have recently changed with significant improvements and UNISON supported these changes. PSO grade staff now have a clear accredited pathway to professional development which UNISON has strongly welcomed.

18. The assessment of risk is a key determinant as to how the management of the offender takes place in practice. The level of involvement is linked to the complexity and risk of the offender. In practice UNISON would argue that resources and the direction of them, have not allowed for sufficient face to face interaction with the offenders and this does impact on what members feel is effective practice. Workloads have remained at high levels and this has also impacted on practice.

19. The workload of a probation trust is fundamentally driven by the requirements of the courts. They impose the sentences and the probation trust implements the sentence plan. A probation trust is unable to say that it has reached its capacity and cannot provide any more services to the court, or those being released from prison. The probation trust is duty bound to accept all those being released into trust's geographical area. This has major resource implications, particularly at a time when the Government is threatening cuts of between 29-40% in public sector budgets.

*Are magistrates and judges able to utilise fully the requirements that can be attached to community services? How effectively are these requirements being delivered?*

20. UNISON believes that that strengthening the links between judges, magistrates and the local probation service should be priority. Clearly magistrates and judges need to have an effective relationship with local probation trusts and the staff who are presenting reports. The full range of sentencing options should be known to all magistrates and judges.

21. A recommendation made by a probation officer or probation services officer is based on their professional judgement but it is clearly only a recommendation and not binding in any way. Probation responds to what sentence is imposed and seeks to manage it in the most effective way possible. UNISON would contend that in general the relationships are positive but could be further strengthened.

22. UNISON would make the observation that the greater the number of requirements placed on a community order the more resources that are required to deliver it.

*What role should the private and voluntary sectors play in the delivery of probation services?*

23. We acknowledge that there already exist good relationships between local voluntary sector bodies and local probation trusts. They operate in an effective manner delivering a range of services sometimes directly and sometimes in partnership. These relationships are beneficial and have grown to meet the need of all concerned. It is likely that these relationships will continue to grow and have largely positive results.

24. The commissioning of these voluntary sector services has been done locally by probation trusts and they have delivered real plurality in provision. These relationships are not forced and are driven by the needs of the probation trust. UNISON is broadly supportive of these relationships providing that staff who may transfer employment to the voluntary sector are not disadvantaged.

25. The role of the private sector in the delivery of probation services is a much more contentious issue. The experience that probation has with regard to private sector involvement on a large scale is not a positive one. Support functions like estates, facilities maintenance and IT are subject to a forced national contract and it has not been a success; indeed UNISON argues that service levels have deteriorated whilst real costs have escalated costing the taxpayer more money.

26. UNISON believes strongly that the use of the private sector to deliver probation services would in fact lead to a fragmentation of service provision at a time when efforts have been made to deliver a joined up approach to offender management.

27. The greater use of the private sector to deliver services would also require additional bureaucracy to oversee the commissioning arrangements, contract management and quality assurance. This additional resource would divert resources from actual offender management and interventions.

28. The private sector will be looking to return a profit from the provision of probation services. Without additional resources this profit must come from the budgets of existing trusts. This will be very hard to achieve without driving down standards and putting local communities at risk. There is also an ethical issues about whether justice should be driven by profit and peoples' liberty affected by market pressure.

29. Whilst large scale private contracts on a national or regional basis would be attractive to the private sector, this would be at odds with local commissioning and diversity of provision. It would reduce the ability of a trust to control its own affairs and respond to the local needs of communities. It would destroy also attempts to deliver greater accountability for communities.

*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

30. The probation service is in its second year of reduced resources and as such the numbers employed to work in the service have declined. The projections for further resourcing cuts are deeply disturbing and its unclear how probation will function as a service should the projected cuts be realised.

31. The demand on the available resources within the service has not declined and workload pressures are a real and damaging issue. A number of local disputes have arisen over workload pressures and this looks likely to become an ongoing concern.

32. Currently many of the offenders who receive short term custodial sentences would not have any contact with the probation service following any initial inquiry report. They do not receive any post custody supervision.

33. Capacity would need to be created if local probation services were to see a significant increase in community sentencing to address any move away from short custodial sentences. UNISON believes that local probation trusts are well positioned to deliver additional capacity if new resources are found. These resources should come from the significant savings that would arise from not sending individuals into custody for short sentences.

*Could probation trusts make more use of restorative justice?*

34. Probation trusts already make use of restorative justice through the community payback scheme. Recent developments have included greater local community involvement in projects undertaken by offenders and UNISON is supportive of this concept. A large amount of public good is delivered by offenders through unpaid work/community payback projects.

35. Enhanced community punishment (ECP) was rolled out some years ago and has since been abandoned due to the intensive nature and cost of this programme, ECP sought a more active engagement with offenders and included developing life skills, pro social attitudes and work on numeracy, literary and employment. UNISON is calling for the reintroduction of the positive principles of ECP.

36. Expanding restorative justice projects is possible with dedicated resourcing. Probation trusts have the skilled staff to further develop this work. The restorative element is the local community's gain providing this service remains in the public or voluntary sector.

*Is the provision of training adequate?*

37. The training arrangements for probation staff have recently been changed. UNISON strongly supported the changes. The new qualifying training arrangements ensure that all operational staff receive appropriate levels of training which is nationally accredited.

38. UNISON believe that the new arrangements are adequate although they will need time to be fully implemented and more importantly will need to be properly resourced.

39. Working with offenders requires a high skilled workforce and continued investment in the ongoing professional development of staff is of critical importance.

## CONCLUSION

40. Probation has been the subject of far too much change and reorganisation which has at times had a counter-productive effect. The constant changes have often seen resources wasted and the views of front line staff ignored. The introduction of NOMS regional operations and focus on commissioning was excessive and over reaching. Today duplication exists between probation trusts seeking to develop and innovate and NOMS regional directors wanting to dictate what should happen. This duplication and conflict is unacceptable and wasteful.

41. The probation service is able to offer a range of alternatives to custody and the restorative nature of unpaid work has produced real benefits in local communities up and down England and Wales. This in turn has delivered greater confidence amongst communities that community sentences are worthwhile and meaningful. This represents the best and most viable option to reduce custodial sentences but any reduction in resources will severely limit this opportunity.

September 2010

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### **Written evidence from the Justice Unions Parliamentary Group (PB 48)**

We are writing on behalf of the Justice Unions Parliamentary Group in response to the Justice Select Committee inquiry into the Probation Service. We welcome the Justice Select Committee inquiry as the Probation Service is currently undergoing critical challenges.

As you may be aware the Justice Unions Parliamentary Group (JUPG) comprises over 50 MPs and Lords from all parties and meets together with the unions (the Trade Union and Professional Association for Family Court and Probation Staff, the Public and Commercial Services Union and the Prison Officers Association) on a regular basis to discuss the issues concerning the criminal justice system.

The Trade Union and Professional Association for Family Court and Probation Staff (Napo) represents more than 9,000 probation and family court staff throughout England, Wales and Northern Ireland; the Public and Commercial Services Union (PCS) represents 300,000 members organised throughout the civil service and government agencies, and the Prison Officers Association (POA) represents 35,000 uniformed prison grades and staff working within the field of secure forensic psychiatric care in the public and private sectors.

The Justice Unions Parliamentary Group believes that the proposed Government cuts of 25% between 2010 and 2012–13 will make it impossible for the Probation Service to carry out its statutory duties. Whilst the Probation Service received significant increases in resources between 1997 and 2006 it is our view that much of this was not directed at frontline approaches. However, we believe that the proposed cuts will affect frontline operations most severely. We are of the opinion that this will, in turn, lead to a significant rise in the short-term prison population.

We have attached a Napo briefing entitled *Role of the Probation Service* for the consideration of the Committee. (Annex, not printed)

September 2010

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### **Written evidence from the Judges at Birmingham Crown Court (PB 50)**

*Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

In Birmingham judges are in a position to utilise a wide range of activity and programme requirements—Sex Offenders, Domestic Violence (IDAP), Alcohol (LIAP) Substance Abuse (OSAP), Drug Rehabilitation, Think First and others. The range of programmes and activities theoretically available is far wider than it was 10 (or even five) years ago. We say “theoretically” because there is often a long waiting time for offenders to take their place on any given programme. To be delivered effectively many of the programmes require significant resources in terms of probation officer time. Delivery of the programme has to be by properly trained and experienced officers. The problem often facing the sentencing judge is a lack of information as to when the person to be sentenced will be able to undertake the recommended programme. This is a problem that has been recognised locally with steps being taken to improve the information provided to sentencing judges.

More fundamental in our view is the need to fund and resource interventionist programmes adequately. We do all that we can to avoid the short custodial sentence ie a sentence of less than 12 months. For that to be possible we need to have a full range of alternative disposals available at the time of sentencing. We recognise also that crimes driven by drug or substance abuse often can be met best with a sentence designed to tackle the underlying cause of the offence. Again that requires proper funding of such sentences.

We are able to monitor the effectiveness of the delivery of programmes forming part of our sentences by requiring a progress report (say) six months into the order. Any sentence with a DRR attached is monitored by a judge (not necessarily the sentencing judge) via the monthly review process involving the attendance of the offender at court.

In Birmingham we maintain close liaison with the probation service, principally via the senior officer based at the Crown Court. Such liaison is essential for effective use of community sentence requirements. The presence of a team of probation officers at the Crown Court is a vital part of that process.

The other form of requirement attached to a community order will have a “payback” or punitive element. Curfew requirements with electronic monitoring are simple to use and give rise to no apparent difficulty in delivery. Any unpaid work requirement plainly is more resource intensive. There is some anecdotal evidence of such requirements not being delivered adequately. This is not due to any deficiency on the part of the probation service itself. Rather it is attributable to failings on the part of outside providers.

*What role should the private and voluntary sectors play in the delivery of probation services?*

Plainly there is a role for outside bodies—particularly the voluntary sector—to play in delivering probation services. Many programmes or activity requirements depend upon voluntary bodies such as alcohol and drugs advisory groups to provide the resources to underpin the programmes/requirements. Such bodies have expertise in particular fields on which the probation service can and does draw.

Whether there is a significant role for the private sector is more problematic. In relation to unpaid work, for instance, a vital part of the sentence must be the understanding that any failure to do the work properly will lead to breach proceedings. The anecdotal evidence referred to above is of private contractors not reporting such failures. The probation service understands the essential element of public confidence in such sentences. That understanding may not be at the forefront of the third party providers’ thinking.

*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

Public confidence in the criminal justice system requires that any alternative to a short custodial sentence must be rigorous. Such rigour requires proper resources. As presently funded we doubt whether our local probation service could cope with a large scale shift in the emphasis in sentencing. In reality there needs to be a significant movement of funds from the prison service but that is something beyond the remit of this response.

*Could probation trusts make more use of restorative justice?*

At the level of case dealt with in the Crown Court, restorative justice requires significant preparatory work both with the offender and (probably more important) with the victim. In principle restorative justice in this context may be a desirable outcome but the impact on resources—the police as well as the probation service—has to be taken into account.

*Does the probation service handle different groups of offenders appropriately?*

It does. The service itself is diverse in terms of ethnicity and gender and can deal with any offender on a sound basis.

High risk offenders are monitored closely. The Probation Liaison Judge at this court sits on a panel called the Serious Further Offences Review Panel. Gun crime and gang related offending—which remains of significance in the West Midlands—is given specific and close attention.

*Is the provision of training adequate?*

This issue largely is not within the knowledge of the judiciary. However, in Birmingham part of the training process involves trainees coming to court to observe lists of cases being sentenced and to discuss the sentencing outcomes with the judge. That is valuable for both sides.

September 2010

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### **Written evidence from the Local Government Association (PB 52)**

1. The Local Government Association (LGA) is a voluntary membership body and our 422 member authorities cover every part of England and Wales. Together they represent over 50 million people and spend around £113 billion a year on local services. They include county councils, metropolitan district councils, English unitary authorities, London boroughs and shire district councils, along with fire authorities, police authorities, national park authorities and passenger transport authorities. The LGA is one of the constituent bodies in the Local Government Group (LG Group).

2. Our response does not cover all the questions raised by the committee, focusing as it does on the key issues for local authorities.

#### **EXECUTIVE SUMMARY**

3. Effective management of offenders is not just the responsibility of probation and councils have a key role to play in helping manage offenders and reduce re-offending. This role needs to be understood in the context of the Government’s plans for a “rehabilitation revolution”.

4. The current commissioning structure for probation services is driven from Whitehall. It would be better, and more efficient, to have commissioning driven at a local level. The Government's proposals for reducing the budget deficit and the reduction in budgets for public services means the duplicate spending and inefficiencies, arising from the current "silo" based approach to re-offending, needs to be replaced by an approach that sees local budgets pooled so outcomes that more efficiently and effectively result in reduced re-offending are delivered. Probation budgets should be added to these pooled resources.

5. The probation service in many areas works effectively, but this is not uniform, and the service also struggles on its existing resources to engage with its partners, so councils report patchy engagement with probation in Community Safety Partnerships.

6. Crime and anti-social behaviour needs to reduce further, and the LGA believes that this outcome can be delivered by a range of bodies including the private and voluntary sectors. Whatever body is commissioned to deliver offender management activity, there must be safeguards to ensure that they are capable of doing so without the offenders they are responsible for creating further victims of crime. Such commissioning also needs to be undertaken at a local level, rather than at a national level.

7. The LGA believes that the shortcomings of the short sentence regime need to be addressed as prisoners on short sentences have high re-offending rates. However we need to guard against this increasing crime, so a risk based approach will need to be adopted to dealing with offenders under any replacement for short sentences. If this replacement to short sentences is a move to greater use of community sentences, then some of the savings for the prison service need to be fed in to the probation service and councils to assist them in meeting the cost of delivering community sentences.

8. The LGA supports the greater use of restorative justice, which councils have been at the forefront of developing.

#### CONTEXT

9. A significant amount of crime is carried out by ex-offenders. For example, a National Audit Office (NAO) report from earlier this year noted that short-sentence prisoners have on average 16 previous convictions, and around 60% are convicted of at least once offence in the year after they are released. This re-offending has a significant cost—in 2007–08 the NAO estimated re-offending by recent ex-offenders cost between £9.5 billion and £13 billion. Effective management of ex-offenders is therefore vital in the LGA's view in reducing crime and making communities safer.

10. Councils are now under a statutory duty to reduce re-offending. As of 1 April 2010 a new duty was placed on CSPs to formulate and implement a strategy to reduce re-offending, and the duty on councils under Section 17 of the Crime and Disorder Act 1998 to have due regard to the likely effect on, and to do all they reasonably can to prevent crime and disorder, anti-social behaviour and substance misuse in their area, was extended to reducing re-offending.

#### REDUCING RE-OFFENDING LOCALLY

11. The LGA does not usually support placing additional duties on councils, but we welcomed the new duty to reduce re-offending. Successful offender management depends on the provision of a range of services to deal with the housing, employment, substance misuse, mental health, unemployment and other problems. A partnership approach is therefore vital in reducing re-offending, though there can be flexibility on who provides the services needed locally. These services can be provided by the voluntary and community sector as much as by the statutory sector. Councils, however, are likely to be major local providers of these (and other) services that will significantly reduce the chances of an ex-offender offending again. A genuinely localist approach to reducing re-offending would hand over responsibility to local public services and local communities to deliver or commission offender management services.

#### *Are probation services currently commissioned in the most appropriate way?*

12. The LGA believes that the current commissioning system stands in the way of delivering effective and efficient offender management outcomes. This is because it relies on three tiers—national, regional and local—with the inefficiencies that come from unnecessary bureaucracy and central control of service provision. The probation service has been structured by the Ministry of Justice and the National Offender Management Service (NOMS) on a national basis when the issues they are dealing with very much occur at a local level. Currently the service has to fulfil nationally set performance criteria while working within local partnerships (and being accountable to them), with all the potential conflicts this creates between national targets and local priorities.

13. The localist approach advocated by all three major political parties in the run up to the general election is, we believe, the right one for the probation service. Commissioning of offender management services should be undertaken locally and not nationally or regionally. It does not require significant legislative change to achieve this, as the Offender Management Act 2007 created a model based on probation trusts that is ready-made for taking a more local approach to the provision of probation services. Such a local approach is much better placed to drive down re-offending and deliver savings and efficiencies. Instead of answering to NOMS, probation trusts should be answerable to local communities and partners for the services they are responsible



for delivering. At the same time the Government's efforts to reduce bureaucratic pressures on the police and councils need to be replicated for the probation service. Monitoring, audit and inspection need to be reduced so that the probation service spends as much time dealing with offenders as it can.

14. There is a substantial risk, in the LGA's view, in not moving to a localist approach. Reducing re-offending requires a collaborative approach, in which the probation service plays a lead role, with other agencies and bodies like councils providing support. Continuing with the current commissioning structure would mean re-offending activity continues to be delivered in a "silo" approach. The Total Place pilots showed the costs and processes associated with "silo" delivery of re-offending services and the savings that could result from a true partnership approach. For example, the Bradford Total Place pilot found that offenders currently have between five to 10 separate assessments conducted by a range of agencies as they move in and out of prison, and these could be reduced to one, with resulting savings in budgets. The LGA therefore believes it is particularly important for local public service budgets to be pooled which would improve the quality of service and reduce costs. The LGA has developed a model to achieve this through place-based budgets.

15. The probation service, through probation trusts, could be brought within a place-based budgeting approach. Commissioning responsibility could be handed from the Secretary of State to each trust to provide local probation services either directly or by sub-contracting or commissioning them. Probation trusts would also have a place on the local governance arrangement the LGA has suggested have responsibility for place-based budgets in any area. This would mean probation trusts were working alongside other partners on joint priorities for reducing re-offending and would be able to make significant savings from more efficient and effective decisions on what services were needed in an area.

*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?*

16. The probation service works effectively in many areas, but it is not uniform. As has already been explained offender management is a collaborative exercise with probation trusts providing a lead. There are already a number of very good partnerships between probation and other agencies in CSPs, such as those links forged by the Rutland and Leicestershire Probation Trust. However this is not universally the case, though the Probation Association's Local Partnership Strategy specifically addresses this area.

17. Councils have raised concerns about the level of engagement they have from the probation service in CSPs, and there have to be concerns about their ability to engage with a range of other local bodies such as such as Drug and Alcohol Teams, and domestic violence forums. In a survey conducted at the end of last year for Local Government Improvement and Development (part of the LG Group) and the Home Office, 24% of the councils that responded said that probation was not at all, or not very involved, in their CSP. This is particularly the case at district council level in England, around which CSPs in two-tier areas are structured. The same survey found that compared with 100% involvement in probation on county-wide community safety structures there was only probation involvement in 77% of district council CSPs.

*What role should the private and voluntary sectors play in the delivery of probation services?*

18. Crime and anti-social behaviour needs to reduce further, and the LGA believes that this outcome can be delivered by a range of bodies including the private and voluntary sectors. Whatever body is commissioned to deliver offender management activity, there must be safeguards to ensure that they are capable of doing so without the offenders they are responsible for creating further victims of crime.

19. There is also a considerable risk that national commissioning of probation services from the private and voluntary sectors (such as the piloting of payment by results at Peterborough prison) will merely duplicate the "silo" based approach to delivering offender management services that the LGA would like to see replaced. As previously stated, the LGA believes that responsibility for commissioning should be held at the local level through a place-based budget approach to bring together a range of public services under democratically and locally elected governance structures. This would mean that responsibility was handed over from the Ministry of Justice to local communities for payment by result schemes.

*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

20. The LGA supports a change in the regime of short sentences, given their ineffectiveness in reducing re-offending by ex-offenders. However, improved communication about release dates and locations is important if support is to be provided. Given the restrictions current resources limitations place on the probation service, the LGA has concerns about the capacity of probation to cope with a move away from short custodial sentences, and the impact this could have on crime. If there is a move away from short sentences a risk based approach needs to be taken to the management of offenders to ensure that offenders do not as a result pose a threat to society by being moved onto community sentences, and being left at large in the community.

21. Of course any move away from short custodial sentences will have implications on other public services. If short custodial sentences are replaced with greater use of community sentences then there will be an impact on councils, as their assistance in providing community sentences does not come cost-free. Any savings

resulting from reductions in prison expenditure as a result need to be feed back into the provision of community sentences and those involved in their provision like probation and councils.

*Could probation trusts make more use of restorative justice?*

22. The LGA supports the use of restorative justice, and councils have been at the forefront of developing restorative justice projects such as the community justice panels established in Somerset and Sheffield. These have been relatively cheap to operate and have reduced re-offending rates. A large number of councils use restorative justice approaches especially in relation to youth offending.

23. A restorative justice approach not only helps reduce crime by making offenders aware of the consequences of their crimes, it also provides reparation to the community, increases local understanding of offenders thereby reducing the fear of crime, and builds confidence in the criminal justice system.

24. We would therefore support greater use of restorative justice, with probation trusts working with their local authorities and other partners to make greater use of it, and provide the funding needed.

October 2010

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### Written evidence from Women in Prison (PB 53)

#### EXECUTIVE SUMMARY

Based on our experience as a voluntary sector agency delivering services to women in the criminal justice system, including women subject to probation supervision, this submission focuses on two of the eight questions asked:

*Does the probation service handle women offenders appropriately?*

*What role should the voluntary sector play in the delivery of probation services?*

Our submission draws on our day-to-day experience of supporting women at all stages of the criminal justice system and from the experiences of our clients.

*Does the probation service handle women offenders appropriately?*

Despite positive developments, such as the Women's Programme and the relationships developed with women's centres/one-stop-shops and other women-sector support services the probation service still fails to provide an appropriate response to sufficient numbers of women. Particular concerns are:

- lack of access to women-specific accredited programmes;
- lack of women-specific support from individual probation officers, in particular in relation to women who have experienced domestic violence or sexual abuse and women who are mothers;
- lack of safety in mixed gender probation offices; and
- lack of approved premises.

*What role should the voluntary sector play in the delivery of probation services?*

The voluntary sector can play an important role in delivering specialist services to women offenders. However, this must not come at the expense of a fully independent women's criminal justice voluntary sector able to support women.

A model of payment by results for rehabilitation work presents a risk to the survival of effective services where they are specialist and women-specific and therefore presents a risk to women. To avoid this there will need to be a specific framework for payment by results for women in the criminal justice system.

#### INTRODUCTION

1. Women in Prison works with 2,000 women each year, as well as women currently in custody this includes women supervised by the probation service. We do not deliver sentence requirements and engagement with our services is never mandatory. The following evidence is based on our experience of supporting women supervised by probation and the direct experiences of women supervised by probation. The experiences of the women we work with are captured through focus groups held earlier this year, women's conversations with their key workers and women's contributions to Women Moving Forward (our client campaign group). Feedback about probation from our clients is not attributed to individual women but grouped according to common themes. Some of their experiences are generic but many are gender based. It is these women-specific experiences of probation that this submission focuses on.

2. The disadvantage experienced by women (ex)offenders is well documented and does not need to be covered here in detail, however it serves to note:

- Women are just 5% of the prison population, and

— Women are around 13% of the probation caseload.

As a result of being a minority women are overlooked in the criminal justice system and services for women, including those provided by probation, are under-resourced.

3. Women in Prison has positive working relationships with many probation areas across the country, we deliver training to probation staff on working with women and receive many of our referrals from probation. We are also aware of the resource constraints which the probation service faces. However, this does not limit the necessity of highlighting such failings as we see as well as sharing examples of good practice.

4. It should be noted at the outset that women are not a homogenous group, just as probation staff are not, and therefore not all women experience probation in the same way, however, there is some commonality in women's experiences.

*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

5. There have been positive developments, most notably the Women's Programme and the funding of women-specific voluntary sector support services, however there continues to be too little provision specifically for women. As a result the women we work with are often negative about their experiences of probation for the reasons explored below.

6. It has been stated in report after report that responses to women offenders are under-resourced. Reasons for this include women's status as a minority of the probation caseload and the emphasis on resourcing work with the most high-risk offenders. Whilst it is right that resources are directed at ensuring public safety, they should also be directed at effectively reducing reoffending.

7. Without gender-specific targets work with women is disincentivised for probation because even a substantial reduction in women's reoffending will not register within statistics which are not gender disaggregated.

#### Policy

8. There are a number of policy documents relating to women offenders and the probation service. In particular we would highlight the post-Corston policy documents the Offender Management Guide to Working with Women and the National Service Framework. These documents evidence that there is a recognition within NOMS centrally that there is a need to deliver women-specific services and programmes for women offenders. However, this has not translated into practice in every probation office across the country.

9. The identification of two women-specific pathways to reduce re-offending (pathway 8: support for women who have been abused, raped or who have experienced domestic violence and pathway 9: support for women who have been involved in prostitution) was a very positive step. However, these have not been mainstreamed into NOMS' work in the way one would hope. As described below women continue to get inadequate support from probation due to a lack of awareness on probation's part regarding violence against women.

#### Women's Champions

10. Every Probation Trust has an appointed women's champion leading on women for that area. This is a positive step in helping to keep women on the agenda for probation areas. As with all such champion or lead posts the effectiveness very much depends on the individual and on the area's commitment to providing distinct support for women.

#### Relationship with the Women's Voluntary Sector—Women's Diversion Projects

11. The provision of funding from the Ministry of Justice to VCS organisations to divert women from custody has increased the number of projects working specifically with women offenders across the country. This funding has enabled the provision of specialist women-specific support services which probation would be unable provide. Key to the projects has been integrated support, responding to a woman's needs across all areas of her life and not just in relation to her offending (because support across all areas of a woman's life is key to addressing the root causes of her offending).

12. The projects are now managed by NOMS at a regional level. Whilst in many areas this has strengthened relationships between probation and the women's criminal justice voluntary sector relationships between the projects and NOMS vary greatly from region to region. For example some projects are receiving referrals and in-kind support (participation in training etc.) whilst others have problems engaging with probation and are not receiving referrals from them. As a national organisation the regional difference in probation trust attitude to the women's community projects is clear to us.

### *Women's Participation in Accredited Programmes*

13. The lack of provision of women-specific programmes is a serious failing. Women are in many instances given orders to attend programmes that do not address the root causes of their offending because they are designed for the majority male offender population.

14. The probation service has just one accredited programme for women: the Women's Programme a 20–30 session programme designed specifically for women. Overall this programme gets a positive response from the women who participate in it. It is important that there is an accredited programme designed specifically for women rather than adapted from a programme for a male cohort. In some areas this programme is run in women's centres, thus facilitating access to other services.

15. However, the programme is not run in every probation area in the country and where it is run, because of its group size and eligibility criteria, not all women can access it. For example in London the programme is only delivered in Camden and Lewisham, making it harder to access for women from other boroughs. The programme is focussed on acquisitive crime and offending motivated by financial gain and therefore not available to women whose offences do not fall into these categories. We have submitted a freedom of information request to find out how many women are able to access the Women's Programme in the last year.

16. Unfortunately, despite the policy documents listed above and the advent of women's champions there is a lack of understanding within some probation trusts of the need for separate provision for women.

### *Women's Experience of Probation Officers/Offender Managers*

17. In our focus groups, in women's regular conversations with key workers and in our Women Moving Forward client campaign group a key concern is that probation officers do not understand women's distinct experiences and needs. As a result they are not able to offer relevant information or support. Women reported a lack of awareness amongst probation staff about services for women, not just services for women offenders (sadly these are few and far between even following the MOJ funding) but any services directed specifically at women, for example women's employment projects. The lack of women-specific information and guidance covers the full range of women's experiences, from employment advice to signposting sexual or domestic violence services.

### *Women Who Have Experienced Domestic Violence or Sexual Abuse*

18. Despite the recognition of domestic violence and sexual abuse as root causes of offending behaviour by NOMS (in the form of Pathways 8 and 9 outlined above) there is little understanding of this by some probation officers. For example, clients who have been sexually abused report that they feel that probation has little or no understanding of this and its impact on types of offending behaviour, adult relationship choices and drug use. Just over 80% of the women we work with report that they have experienced domestic violence or sexual abuse. Given the shocking prevalence and the recognised impact on offending behaviour it is unacceptable that frontline probation staff are not equipped to respond appropriately to disclosures of violence and abuse that women have experienced.

### *Safety at probation offices*

19. We have serious concerns about women's safety at mixed gender probation offices. Women report that they are subject unpleasant, derogatory and abusive language in waiting areas at probation offices from other probation clients. This intimidating behaviour is also witnessed by our support staff when accompanying women to probation appointments. When reporting that they feel unsafe to probation staff women tell us that their concerns are dismissed and they are told nothing can be done.

20. It is unacceptable that women are harassed in probation premises and unacceptable that they are made to continue to attend at times and in places in which they feel unsafe. Probation offices that fail to overcome this problem are putting women at risk and increasing the likelihood of breach by making women attend somewhere they feel at risk.

21. Probation areas have sought in some cases to overcome this by offering women-only reporting times or meeting women in other locations. For example, in some areas probation staff will meet clients in more appropriate settings, such as women's centres. Our support workers regularly attend probation with clients in order to help give them the confidence to attend and ensure that they are safe.

### *Approved Premises*

22. Probation fail in many areas to provide appropriate, safe approved premises for women. The last remaining women-only approved premises in London, Kelley House, was closed last year because it was unsafe. In focus groups carried out in 2007 one client told us that she had scored drugs within five minutes of entering Kelley House. A client in a different location reported to us that women were bringing punters into the approved premises she was in.

23. Approved premises for women need to be women-only spaces and need to be supplemented with adequate levels of support. It is unacceptable that women are placed at risk in premises they are required to stay in.

#### *Mothers*

24. Women who are mothers of dependent children experience additional problems with probation. A widespread problem is the lack of childcare facilities at probation offices. Some women are clear that they do not want their children in their probation appointments. Others have been told that they are not allowed to bring them in with them. However, many women have no choice but to bring their children with them as there is no one else to care for them. This causes particular stress and distress to women given the threatening nature of mixed probation offices as they do not want to have to expose their children to this. An associated problem is that of giving mothers appointments at time that means that they have to bring their children (rather than during the school day) or appointments at times which make dropping off or collecting children more difficult.

25. A lack of childcare facilities or consideration for caring responsibilities should not be a barrier to women attending probation appointments, or other requirements of their sentence.

#### *Black and Minority Ethnic Women*

26. The lack of specific programme provision or specialist probation officers is even more acute for women experiencing multiple discrimination, for example because of their race and their gender. Clients report that prejudice they have felt and the lack of understanding on the part of their probation officers has prevented them from speaking opening or asking for support.

*What role should the private and voluntary sectors play in the delivery of probation services?*

#### *Voluntary Sector*

27. A move to commissioning more of probation's services from the voluntary sector could lead to an increase in much needed specialist services and better integration with a range of support services. However, it must not come at the expense of an independent voluntary criminal justice sector that is able to provide the support it sees as being needed and not just the support probation commissioners want to pay for nor at the expense of a sector able to speak up for its clients where it sees probation service failings.

#### *What Women Say*

28. It is essential that independent voluntary sector support is available to women subject to probation supervision. Focus groups with our clients (carried out in two prisons in 2010) tell us that women in the criminal justice system value our service because we are independent of statutory services. The women we spoke to saw the value of having joined up voluntary and statutory services (a common complaint from women is that they are faced with a bewildering number of agencies to interact with). However, they felt the divide between statutory services and the services they choose to attend was important. Women expressed concerns about blurring the lines between agencies that can recall them to prison and those that can't and felt that the government should not "pass the buck" for their responsibilities onto the voluntary sector.

#### *Payment by Results*

29. Much has been said about the role of payment by results in the "rehabilitation revolution" and it is clear this is the preferred model for funding voluntary and private sector work in this field. If this model is adopted care must be taken to ensure that small, local and specialist services are eligible for commissions. Moreover, a separate framework for funding will be needed for women offenders. Without a specific funding framework work with women will be disincentivised because of their small numbers and once again women will be expected to benefit from services designed for male offenders which are blind to their distinct experiences and the different root causes of their offending.

#### *ORAL EVIDENCE*

We would like to provide oral evidence to the Committee as part of this inquiry. We would also like to arrange for members of our client campaign group Women Moving Forward to give oral evidence, enabling the Committee to hear directly from women with experience of the probation service.

*October 2010*

### **Supplementary written evidence from by Women in Prison (PB 53a)**

Further to our written evidence submitted to the Justice Committee's Inquiry on the Role of the Probation Service please find attached new evidence we have received following a freedom of information request.

In summary the response shows

- on 31 March 2010 there were 26,158 women on the Probation caseload (11% of the caseload);
- during the year April 2009–March 2010 209 women commenced the probation service's Women's Programme;
- if there were 209 women on the Women's Programme on any given day (which is not the case) this would equate to less than 1% of the women on the probation caseload; and
- four of the 35 Probation Trusts in England and Wales provided the Women's Programme between April 2009.

I hope that it is still possible for Committee to take this additional information into account when considering the specific question on the ability of the service to provide for particular groups of offenders, including women.

October 2010

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### **Written evidence from Bedfordshire Probation Trust (PB 54)**

#### **1. EXECUTIVE SUMMARY**

1.1 The framework of the contract between the Secretary of State and the Trust should be redesigned so that it can explicitly address both national policy requirements and local agreements so that it is outcome based. Trusts will require appropriate business freedoms and flexibilities such as those enjoyed by the private and third sectors if they are to act efficiently and to deliver on the contract. This paper advocates a lead provider approach to commissioning.

1.2 The current national regulatory framework of audit, inspection, performance reporting, etc., should be reformed as it is costly, duplicates effort and does not assist to make governance arrangements simple or transparent.

1.3 Capacity exists within the service but the system requires some recalibration and review of what probation currently does. Restorative justice is a positive initiative and, in seeking to prioritise the evidence of the effectiveness in reducing re-offending, should be considered. This paper advocates the partnership approach to these issues.

1.4 In the current climate of change and efficiency requirements management training should be prioritized to drive through this agenda.

#### *2. Are probation services currently commissioned in the most appropriate way?*

2.1 Services are currently commissioned by the Director of Offender Management via a contract with a local Trust. The system creates duplication of governance and is bureaucratic. The aim was to broaden the range of service providers and drive efficiency by planning which services should be delivered nationally, which regionally and which locally. There is little evidence this has happened in practice. The framework of the contract between the Secretary of State and the Trust should be redesigned so that it can explicitly address both national policy requirements and local agreements, tailored to each Trust and reflecting the views of sentencers. The contract negotiation process should support this. We also recommend that:

- the contract between trusts and the Secretary of State is outcomes based, and
- the Probation Trust Rating System (PTRS), which sets out national targets, is streamlined so that it contains only key national policy indicators.

2.2 Individual Trusts engage in the commissioning of services at a local level and this does allow for the involvement of voluntary and third sector organisations. It has the advantages of improving services but does not necessarily reduce costs. Joint commissioning of services as part of local partnership arrangements does have the ability to improve services and reduce costs and this is an area which deserves greater attention and development.

2.3 It is important to note that the real "commissioner" of probation services is the court. The separation of the service from the courts has led to a disconnect between the demand for the service and how the service is funded.

#### *3. 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?*

3.1 The Government should deliver business freedoms and flexibilities to Trusts, such as those enjoyed by the private and third sectors, to enable Probation Trusts to become competitive and more commercial. The

Government should ensure that trusts are properly represented in the contracting arrangements for all contracts where trusts are the service end-users.

3.2 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 necessary demand on trusts.

3.3 The commissioning arrangements for Probation Trusts should be clarified and explicitly based on a “lead provider” model.

3.4 The process driven targets have improved the efficiency of the service, and the introduction of OASys (the offender assessment system) and of accredited programmes have improved the evidence base of our practice although this area requires further development.

3.5 We have improved the offer to the court in terms of the range of interventions we offer and we are working with a much broader range of offenders. The decline in the use of the discharge and fine and one end of the scale and the increase in our responsibilities with regard to public protection management arrangements at the other has stretched resources. More needs to be done to promote the use of fines and discharges.

3.6 The Offender Management Act envisaged a system with an Offender Manager at its centre brokering a range of resources with which to “manage” an offender including appropriate prison places. The rise in the prison population has meant that resourcing and logistical difficulties have meant the Lord Carter’s vision has not been realised. Offender Managers currently both broker and directly deliver services to offenders. The effectiveness of Trusts could be substantially improved by a greater attention to and investment in evidence based practice and by further development of the wider partnership approach to the management of offenders as exemplified by Integrated Offender Management Schemes.

*4. Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

4.1 The supervision and unpaid work requirements remain very popular, perhaps at the expense of some of the less obvious requirements. Whilst drug treatment services are well developed, alcohol services and those aimed at offenders with mental health or dual diagnosis issues are less developed and available. For the most part, sentences are delivered effectively but timeliness remains an issue and the ability of the service to provide meaningful feedback to the court is under developed.

*5. What role should the private and voluntary sectors play in the delivery of probation services?*

5.1 Apart from the writing of court and parole reports which could lead to a conflict of interest, any aspect of the service could be delivered by the private, third sector or by a combination of private, third sector and public. This approach would drive efficiency and innovation but would lead to a much more fragmented service delivery model. This could lead to accountability difficulties and would complicate local partnership arrangements which already struggle to work effectively with third sector providers.

*6. Does the probation service have the capacity to cope with a move away from short custodial sentences?*

6.1 The service does have the capacity in that the infra-structure for what we deliver is already in place but the following steps would also be necessary: we would need to recalibrate the offer to the courts so other cheaper sentencing options are fully utilised, ie attendance sentences, fines and discharges; we would need to consider if all accredited programmes are cost effective and reduce the range on offer to the court; we would need to examine the purpose and nature of the sentencing information currently given to the court and assess for cost effectiveness and examine the information currently provided to parole boards. If these steps were taken I think the additional resource requirements would be modest and would create significant savings in the cost of imprisonment. The obligations of other agencies in relation to offenders would need to be specified to facilitate reductions in re-offending. At present the service subsidises the responsibilities of health and the local authority in relation to their responsibilities to offenders.

*7. Could probation trusts make more use of restorative justice?*

7.1 Yes.

*8. 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?*

8.1 The service has traditionally offered a service to white men which has been adapted to the needs of the young, women and black and ethnic minority offenders. More could be done but it is essential to be mindful of the evidence base. For example whilst general offender management programmes were designed for men they appear, in some circumstances, to be more effective at reducing re-offending than wrap around

programmes aimed at women. This may be because of differences in offender need as opposed to criminogenic need. Resource issues have also played a part in that bespoke activity aimed at a particular group can bring cost implications in terms of translation costs or crèche facilities.

8.2 The youth adult transition is an area that requires particular attention in that work carried out in relation to prolific offenders would seem to indicate that is an important driver of re-offending.

9. *Is the provision of training adequate?*

9.1 Training for non qualified staff has been very poor but the new qualification framework aims to address this. Training for qualified staff has concentrated on accredited programmes and has lacked a career pathway approach. The service as a whole has adopted an entirely piecemeal attitude to management training. Training for the Trust Boards and for managers in relation to business development and commissioning is also necessary.

October 2010

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**Written evidence from the Greater London Authority (PB 55)**

I am writing to you in response to The Justice Select Committee call for written evidence for the first inquiry of the new parliamentary session into the probation service.

I understand that Probation Trust status was introduced in 2007 to allow probation services more independence to focus their work on local communities. It is disappointing to me that while London achieved Probation Trust status in April this year its board has no representation from the Greater London Authority. London Probation is currently part of the London Criminal Justice Partnership (LCJP), previously known as the London Criminal Justice Board (LCJB).

Given the complexity of London's governance landscape and the proliferation of boards maintained by a number of agencies, the Mayor and I have been determined to bring together the range of statutory partners involved in crime reduction and prevention at a strategic level. For this reason, we have created the new London Crime Reduction Board, a non-statutory instrument that will engender closer working with partners including the LCJP and London Probation.

Our belief is that the only real way for Probation to succeed in the London region, the largest in England and Wales, is through endorsement from the Mayor which will lead to better political engagement with borough Leaders and central government. Our aspiration is that these new governance arrangements can improve commissioning for all criminal justice services, including Probation—prioritising resource allocation from central government to where it is needed in London most. This will not negate the intention that Probation Trusts deliver on behalf of the Justice Secretary—it will only serve to enhance the reach of London Probation into boroughs.

An oft-cited concern at borough level is that London Probation services are under resourced and struggling with workloads and the increasing complexity of present-day cases. National research published in 2008 would seem to support this—although probation caseloads rose by 23% between 2002 and 2006, the number of fully qualified and trainee probation officers fell by 9%.<sup>60</sup>

In an era of reducing budgets, services such as Probation will undoubtedly be affected. However, this also presents an opportunity to commission in more cost-effective and innovative ways. We would support the use of the private and voluntary sectors in the delivery of probation services, as long as there was adequate evidence that the right results can be achieved. Spending less through alternative provision such as this is only worthwhile if the outcomes are at least equal to regular provision, if not better. Restorative justice, for example, while a subject of a fascinating study by the University of Sheffield in 2008,<sup>61</sup> is yet to be proven effective in terms of robust statistical evidence.

In London, my role as Deputy Mayor for Policing is to support the Mayor in achieving the best possible deal for Londoners. We believe that this can be achieved through leadership and de-duplication, which is why we are proposing better strategic arrangements for all criminal justice agencies, including Probation.

October 2010

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<sup>60</sup> Probation Resources, Staffing and Workloads 2001–2008; M Oldfield and R Grimshaw, Centre for Crime and Justice Studies, April 2008.

<sup>61</sup> Does restorative justice affect reconviction?; J Shapland, A Atkinson, H Atkinson, J Dignan, L Edwards, J Hibbert, Marie Howes, Jennifer Johnstone, Gwen Robinson and Angela Sorsby, Ministry of Justice Research series, June 2008 pp. ii–iii.



## Written evidence from the South Yorkshire Probation Trust (PB 57)

### EXECUTIVE SUMMARY

- South Yorkshire Probation Trust has consistently been the most successful Trust in reducing re-offending. We believe this is due to the productive relationships we enjoy with our local communities. We feel strongly that this success can be replicated nationally if the right commissioning structures, governance and relationships are put in place. Our submission outlines one possible model to achieve this.
- This paper proposes fundamental changes to the way in which offender intervention services are commissioned. An overarching body (which we have called the "Joint Commissioning and Reducing Re-Offending Board") would be established (chaired by the new Police and Crime Commissioner), with responsibility for commissioning all interventions from a diverse market of providers. We believe that this model will address the shortfalls which are apparent in the current arrangements, resulting in significant reductions in re-offending, providing better value for money and establishing a coherent framework from which all parties would work together towards community safety and the needs of victims.
- We propose that there should be one agency with responsibility for managing offenders through the "*Offender Management Model*". Offenders have complex needs with no "one size fits all" approach being effective. The principle of continuity is one which remains important to preserve.

### 1. Introduction

#### Reducing Reoffending

1.1 South Yorkshire is the only Trust in England and Wales where there has been a statistically significant reduction in re-offending levels since the introduction of the measure. More than 90% of offenders under South Yorkshire's supervision do not re-offend and the county is therefore a safer place because of our work. South Yorkshire Police are similarly witnessing significant reductions in overall crime levels.

#### Working in Partnership

1.2 We believe that success is due to our integrated work with Local Authorities and the extent to which we are embedded into the communities of South Yorkshire. Preventing offenders from committing more crime is our core purpose, and re-offending rates are the ultimate measure of our effectiveness. As part of our commitment to reducing reoffending, we have been keen to develop multi-agency initiatives such as Integrated Offender Management and the Restorative Justice approach.

1.3 Our proposed model builds on our experience and we believe would replicate our success throughout the country. It is a model which will ensure the Probation Service delivers more successfully for less cost.

### 2. Are probation services currently commissioned in the most appropriate way?

#### 2.1 No.

2.2 In 2008–09 NOMS HQ expenditure increased by over 40% in real terms compared with the previous year. This was the first financial year following the reorganisation of NOMS and a significant development of a regional structure of commissioning.

2.3 The current commissioning process, in our experience, is overly complex and bureaucratic, with no real contractual relationship with the Director of Offender Management (DOM), and no ability to negotiate targets or contract change. There are centrally set targets which are broken down regionally and then to Trusts. There is no reflection of local need/demand, nor the freedoms available to negotiate locally driven targets. As such, there is no support for a continued regional tier of management.

2.4 Probation Trusts align more naturally with the Police, Local Authorities, and within local communities rather than with the Prison Service; whose command and control organisation is not conducive to commissioning.

### Outcomes and Principles

#### 2.5 Any model should deliver the following outcomes:

- Proper reparation to victims.
- More effective rehabilitation.
- Punishment and public protection.

#### 2.6 The following principles need to be embedded:

- Local delivery—local targets.
- Working in partnership—with all sectors.
- Justice Re-investment—community democracy.

- Economies of scale—more for less.
- A pooled budget.
- Links to the new Police structure—recognises and works with the Police and Crime Commissioner.
- Sentencer involvement.
- Statutory obligation to reduce reoffending.
- Quality standards.
- Diverse market of provision.
- Efficiency—avoiding duplication and inconsistency.
- Innovation.
- Outcome focussed delivery.

#### Offender Management

2.7 Current desistance research has identified positive relationships as a key to change. Since the process of giving up crime is different for each person, any response needs to be tailored rather than having a “one size fits all” approach. It is the single offender manager who is in a position to develop the relationship with the offender and to ensure that there is a properly bespoke approach to their offending.

2.8 Research supports our belief that there should be one agency with overall responsibility for the management of the offender. We concur with Crispin Blunt who has indicated his confidence in the ability of Probation Trusts. We are firmly of the view that Probation Trusts should retain the responsibility for delivery of the “*Offender Management Model*”.

2.9 Probation staff have the necessary skills and expertise to undertake a full “Assessment”, formulate a meaningful “Sentence Plan”, oversee the “Implementation” of the relevant Interventions within the Sentence Plan, “Review” and “Evaluate” the Sentence Plan, whilst undertaking “Continual Risk Assessment” and “Enforcing” the order when necessary.

#### Delivery of Interventions (see Appendix 1)

2.10 The Howard League for Penal Reform argues that many offenders are likely to be affected by a multitude of problems. It is therefore essential that Probation Trusts do not commission services in isolation of the other key agencies.

2.11 We are therefore proposing that *all* offender related interventions should be commissioned through a “Joint Commissioning and Reducing Reoffending Board” (JCRRB)

2.12 The JCRRB would have members from all the Criminal Justice Agencies along with other key organisations such as Health and Local Authorities, representation from sentencers, the community, victims, the voluntary sector, (including the use of volunteers).

2.13 All the key agencies (with the shared aim of reducing reoffending) should have a proportion of their budget “top-sliced” to go into the “*Reducing Reoffending Pooled Budget*”. This budget would include the bringing together of other funding streams which are currently identified to address offending eg Supporting People, DAT funding, DIP budget etc. By commissioning services through a pooled budget, efficiencies would be realised to a greater extent than the current fragmented approach. The JCRRB should be given the statutory responsibility for reducing reoffending in its’ communities.

2.14 Our model embraces the concept of “Justice Reinvestment” offering a flexible, strategic framework which supports the redirection of resources into one source to maximise services for offenders. Justice Reinvestment is not just about redirecting money from agencies, it is also about involving communities representatives in the process of saying how it is spent. The JCRRB would be responsible for identifying local need/demand through Local Delivery Units (OASys data), local intelligence, and through consultation with stakeholders (including local communities).

2.15 The JCRRB would promote and encourage a diverse market, with delivery of all interventions (*eg Accredited Programmes, Community Payback, Attendance Centres, Alcohol treatment, Drug treatment, Restorative Justice etc*) being undertaken by the public, private and third sector, including the development of Social Enterprises ... this would be where they are the best provider offering outcome focussed approaches within “What Works” principles. There would be incentive/penalty based contracts in place which would be managed by the JCRRB. We await with interest the outcome of the Social Impact Bond pilot in Peterborough which introduces the concept of “Payment by Results”.

2.16 The JCRRB would have in place the capability to encourage innovation and also business development capacity to identify and attract new funding opportunities.

2.17 The new Police structure abolishes Police Authorities and introduces a Police and Crime Commissioner role who will be directly elected at the level of each force in England and Wales. The Commissioner will hold

the Chief Constable to account for the full range of their responsibilities. It makes sense for this accountability to be extended to the governance of Probation Trusts.

2.18 The JCRRB would also be established at force level, and would be chaired by the Police and Crime Commissioner. The Community Safety Partnership (CSP) currently has a statutory duty to develop and deliver a Reducing Reoffending Plan. It is logical therefore for the JCRRB to be accountable to the CSP. In order to achieve further efficiencies, there should be a single CSP per Police Authority area rather than for each Local Authority.

#### Performance and Quality Management

2.19 The Secretary of State would need assurance that the JCRRB is delivering in accordance with its aims. There should be a commitment to minimise centrally imposed targets and bureaucracy by enabling the JCRRB to set and monitor locally agreed targets. It is suggested that there are a limited number of high level targets addressing the following areas:

##### JCRRB

- Reducing Crime and Reoffending
- Commissioning standards

##### Trust:

- Sufficiency in SFOs.
- HMIP standards.
- Value for Money.
- Customer Service Excellence.

2.20 Sheffield Hallam University have undertaken a feasibility study exploring the potential of a “signposting” web-site. It is proposed, that this will eventually act as a “provider hub” through which interventions will be purchased by the Offender Manager once the single offender needs assessment had been completed (OASys). Provider membership of the hub would be dependant on reaching a quality threshold and providing interventions to published specifications.

2.21 South Yorkshire Probation Trust along with Sheffield Hallam University is intent on investigating the notion of interventions being spot-purchased at the point at which they are required. It is suggested that an electronic purchasing system in which sentence plan production triggers the purchasing of the necessary intervention through the provider hub is both entirely possible and would ensure the best price available.

### *3. 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*

#### Probation Trusts

3.1 Probation Trusts are improving upon the excellent performance against targets which had been previously demonstrated by Probation Boards.

#### Offender Management

3.2 As stated earlier, we propose that there should be one agency with responsibility for managing offenders through the “*Offender Management Model*”. Offenders have complex needs with no “one size fits all” approach being effective. The principle of continuity is one which remains important to preserve. In terms of having oversight of the Order/Licence, it makes complete sense to have one agency ensuring that each offender has a single offender manager to help them address the often complex, multiple and inter-related problems they face.

3.3 The unique skills and expertise of probation staff include their ability to identify, understand, assess and manage risk, and to deliver the “*Offender Management Model*”, which includes (in our proposal) the development of an individualised *costed* Sentence Plan. We believe that offenders going through the criminal justice system are “over-assessed”. The Offender Assessment System (OASys) needs to be simplified and should be promoted as the *single assessment tool*. Under our model outlined above, all providers which are commissioned through the JCRRB would need to agree that they would accept the OASys as the single assessment tool—rather than the offender being re-assessed by each different agency.

3.4 The “interventions” would then be “purchased” through a diverse market which includes public/private and 3rd sector agencies. The services would be centrally commissioned through the JCRRB (as outlined above), although depending upon the success of the provider hub, it could be that ultimately traditional commissioning and contract management are no longer necessary.

4. *Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered*

4.1 Yes. All the requirements that can be attached to community sentences are available to sentencers in South Yorkshire.

4.2 There is support for a significant review of the sentencing framework as evidence shows that too many offenders are being “up-tariffed” within the court system. Prison spending rose from £2.87 billion in 2003–04 to nearly £4 billion in 2008–09. The numbers of people under probation supervision also increased by 38.7% in the decade to 2009, with spending rising from £665 million to £1 billion in the seven years to 2007–08. The Centre for Crime and Justice Studies believe that there has been a general trend of imposing tougher community sentences which has the paradoxical effect of increasing the likelihood of breach which results in an increase in custodial sentences.

4.3 The current sentencing practice is that once an offence has been deemed to be “serious enough to warrant a community order”, it is very unlikely that there will be a proposal or disposal for fine/discharge. The courts need to make more use of sentences which do not require probation resource ie fines, discharges, Attendance Centres, Curfews, Restorative Justice etc in order to divert low risk offenders from probation caseloads in order to preserve the principle of “resources following risk”.

5. *What role should the private and voluntary sectors play in the delivery of probation services?*

5.1 We are very committed to the concept of a diverse market of provision to increase the capacity to deal with offenders, but only where they are the best value provider. However we firmly believe that the interventions should be jointly commissioned and controlled (see section 2). Any provider which aims to deliver interventions should be able to demonstrate “What Works” principles, be outcome focussed and flexible in their provision.

5.2 We are also keen to support the development of Social Enterprises—profit making companies which are about community improvement with a percentage of the profit being reinvested into the development of the company.

6. *Does the probation service have the capacity to cope with a move away from short custodial sentences?*

6.1 Yes. If we reconfigure our resources and re-prioritise. We have the commitment, training, skills, staff, community location, links, partnerships, confidence to do this.

6.2 Statistics show that offenders who are sentenced to less than twelve months in prison are more likely to reoffend than others. Reconvictions rates for those who served a sentence of less than 12 months in 2008 was 61%. A conservative estimate is that there are approximately 10% of offenders in custody who would in fact be Tier 1 offenders if they were in the community (ie low risk of reoffending and low risk of serious harm). It costs more than £50,000 a year on average to keep an offender in prison against £2,800 to manage an offender on a community order. Prison should be reserved for those individuals who are likely to cause high risk of harm to the community.

6.3 In South Yorkshire, we have developed an assessment tool based on reoffending statistical methodology which allows us to focus more accurately on those offenders who are likely to cause most of the crime. We will, in October 2010, begin to use this to identify the cohort of offenders who will be managed through a multi-agency Integrated Offender Management approach. We are confident that this will have a positive impact on both reoffending rates and our ability to deploy resources to their fullest effect.

6.4 Probation staff have become demoralised by the need achieve targets and standards which have been driven by the Centre rather than to meet local need/demand. Staff are currently tied up in bureaucracy and administration for approximately 70% of their time. There is a real need to remove some of this unnecessary burden on staff and free them up to spend more time with offenders. We await the outcome of the Surrey and Sussex Probation Trust Professional Judgement Pilot which is aimed at reducing bureaucracy and giving more freedom to practitioners to exercise their professional judgement in managing cases.

7. *Could probation trusts make more use of restorative justice?*

7.1 Yes. Restorative Justice offers victims and members of the community a real and visible way of being involved in resolving incidents and issues in a way that meets the needs and concerns of the community. It empowers by giving victims a voice. With regards to the offender, it makes them more accountable and face up to the consequences of their actions. It is also a more proportionate method of dealing with low level offending and, for children and young people, does not unnecessarily criminalise them.

7.2 South Yorkshire Police, in partnership with the South Yorkshire Local Criminal Justice Board, has implemented Restorative Justice across all Districts. Further training is due to take place which will extend the approach to multi agency involvement in facilitating Restorative Justice in South Yorkshire.

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7.3 We are currently exploring further opportunities to extend the use of Restorative Justice:

- Prevention/Early intervention.
- Deferred sentences.
- Low level Specified Activity.
- With more prolific offenders through the Integrated Offender Management route (SSOs and COs).
- Licences.

8. *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? Is the provision of training adequate?*

#### Diversity

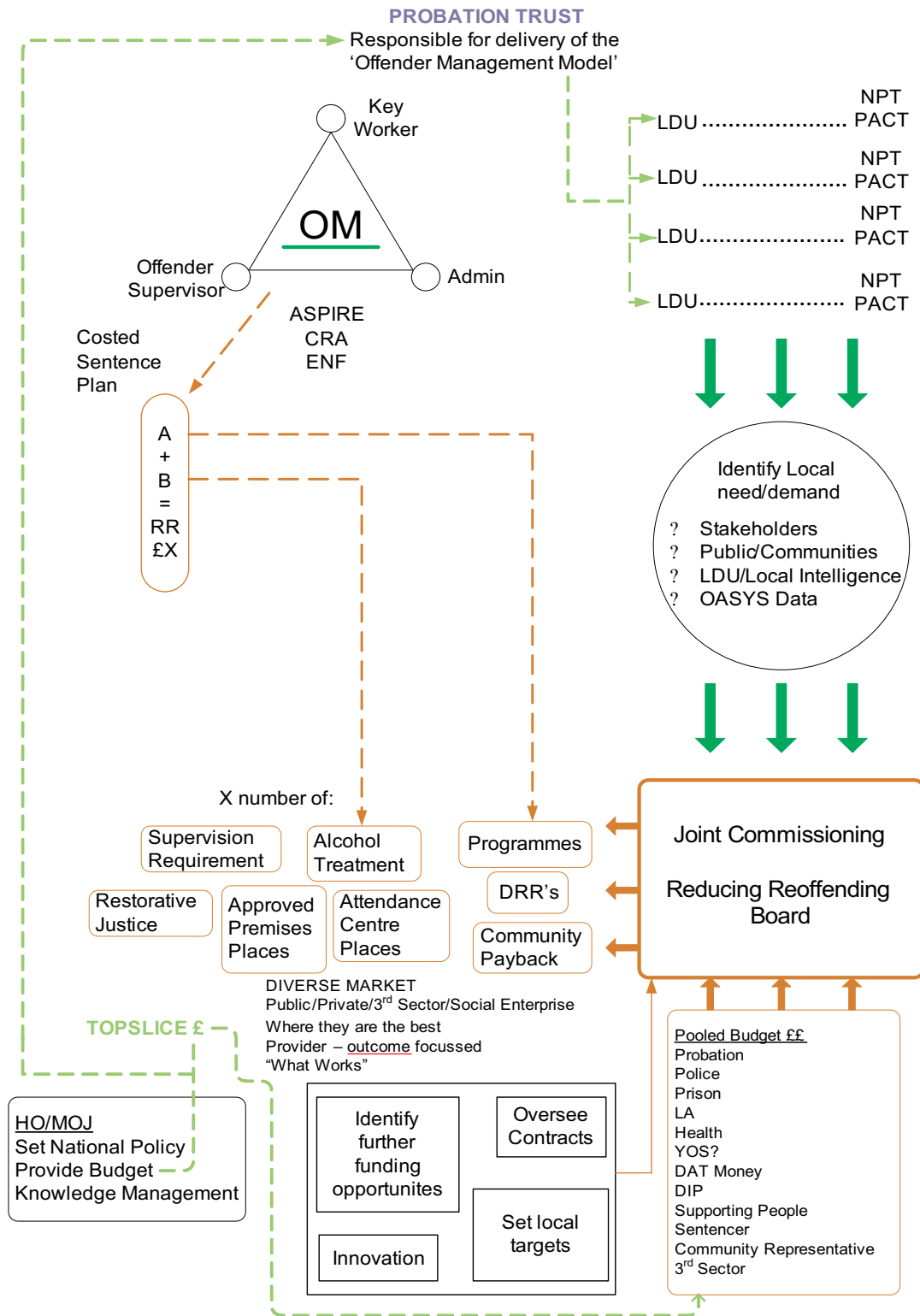
8.1 We believe that we are skilled at identifying and managing differential risk levels. Whilst we have made tremendous progress in responding to the needs of black and minority ethnic offenders, we accept that there is still progress to be made. Further, we are of the opinion that far too many women are sent to prison. Given the opportunity of working with those offenders in the community, we are firmly of the view that the outcomes for both the individual and the communities within which they live would be far improved.

#### Training

8.2 The new Probation Qualification Framework is welcomed in that we are able to develop existing probation service officers through to qualified probation officers in-house. A full evaluation will need to take place before we can comment upon its efficacy.

8.3 Leaders of the new Probation Service need a different skill set to those of the old and a strategy should be developed to address the shortfall.

*September 2010*



### Written evidence from the York and North Yorkshire Probation Trust (PB 58)

#### THE NATIONAL OFFENDER MANAGEMENT SERVICE (NOMS)

The National Offender Management Service (NOMS) is an executive agency of the Ministry of Justice (MOJ). NOMS is responsible for delivering punishment of offenders in accordance with the sentences of the courts, providing a comprehensive, streamlined system to protect the public and reduce re-offending. The agency was created in April 2008, bringing prison and probation services together to deliver a more efficient and effective end-to-end approach to offender management, in custodial and non-custodial settings.

- NOMS delivers the sentences of the courts through providers including:
    - 35 probation trusts providing probation services.
    - HM Prison Service.
    - Private sector partners managing contracted out prisons.
    - Contractors providing essential services including prisoner escort and electronic monitoring of offenders.
    - Public and third sector partners including health, employment and training providers.
    - Headquarters teams responsible for planning, securing resources, driving performance against agreed standards and providing national services where it is most cost-effective to do so
- NOMS is accountable to the Ministry of Justice through the Director General, who also sits on the MoJ management board.

The agency operates a regional structure, with Directors of Offender Management in the English regions and Wales commissioning all custodial and non-custodial provision in each region (excluding high security prisons), ensuring that services are cost effective and appropriately targeted to meet the requirements of sentencers and the needs of offenders at a regional level.

#### YORK AND NORTH YORKSHIRE PROBATION TRUST

The probation service in York and North Yorkshire works with offenders to cut crime and protect the public. In doing so, we make a vital contribution to the safety of our communities and the people who live in them.

The aims of the Trust are:

- protecting the public;
- reducing re-offending;
- the proper punishment of offenders in the community;
- ensuring offenders' awareness of the effects of crime; and
- rehabilitation of offenders.

*Are probation services currently commissioned in the most appropriate way?*

1. Current regional arrangements limit local flexibility in making best use of local services and effective local partnerships tailored to meet local and individual offender needs.

2. Local Probation Trusts should be statutorily empowered for provision of probation services and provided with freedoms and business flexibilities to develop more locally focused and innovative tailored solutions to re-offending, with demonstrable effective and best use of public monies.

3. Locally-focused accountability would secure sound local partnership working and locally informed commissioning which is the key to delivering best shared local outcomes as evidenced by Integrated Offender Management and Total Place pilots.

4. There should be a clear linkage between money and outcomes.

5. We can demonstrate savings by reducing re-offending and thereby saving prison costs.

6. A closer link to localised commissioning may emerge through the development of an elected police commissioner (envisaged in the policing Green Paper).

*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?*

7. Probation Trusts, including the York and North Yorkshire Trust, were only introduced from April 2010 but we have well-demonstrated capacity, skills and experience, as evidenced in progressive and continuous performance improvement and reduction in re-offending over many years.

8. There is evident capacity and resilience in a skilled professional workforce, well supported by our local widely-experienced Board members who bring sound business and commercial skills to underpin locally informed and respected sound governance and vision.

9. We are keen to capitalise our local focus and reputable workforce skills. We now seek the greater availability of business freedoms and flexibilities to support our intent of securing transparent best value competitive local probation services, ensuring public and local stakeholder confidence in our contribution to reducing crime and its victims and securing safer local communities.

10. North Yorkshire is the largest geographical county in England with rurality and sparsity issues that clearly require well-focused local provision capable of addressing local needs and concerns. As a local Trust we are best placed to effectively address such locality issues and develop sound business focused local partnerships as envisaged in Government papers.

11. Local Trust Boards, appropriately empowered, have the essential local knowledge, skills and experience to provide sound governance and establish innovative best value competitive locally focused services along with local partnership arrangements linked to accountability to local communities. The recent statutory provision for local accountability by designation of the local Trust as a Responsible Authority in the Local Community Safety Partnerships and the introduction of Local Authority Scrutiny arrangements is a welcome step to increase a local standing and transparency.

12. The Trust is coterminous with the current police, health and fire services.

13. We are active partners in the major strategic initiatives concerning community safety that fall within the scope of the Local Strategic Partnerships.

14. We provide a high quality range of probation services as evidenced by HMIP and consistently high level of performance to national requirements.

15. There is clear evidence that the approach to our work is yielding marked improvements in the rates of re-offending in both York and North Yorkshire—contributing directly to reduced levels of recorded crime.

16. We are able to demonstrate a range of active and constructive partnership arrangements within a mixed economy of public, private and third sector provision.

#### *Role in delivering offender management*

17. We have adopted a Local Delivery Unit structure reflecting the larger local authority arrangements in the area. This has some difficulty in relation to the two-tier authority arrangements in North Yorkshire but is, in our view, the best fit for the purposes of constructive work towards common objectives.

18. We are closely integrated within the relevant partnership forums at unitary, county and district levels and our operational delivery reflects the locality.

19. We operate as the focal point of adult offender management and are acknowledged as the lead agency in the assessment and management of risk.

#### *Are magistrates and judges able to utilise fully the requirements that can be attached to community sentences? How effectively are these requirements being delivered?*

20. Probation Trusts have the skills and experience to deliver effective offender management to reduce re-offending by positive pursuit of suitable court sentences involving punitive and rehabilitative requirements.

21. Social reintegration and reparation are related to individual offender issues, and are delivered in partnerships with other local Criminal Justice partners and working with commissioned third sector organisations.

22. We provide a range of services which support sentencers in being able to use the range of restrictive, punitive and rehabilitative requirements in community sentences.

23. When imposed, the sentences are delivered in a manner that seeks to engage offenders and develop and maintain their commitment to reducing their level of risk.

24. This is evidenced by high levels of compliance with orders imposed and strong and timely enforcement when this is required.

#### *What role should the private and voluntary sectors play in the delivery of probation services?*

25. Trusts have a long record of working with/commissioning valued local providers, such as Foundation Housing, to gain best value and outcome from rehabilitation measures. The importance of such local working arrangement is most significant in rural areas such as North Yorkshire, where local knowledge is invaluable and large national profit-making providers show very limited interest in competing for evident reasons.

26. Our Trust seeks to foster strong local provider development within the voluntary sector and recognises the benefits of wider local competitive commissioning or co-commissioning, including voluntary and private sectors, in attaining best value and encouraging continuous improvement and innovation.



*Does the probation service have the capacity to cope with a move away from short custodial sentences?*

27. We would support an appropriate move away from the evident ineffective short custodial sentences. Inescapably this would increase demand on community sentences.

28. To cope alongside our present very demanding workloads would need to be addressed by transfer of funds from reduced prison resource demands, looking at different patterns of working with offenders, and possible change in individual sentencing requirements.

29. Use of private and voluntary sector, where they are competitive and capable, could form part of best value provision with the Trust integral to offender management and containment of public risk. As indicated, limited local competitive providers in large rural areas like North Yorkshire constrains such options.

30. Through Integrated Offender Management, we have demonstrated that with co-located probation, police, DIP, Housing and ETE staff we are able to provide services which reflect the risk the offender presents rather than the nature of the sentence passed.

*Could probation trusts make more use of restorative justice?*

31. Restorative Justice is clearly desirable and could run well alongside of work with victims but there would need to be resourcing/priorities issues in the current economic climate.

*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?*

32. Diversity is well-recognised in service provision and individual offender engagement is suitably determined.

33. We have a strong history of ensuring appropriately qualified and experienced staff manage our high and medium risk offenders.

34. Through the multi-agency arrangements in Integrated Offender Management we are developing a distinct approach to our work with women offenders.

35. We aim to meet or exceed the requirements of our Single Equality Scheme and can demonstrate that management arrangements are in place to handle all groups of offenders appropriately.

*Is the provision of training adequate?*

36. Training for new entrants has been and will remain exemplary.

37. Development of all staff is fostered by clear learning and development policy linked to individual and business needs. Provision is by internal and external source.

38. Maintaining a professional well-trained committed workforce remains a priority in maintaining and improving our competitive best value local probation services and reducing re-offending.

October 2010

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### Written evidence from the Restorative Justice Council (PB 59)

Thank you for inviting us to provide information on the role that probation trusts could have in delivering restorative justice processes. There are a number of points the RJC would like to make on this.

#### EXISTING PROBATION PROVISION OF RESTORATIVE JUSTICE PROCESSES

1. Under the CJ Act 2003 Restorative Justice can be an activity requirement of a community sentence. Thames Valley Restorative Justice Service—based in Thames Valley Probation—is the only service in the country which has taken up and implemented RJ as an activity requirement and we would fully endorse their work. Some probation services also use a restorative approach in their delivery of statutory victim contact work. In other areas probation staff in prisons work with chaplaincy and third sector organisations to enable offender-initiated restorative justice—eg following offender participation in programmes like Sycamore Tree.

#### THE EVIDENCE

2. The Home Office/MoJ funded RJ research programme 2001–8, independently evaluated by Sheffield University, demonstrated a number of key things:

- First that restorative justice works very well with serious offences by adult offenders, for both victims (80% victim satisfaction) and in terms of reducing recidivism (latest MoJ analysis suggests reductions in frequency of re-offending of at least 14% following participation in RJ).

- Second that the professional or agency background of the facilitator is not the critical issue—but the training, supervision and quality of practice is critical. Probation staff are extremely well placed to deliver restorative justice processes—but they need training and support to deliver the model well as it involves a shift in their professional focus—away from finding solutions towards enabling victims and offenders to come together to find their own solutions. Probation staff are well placed to do this work; but this work could also be commissioned by Probation Trusts from other statutory, community based or commercial providers.
- Restorative work—either provided directly by Probation Services, or commissioned from other providers—should always be delivered in line with existing national standards—Best Practice Guidance on restorative practice, the 2010 National Occupational Standards in restorative practice, and the RJC Trainers Code of Practice.

#### PRE- AND POST-SENTENCE AVAILABILITY OF RESTORATIVE JUSTICE

3. We would also point out that from the Home Office/MoJ funded Sheffield evaluation of restorative justice, RJ can clearly be delivered either pre- or post-sentence for serious adult offences. Pre-sentence restorative justice has the advantage of providing information to sentencers, which can help to inform sentencing decisions, and can lead to reductions in the use of custody. For some victims however, pre-sentence is too early in their recovery process—particularly for the most serious crimes. In these cases, post-sentence RJ should also be available and can be used to help engage offenders with other support on offer to them as part of a custodial or community sentence, and can inform parole decisions, and the support offenders need to re-settle into their communities. They can allow victims the opportunity to influence conditions of release from custody.

#### REVIEW OF BEST PRACTICE GUIDANCE, AND NEW NOMS SERVICE DELIVERY MODEL, IN THE LIGHT OF RESEARCH EVIDENCE AND PRACTICE DEVELOPMENTS

4. The RJC has been commissioned by the MoJ to review the 2004 Home Office Best Practice Guidance in the light of research and practice developments over the last six years. The 2010 Best Practice Guidance will be published later this year. We are also working with NOMS to help design a service delivery model for NOMS for RJ, based on the 2010 Best Practice Guidance and on the evidence of cost-effective models here and in Northern Ireland (Youth Conferencing).

#### SUMMARY OF KEY POINTS

5. The key points we would like to make therefore are:
1. That there are many opportunities for Probation Trusts to provide, or commission from other providers, restorative justice processes.
  2. There is strong research evidence that these processes both benefit victims and deliver reductions in the frequency of re-offending, leading to cost-savings for CJ agencies and across society to the order of £9 for every £1 spent on delivering RJ (using Home Office standard cost of crime measures)
  3. Any RJ delivered, or commissioned by, Probation Trusts, should be commissioned in line with Best Practice Guidance, and the 2010 National Occupational Standards.
  4. Legislative developments should ensure that RJ is available pre-sentence—to inform sentencing decisions, and post-sentence for victims or offenders for whom pre-sentence RJ is too soon in their recovery/rehabilitation process.

October 2011

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### Written evidence from Nacro (PB 61)

#### INTRODUCTION

Nacro is the UK's largest crime reduction charity, with over 40 years experience of working with offenders and those at risk of crime. We run over 300 service delivery projects in communities across England and Wales and, last year, around 90,000 people benefited from their contact with Nacro. Our services include: prevention and early intervention for young people; education, training and employment for prisoners and offenders in the community; and resettlement services (including accommodation) for those on release from custody. Nacro Community Enterprises is a Registered Social Landlord.

#### 1. Are probation services currently commissioned in the most appropriate way?

Commissioning needs to balance a number of factors: the aggregation of provision with localism, and the imperative to reduce reoffending with optimum use of public funds.

Significant savings could be made by aggregating current delivery arrangements; commissioning services over larger geographical areas; and enabling private and voluntary sector organisations to compete for high-volume contracts inside prison, in the community, and through-the-gate. In view of the scope and scale of these

contracts, this would lend itself to central commissioning of these services, for example in the way in which central framework contracts have been established for the provision of unpaid work.

Notwithstanding the need to exploit economies of scale through outsourcing, it is important to ensure that services are locally responsive and that delivery retains the confidence of ordinary people in local communities. It is well documented that much of the provision for community safety and services for offenders and their families lies outside the justice system, with local authorities and health being the key players.

In the light of this:

- Lessons learned about locality based commissioning from the Total Place Pilots should be pursued on a wider scale.
- More explicit strategic local links should be made between: community safety; reducing crime; reducing the fear of crime; and reducing reoffending.
- There is a need for an overarching protocol on data sharing between agencies to support joint working within local areas.
- Increased engagement of the voluntary and private sector (and local employers) should be developed as a key strategic theme in the delivery of offender services going forward.

Nacro supports the notion of commissioning arrangements which provide more opportunities for the private, voluntary and community sector to get more involved in the delivery of offender services. The strategic focus must be on reducing reoffending and achieving other social outcomes as opposed to who delivers the service. Broadening the thinking on reducing reoffending and allowing new players to take part must be the way ahead. This is likely to include payment-by-results. Under this model the terms of engagement changes between those designing/delivering services and those commissioning them. The emphasis moves from “commissioning” to “investment” and responsibility for service design rests mainly with the provider. Nacro strongly supports such a shift. Both sides are then focused on delivering agreed outcomes. Given the business risks inherent in any payment by results system, the necessity for business-like alliances, joint ventures and partnerships come to the fore, forcing wider collaboration between the sectors. This in turn could lead to better delivery of services.

## *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?*

The population under probation supervision at the end of 2009 was 241,500, a 1% fall from the previous year. However, over the longer term, this figure has increased by 38% from 175,000 in 1999.<sup>62</sup> Staff sickness levels in the probation service are among the highest in the public sector. The average caseload for probation officers is well over 30, which the Chief Inspector of Probation has acknowledged is extremely demanding.

As would be expected, performance across different Probation Trusts varies, as shown by performance against key indicators and the results of Her Majesty’s Inspectorate reports. Probation performance is measured using the Integrated Probation Performance Framework (IPPF) and according to Ministry of Justice data for the final quarter in 2009–10,<sup>63</sup> all probation areas are performing at level 3 or 4, indicating good or exceptional performance.

That said, we believe that significant cost savings could be made by commissioning services differently; reducing management overheads; and allowing organisations to compete in an open market. Compliance rates could be improved by using the voluntary sector’s expertise in engaging with de-motivated and hard-to-help individuals; and levels of public confidence/involvement (particularly in community sentences) could be raised.

Delivery of services through-the-gate for released prisoners remains inconsistent, partly because of the transient nature of the prison population but also because of the inconsistent manner in which these services are commissioned and funded. Prisoners aged 21 and over and sentenced to less than 12 months custody receive no statutory supervision post-release. This means that probation officers are unable to work with that group of offenders. But recent pilots testing “layered offender management” (LOM) have shown that it is possible to provide offender management to greater numbers of offenders using an assessment of sentence length and risk of re-offending and risk of harm.

We believe that change could be promoted by the greater involvement of the private and voluntary sector in the delivery of Offender Management services. We are aware that most Probation delivery is divided between Offender Management and Interventions but the bulk of this has been monopolised by the public sector. If the future commissioning landscape is to be based on Payment by Results, there is a strong logic in ensuring that the organisation which provides the interventions to the offender also carries responsibility for risk/needs assessment and sentence planning. Whereas these functions have traditionally been provided by the public sector, they could be outsourced to private/voluntary sector providers working to formal contractual arrangements/standards. This would maximise the benefits that the voluntary sector brings in terms of “reach” into different sections of communities and enable “ordinary people” to get more involved in the community supervision of offenders through volunteering, mentoring and befriending. The voluntary sector’s record of engaging employers and social enterprises would bring added benefits in terms of getting offenders into jobs.

<sup>62</sup> Ministry of Justice (2010), Offender Management Caseload Statistics 2009, Statistics Bulletin.

<sup>63</sup> Ministry of Justice (2010) Probation Quarterly Ratings Quarter 4 2009–10.

All of these measures would have a positive affect on levels of public engagement/confidence which is a crucial part of successful community sentencing.

*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?*

We are aware that sentencers often feel frustrated by the implicit rationing of some probation interventions (accredited offending behaviour programmes, for example) and the resulting delays in offenders accessing programmes. Although this is, to a degree, inevitable in a system with finite resources, it also demonstrates two inherent weaknesses in the current arrangements. Probation Service staff tend to be deployed inflexibly and to particular tasks, whether this is the delivery of accredited offending behaviour programmes, the supervision of unpaid work and so on. We think that considerable benefit could be derived from allowing other providers into the market to allow a more flexible use of staff and configuration of services.

In addition, we think that the current sentencing arrangements, which require rehabilitative interventions to be added as a requirement of a community order (and which are therefore seen as punitive by the offender) limits the flexibility and responsiveness of the provider of those services. The punitive element of the disposal (the primary contract) should, as far as possible, be separated out from the rehabilitative interventions which, in turn should be driven by individual need.

Key gaps in provision must also be met either to enable magistrates and judges to fully utilise requirements attached to community sentences within the current framework or more generally to ensure that holistic rehabilitative services can be provided. In particular, access to mental health treatment requirement and alcohol treatment requirement must be improved. Specialist services in these areas should be commissioned from independent providers, especially using the voluntary sector, and offered as an integral element of supervision where the same provider is responsible for both the management of the case and the direct provision of interventions as outlined earlier.

*4. What role should the private and voluntary sector play in the delivery of probation services?*

Despite all of the thinking and activity following the publication of the Carter Report (2004), private and voluntary sector involvement in probation service delivery is still largely peripheral. Outsourced contracts have been few and far between; of relatively small monetary value; and tendered over short contractual periods, typically twelve months to three years. In view of this, neither sector has been able to exploit the economies of scale that would have been possible if the contracts related to higher offender volumes with longer contractual terms. We therefore welcome the Government's intentions, as articulated in the MOJ Business Plan and by Justice Ministers, to provide much greater opportunities for these sectors to get more involved. This is an opportunity for new thinking and new resources to be brought to bear on intractable questions of reducing reoffending and associated social policy areas. This is already being demonstrated with the launch of the Social Impact Bond Pilot in Peterborough.

The voluntary sector has a long and successful track record of delivering outsourced services to offenders including: drug and alcohol treatment; housing; bail support; employment, training and education; and resettlement. Over the number of years, charities like Nacro have been successful in engaging the harder-to-help in marginalised communities, recruiting local staff and volunteers to motivate offenders and remove the barriers associated with poor compliance. The private sector has a long and successful track record of delivering large-volume Government contracts including: prisoner escort services; and monitoring and surveillance services; facilities management and back-office support and other logistical services. A mixed economy of provision, utilising the strength of the private sector to manage the business risks associated with large-scale outsourcing (including payment by results) and the unique approach of the voluntary sector would help to transform the delivery of offender services, reduce crime and increase public confidence.

*5. Does the probation service have the capacity to cope with the move away from short term custodial Sentences?*

On the one hand this a key question, given that any reduction of the prison population would increase the burden on any organisations delivering offender supervision in the community, especially at a time of shrinking resources. On the other hand, this is not justification for continue with the short term incarceration of offenders who do not pose a danger to the public, where the costs (financial and social) of any custodial measures far outweigh community-based methods. This is all the more reason for restructuring the way in which offender management services are commissioned and delivered, pursuing the roll out of large scale outsourcing to the private and voluntary sector, strengthening pooled commissioning arrangements and trialling/testing models of payment by results.

*6. Could Probation Trusts make better use of Restorative Justice?*

There is evidence that restorative approaches have an overwhelmingly positive effect on victims and have a role to play in changing offenders' attitudes and behaviours.

Studies show that these approaches reduce reoffending with some offenders and play can play a pivotal role in prevention, early intervention and pre court diversion. Restorative Justice offers a further opportunity for the voluntary and community sector to have significant involvement and for “ordinary” people to take part, given specialist training in restorative conferencing, and it is logical to assume that this could have a positive knock-on effect on levels of public confidence in community sentences. Given the potentially sensitive and life-changing nature of restorative conferencing, it is crucially important that adequate investment is made in restorative justice if it is to play a key role in probation delivery. This should not be confused with core models of reparation which could and should feature more strongly in community orders and release licences.

*7. Does the Probation Service handle different groups of offenders appropriately eg women, young adults, Black and minority ethnic groups and high risk and medium risk offenders?*

Advances have been made in the management of: reducing reoffending rates; offender assessment; sentence planning; high risk and dangerous offenders through the multi agency public protection panels; access to drug and alcohol treatment; and enforcement of orders. That said there is a way to go in terms of: raising public confidence/involvement in the system; joining services up across geographical boundaries and through-the-gate; providing “move-on” resources for offenders in substance misuse treatment services; and improving performance in respect of compliance. Much more progress could be made in delivering cost efficiencies, involving the private and voluntary sector and local employers.

These deficits apply to a larger degree with specific offender groups, notably women and offenders from black and minority ethnic groups. Resources which are specific to these groups are patchy and there is a need to build capacity and join up provision for offenders inside and outside custody.

The last government implemented policy changes triggered by the publication of the Corston Review.<sup>64</sup> Baroness Jean Corston had outlined the need for a distinct radically different, gender-specific, integrated approach to reducing reoffending by women. The government accepted the majority of her recommendations for change and significant investment in community provision followed. At the heart of this investment was an acknowledgement that services for women offenders could best be provided by specialist voluntary sector providers. Community based “one-stop-shop” models were based on the learning produced by the Together Women pilot programmes in the North West and Yorkshire and Humberside. Some of the services delivered through these programmes have been maintained and are now operating through local commissioning. The Diverting Women from Crime Strategy<sup>65</sup> is a more recent national initiative aimed at reducing the use of custody for less serious women offenders and where possible diverting them out of the criminal justice system all together.

The strategy also encompasses women deemed to be “at risk of offending” and aims to help them access services which will address their needs and avert potential criminality.

All of these policy changes acknowledge that probation has not served women well. We know that limited resources have resulted in rationing of services and “resources follow risk”. Women are a small minority of overall offenders and risk assessments based on risk of harm to others result in them frequently being assessed as low risk. This means that the gender-specific holistic approaches necessary for effective work with women have not been available through traditional probation supervision. Women report feeling “short-changed” by probation appointments which can be brief and perfunctory, with no time to explore problems, since the woman is perceived as “low risk” and the probation supervisor has higher risk (and therefore more pressing) male offenders to manage. There are few gender specific accredited programmes for women and participation in programmes can be problematic where a woman may be the sole female offender among a large group of males.

The development of specialist community provision for women, led by the voluntary sector, is therefore critically important. This provision, however, is at serious risk of contraction when the central funding for the new services comes to an end in March 2011. Resources provided by central government have been matched by investment from charitable trusts<sup>66</sup> but continuity of services will only be possible through local commissioning. In the present fiscal climate resources from local authorities will be squeezed and it is difficult to see how the services currently available will be maintained.

Nacro has long been a member of the Transition to Adulthood Alliance (T2A) which has focused on the policy gap relating to young adults in the criminal justice system.

The T2A Alliance sets out a clear set of recommendations for change in its manifesto<sup>67</sup> and Nacro endorses these. There is a need for a differential approach to which recognises the developmental and social and economic realities for young adults. There must be a commitment to design improved community sentences which reflect the drug, alcohol and mental health needs of young adults and better arrangements for transition from the youth to the adult justice system. This will include the need for better communication and information sharing arrangements between youth offending teams and probation, along with improved commissioning

<sup>64</sup> Home Office, (2007) The Corston Report: A Review of Women with Particular Vulnerabilities in the Criminal Justice System.

<sup>65</sup> Ministry of Justice (2009) A Report on the Government’s Strategy for Diverting Women from Crime.

<sup>66</sup> The Corston Independent Funders Coalition is a group of grant giving trusts that have provided match funding for services across the country.

<sup>67</sup> T2A Young Adults Manifesto, (2009) T2A Alliance.

arrangements to enable service provision that crosses age boundaries and can be accessed flexibly by those in the 16–25 age group.

There must be improved resettlement provision for *all* young adults leaving custody and intensive support for those who require it. Currently the probation service does not routinely provide anything distinctive for those over the age of 18 unless they qualify through other characteristics, for example, being a prolific offender.

Mentoring support, with appropriately matched mentors in relation to gender and ethnicity can make a significant difference to young people's chances of reform and peer mentoring can be particularly effective. Voluntary organisations are well placed to offer such services and have a track record of success in designing initiatives with service-user perspectives built-in.

Services for older offenders must also be tailored to meet their specific needs. In 2009 Nacro was commissioned by the Department of Health and NOMS to produce a good practice guide and training resource aimed at staff working with older offenders in prisons. This has been extremely well received and there is a need for the learning to be adapted to meet the needs of staff working with older offenders in the community. In particular, there is an ageing population in Approved Premises and staff would benefit from better training to enable them to deal effectively with age-related needs.

For Black and other minority ethnic groups there is a need for culturally sensitive service provision and, once again, specialist voluntary sector organisations are well-placed to assist. Some probation trusts have experience of contracting with local community organisations working with specific faith or cultural groups to provide culturally specific services. Nacro supports this approach and partnership arrangements must include a range of providers that match the demographics of those under probation supervision. Much more must be done to raise awareness of race issues and to understand the complexities of prejudice and discrimination, including work with offenders as well as with staff. Traditionally, voluntary organisations have been better than statutory agencies in developing training that fully addresses these issues.

Nationally, the NOMS Equalities Group has focused much of its work on offenders in custody. This needs to change to encompass offenders serving community sentences. There is a need to go beyond training in equality issues and to develop tool kits and resources that assist staff on a day to day basis in working effectively with offenders from specific groups.

Again, Nacro has produced tool-kits and good practice guides, commissioned by NOMS, for working with Lesbian, Gay and Bi-sexual people in prisons and also with Gypsy, Traveller and Roma people in prisons. Much of this learning could be adapted for use with offenders in the community

Proper attention to equality and inclusion considerations will result in an improvement to the overall quality of engagement with offenders. Offender Management and Interventions must be tailored appropriately to meet the needs of specific groups of people if reoffending is to be reduced.

*November 2010*

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### **Written evidence from the Hertfordshire Probation Trust (PB 63)**

#### **EXECUTIVE SUMMARY**

1. The responses and evidence provided in this paper accompany the original submission 9 September 2010 and are drawn from the day to day operations of Hertfordshire Probation Trust.

Hertfordshire Probation Trust (HPT) serves a county with a population of one million. In 2009–10 we commenced 3,033 offenders on community orders and supervised 440 on licence. During 2009–10 338 offenders successfully completed their accredited programmes against a cumulative target of 305 and the Trust achieved initial green star status in the national assessment of probation trusts. We became a Probation Trust on 1st April 2010 as part of the second wave in the Probation Trust programme.

- The ambition to reduce re-offending is not disputed but application of measures by a payment by results approach needs to be sensitive to what is and is not within control of the provider if it is to be effectively deployed or it could risk the development of perverse incentives or inaccurate conclusions.
- Offenders are citizens who have offended against the community and can be assessed as less deserving and attention to this group could lead to criticism by the community particularly at a time of austerity and economic pressures on the majority, this can be a particular pressure for local authorities when considering services such as accommodation, or health services in respect of mental health interventions. This issue needs to be addressed frankly if we are to facilitate cooperation across local statutory partnerships so that resources are appropriately targeted to reduce reoffending.

- The payment by results approach is likely to secure a stronger level of engagement if the outcomes defined are contained and achievable, such as commencement and completion of treatment/intervention, provision and retention of accommodation, commencement and completion of qualification. An overall supplementary payment linked to reoffending levels could be used to incentivise partnership cooperation, whereby all agencies were working to an overall shared outcome.
- There are strong fiscal arguments for tackling the reasons for reoffending, as this cohort of the community and their families are likely to draw heavily on a wide number of key public sector providers.
- Probation Trusts are very well placed to know local providers and the local leadership of agencies who have services that can contribute to reoffending.
- The scope for joint commissioning with local providers could be increased considerably if the Trust had the capacity to carry over under spends for longer term investment. Such a freedom would significantly increase the opportunity for longer term planning and joint commissioning. This will also promote value for money and opportunities to achieve greater efficiency savings to reinvest for improved service delivery.
- It would be helpful if the Probation Trust Board could determine the issues to be audited, at present a large number of audit days are determined and imposed on Trusts by the national team, the priority of these subjects chosen will vary from Trust to Trust and should be linked to the trust strategic risk register.
- Hertfordshire Probation Trust has hosted a number of visits for local MPs and national leaders and would be very happy to provide an opportunity to members of the Justice Select Committee, where they could have an informed conversation with a cross grade group of staff. If helpful we could also facilitate involving other local community providers who share our determination to continually develop and improve the effectiveness of offender facing services in Hertfordshire.

*What are the relative merits of payment by results and place based budgeting models as means to encourage local statutory partnerships and other agencies to reduce reoffending? What can be learnt from the implementation of payment by results models in health and welfare reform? What results should determine payment in applying such a model to criminal justice?*

2. The Social Exclusion report 2002 clearly identified seven pathways which were recognised as the key factors which contribute to an offender's likelihood to reoffend. The pathways are:

- Accommodation.
- Attitudes, Thinking and Behaviour.
- Children and Families—relationships.
- Drugs and Alcohol.
- Education, Learning, Skills and Employment.
- Finance, Benefit and Debt.
- Health, in particular Mental Health.

The range of factors can be complex and are usually *interdependent*. If an offender on release from prison is roofless, there is limited merit embarking on addressing other factors until this is addressed, as their preoccupation is likely to be where they will sleep that night. It is important interventions to tackle reoffending are coordinated and sequenced, (usually by an offender manager). In order to comprehensively tackle reoffending levels it is necessary that there is ownership to the outcomes across all relevant statutory agencies. The Probation Service currently tends to pick up accountability for re-offending levels as an outcome when it is clear that they are not the providers of many of the key services required. There has been considerable debate and uncertainty over the application of reoffending measures, in 2008 when National Indicator 18 was implemented Hertfordshire went from demonstrating the “lowest actual rate of reoffending”, (which was the base line measure taken in 2007 against further movement was measured) to the highest in England and Wales. There is a concern that perverse incentives could be introduced to influence such a measure, if the measure is deployed without careful reference to what may bring influence. The ambition to reduce re-offending is not disputed but application of measures by a payment by results approach needs to be sensitive to what is and is not within control of the provider if it is to be effectively deployed or it could risk the development of perverse incentives or inaccurate conclusions.

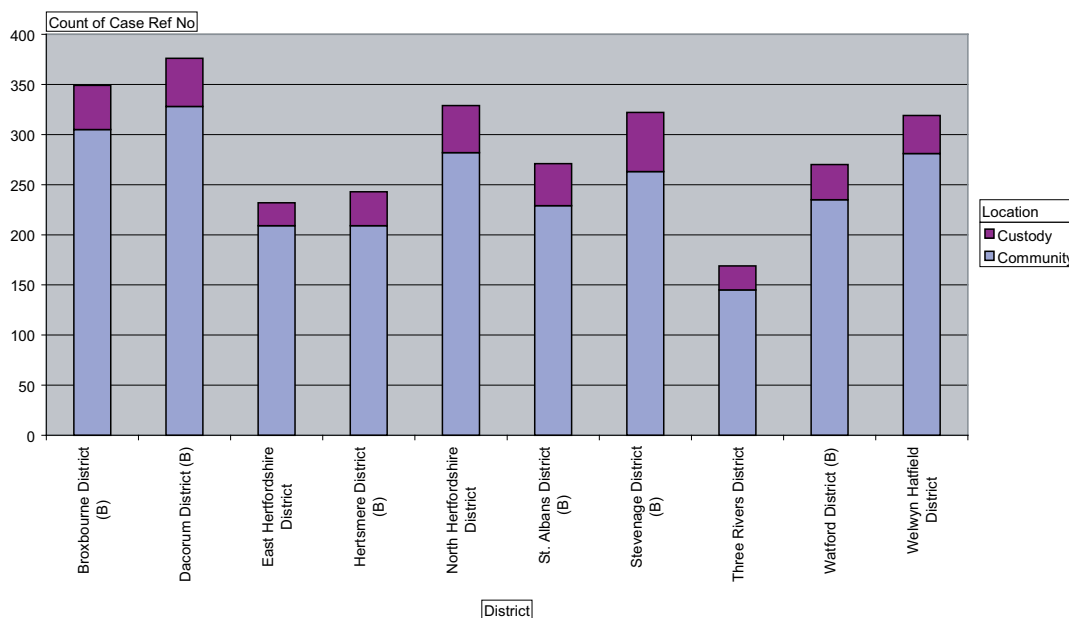
A system of differential payments would more fairly reflect the challenges Probation faces in working with offenders. A banding methodology could be worth considering eg:

- Band 1: first time offenders.
- Band 2: an intermediate group between Bands 1 and 3.
- Band 3: prolific offenders and high risk of harm offenders.

Payments could take a ratio of 1:5:10 reflecting the graduated difficulty of moving these groups away from offending. The ratio for prolific offenders may well need to be higher, given the complexity and multiple needs this cohort demonstrate. Some statistical modelling may be helpful in determining levels. It is important to recognise the point made earlier that a number of criminogenic factors have to be dealt with outside Probation eg getting into work, and finding settled accommodation which between them contribute about 50% of the potential for reducing re-offending. Differential payments should act as an incentive to targeting the relevant support towards the more “hard to change” groups. There is also the potential to make use of the “PREview” costings indications which are currently under development by Probation Trusts.

3. While the offender manager can “sign post” an offender to the relevant agency provider this does not secure provision. The reality is that many other public sector agencies will not give resource priority to known offenders, simply because of their offending history. They are citizens who have offended against the community and can be assessed as less deserving and attention to this group could lead to criticism by the community particularly at a time of austerity and economic pressures on the majority, this can be a particular pressure for local authorities when considering services such as accommodation, or health services in respect of mental health interventions. This issue needs to be addressed frankly if we are to facilitate cooperation across local statutory partnerships so that resources are appropriately targeted to reduce reoffending. There are potential risks if result measures are only linked to reoffending measures. The payment by results approach is likely to secure a stronger level of engagement if the outcomes defined are contained and achievable, such as commencement and completion of treatment/intervention, provision and retention of accommodation, commencement and completion of qualification. An overall supplementary payment linked to reoffending levels could be used to incentivise partnership cooperation, whereby all agencies were working to an overall shared outcome. The closest example is the recent LAA reward grant approach, however in reality the distribution of the reward grant was dominated by local government and police and it was harder for small agencies or third sector providers to bring influence. There is a balance to be achieved between organising arrangements at a county or district/borough level and realising savings and managing numbers logistically.

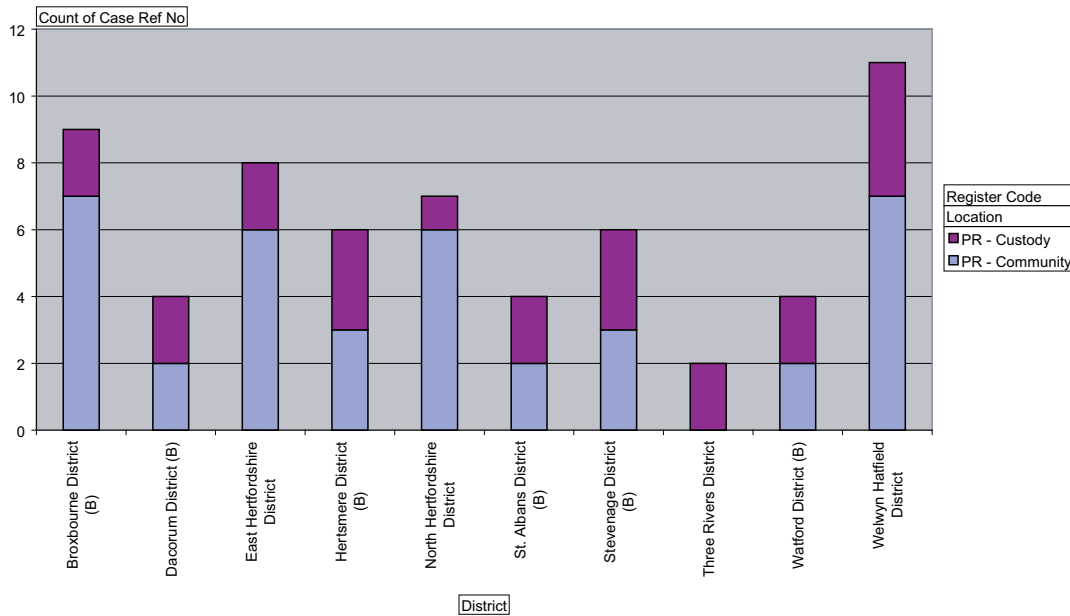
HERTFORDSHIRE PROBATION TRUST CASELOAD BROKEN DOWN BY DISTRICT Q1 2010–11



4. There are strong fiscal arguments for tackling the reasons for reoffending, as this cohort of the community and their families are likely to draw heavily on a wide number of key public sector providers. Hertfordshire Probation Trust now breaks down the caseload by district /borough council and shares this information with key partners to help inform planning. Strategic information sharing has also brought the probation, police and council teams together to target the top 200 prolific offenders under the umbrella of Integrated Offender Management, with probation offender managers recently co-locating with police and council staff.



## PROLIFIC AND PRIORITY OFFENDERS SUPERVISED BY HPT Q1 2010–11

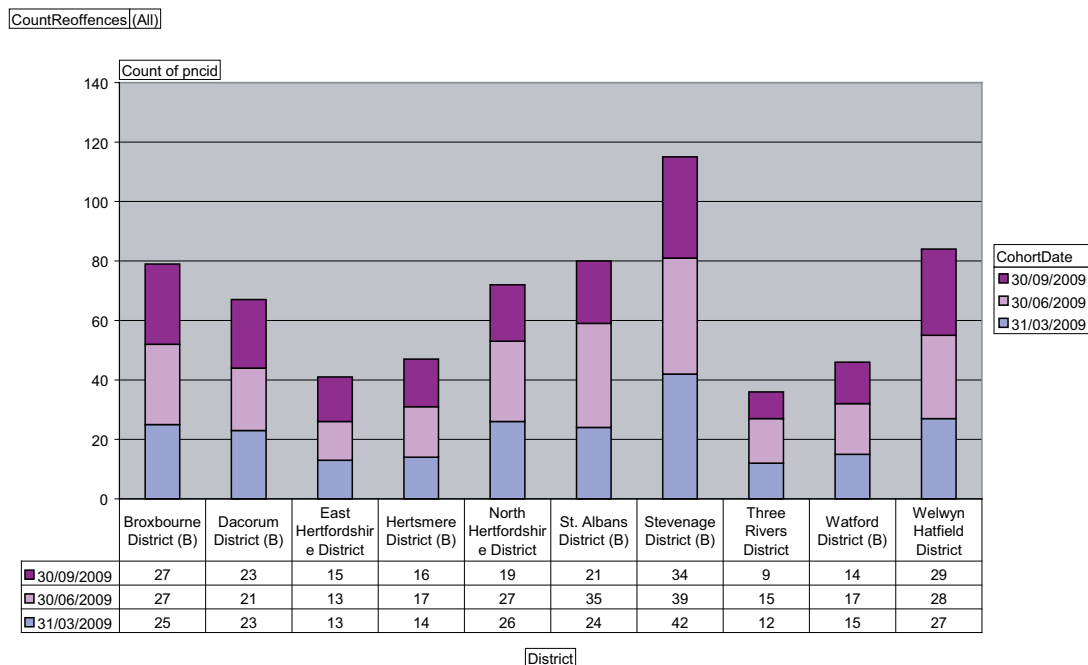


5. There is scope to develop a Reducing Reoffending Board; however care will need to be given to the boundary lines and avoidance of undue additional bureaucracy. There is the potential to link this to the role of the forthcoming Police & Crime Commissioner, but care would need to be given that it was not dominated by a single agency perspective. Data linked to the pathways to reduce reoffending needs to become available at district/borough council level to secure true local buy in, but this can be difficult for public sector agencies not organised along similar boundaries and bound by nationally determined IT databases. It is also relevant to acknowledge the distribution of crime and offenders is far from even across local councils, which again has impact on what priority will be given by local partners. There is a lack of clarity with regard to the governments ambitions to achieve delivery at the local level, is this at county or district level? It would be hard to achieve efficiency of scale by commissioning at the district level. The Probation Trust works hard to arrange its delivery to maintain a balance between working in partnership at a county level, whilst maintaining dialogue, engagement at the local district level, through representation on the Community Safety Partnerships.

6. Key to payment by results has to be measures that the provider has sufficient control over to influence. Reoffending levels can be vulnerable to local policing activity and performance. In Hertfordshire we saw a clear link to the police increasing significantly the number of police cells through new build and capacity to complete arrest and process and the reoffending levels, our analysis is that shoplifters in Stevenage had an increased chance of arrest and prosecution as the police increased their capability. While this is to be commended, as it is important all offending is brought to account, it had an impact on the reoffending measures for Hertfordshire. It would be of concern if there was a perverse incentive to not arrest to meet a payment by result measure on reducing reoffending. Likewise if policing performance deteriorates and offenders have less chance of arrest, this could inadvertently lead some to conclude that reoffending levels have improved, when it is simply a case of less offenders being caught.

NI 18 RECONVICTION STATISTICS 9 MONTHS TO DECEMBER 2009

OFFENDERS WITH 1 OR MORE CONVICTIONS DURING THE 9 MONTH RECORDING PERIOD



*What freedoms would probation trusts like to have to enable them to manage offenders and reduce re-offending more effectively?*

7. Probation Trusts are very well placed to know local providers and the local leadership of agencies who have services that can contribute to reoffending. The Trust is represented on the county Safer Stronger Executive Group, Hertfordshire Criminal Justice Board and all Community Safety Partnerships. The scope for joint commissioning with local providers could be increased considerably if the Trust had the capacity to carry over under spend for longer term investment. Such a freedom would significantly increase the opportunity for longer term planning and joint commissioning. This will also promote value for money and opportunities to achieve greater efficiency savings to reinvest for improved service delivery. An example is the work currently taking place within Hertfordshire with the local third sector. Hertfordshire Probation Trust working in partnership with Hertfordshire Community Foundation is providing workshops at no cost to the local third sector community, to increase their knowledge of the criminal justice processes, in particular addressing rehabilitation. In the first two workshops 36 different potential providers sent representatives and there is considerable enthusiasm and interest to partner and develop local responses to address needs, such as accommodation and mentoring. The Trust forward planning however is hampered by having no opportunity to carry forward and develop opportunities to innovate. Annual budgets, which are often subject to in year amendments, limit the opportunities for innovation. Without the facility to carry forward and develop reserves for long term planning the Trust is potentially disadvantaged when competing. New initiatives can often demand high initial investment to support implementation, before efficiencies can be realised, this is difficult under the current arrangements.

8. It would be helpful if the Probation Trust Board could determine the issues to be audited, at present a large number of audit days are determined and imposed on Trusts by the national team, the priority of these subjects chosen will vary from Trust to Trust, who will also wish to take account of other inspections etc that might have recently taken place, and should be linked to the Trust strategic risk register. An opportunity for the board to increase their capacity to determine audit subjects would be welcomed.

The national directions can range from much needed strategic guidance to micro management detail about marketing, ordering leaflets and posters, the latter is unhelpful and can demand expensive cumbersome business cases/processes for minor issues that could be able to be resolved and contained at the local level.

9. Trusts are highly dependent upon the national IT provision and determination of databases etc. Partnership working can often be hampered by having to cross reference or double data enter to “similar but different” databases, making it difficult to extract analysis at a strategic level and increasing the potential for information relating to risk to not be passed over.

10. It is a similar situation with the estates contract. This is controlled at a national level, with little control available to Trusts in determining strategic and operational decisions. This includes reviewing and changing offices, procuring repairs and maintenance and managing operational costs. The latter has hampered the need to drive down costs and improve value for money and capacity to implement our environmental strategy.

*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?*

11. The Probation Service in England and Wales is internationally respected, with many countries seeking to replicate and learn from our approach. There is considerable expertise that has been built up over many years and the Probation Trusts are well organised and well placed within the local communities and with the key criminal justice agencies to coordinate and deliver the overall sentence plan for convicted offenders. The courts need to have confidence that court orders will be delivered as intended and offenders who do not comply brought to account through the relevant enforcement procedures. There is scope to consider further the relationship of Probation Trusts with the Policing and Crime Commissioners. Hertfordshire Probation Trust successfully completed a rigorous trust application in 2010, providing detailed evidence of its effectiveness and capability to deliver/commission services and enforce sentences and engage with the local community.

12. There is scope and opportunity for Trusts to work together and jointly commission where they identify commonality and the potential to reduce costs, this can be arranged at the local level and does not necessarily require national or regional oversight/coordination, which can sometimes simply increase the number of managers involved and add additional reporting.

13. Hertfordshire Probation Trust has hosted a number of visits for local MPs and national leaders and would be very happy to provide an opportunity to members of the Justice Select Committee, where they could have an informed conversation with a cross grade group of staff. If helpful we could also facilitate involving other local community providers who share our determination to continually develop and improve the effectiveness of offender facing services in Hertfordshire. The new MP for Watford Richard Harrington attended such a visit in the 2010 and we are sure would be happy to share his experience if that is useful. Our work is complex and not easily explained in short sound bites but we remain very committed as a Probation Trust to increasing understanding about our work.

January 2011

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### Written evidence from The Prince's Trust (PB 64)

#### ROLE OF THE PROBATION SERVICE

The Prince's Trust is a youth charity that helps change young lives. We give practical and financial support, developing key workplace skills such as confidence and motivation. We work with 14 to 30-year-olds who have struggled at school, have been in care, are long-term unemployed or have been in trouble with the law.

We have helped more than 600,000 young people since 1976 and support 100 more each working day. More than three in four young people we helped last year moved into work, education or training.

#### 1. EXECUTIVE SUMMARY

Our response highlights how The Prince's Trust programmes can benefit young adults involved in the criminal justice sector, how we can work in partnership with the Probation Service and how we are developing a UK-wide mentoring service for young adults leaving prison.

#### 2. BRIEF INTRODUCTION

The Prince's Trust is a youth charity that helps change young lives. We give practical and financial support, developing key workplace skills such as confidence and motivation. We work with 14 to 30-year-olds who have struggled at school, have been in care, are long-term unemployed or have been in trouble with the law. We have helped more than 600,000 young people since 1976 and support 100 more each working day. More than three in four young people we helped last year moved into work, education or training.

#### 3. HOW OUR PROGRAMMES CAN BENEFIT YOUNG OFFENDERS

Last year The Trust worked with over 40,000 young people. One in five of these young people were involved in the criminal justice sector. We offer grants to individuals for education/training (Development Award) and to groups of young people who want to make a positive impact in their community (Community Cash Awards). We offer short courses in a variety of subjects (Get Started) and courses which are more focused on careers eg construction (Get Into). Our longer term programmes include the 3-month Team programme and our self-employment programme called Enterprise. In addition we offer mentors for young people who are leaving care or leaving prison.

#### 4. BUILDING A MENTORING NETWORK FOR YOUNG OFFENDERS

The Prince's Trust runs a leaving prison mentoring project. The project enables former offenders to support young adults through their transition from prison to community. This project works with selected prisons in the South West and South East of England and in Northern Ireland. Mentors work with young adults six

months before release and six months afterwards. In addition The Prince's Trust is leading the "GateMate" campaign in partnership with Clinks, Catch22, St Giles Trust and the Mentoring and Befriending Foundation. Our aim is to map all the mentoring providers on a visual online map and to work together to offer a universal mentoring service to all young adults on their release from prison. ([www.gatemate.org](http://www.gatemate.org))

#### 5. HOW WE CAN WORK IN PARTNERSHIP WITH PROBATION SERVICE

The Prince's Trust is keen to work closely with the Probation Service. We believe that our programmes/mentors can add value to the work of the Probation Service. On our "leaving prison mentoring" project, many of our mentors work together with their mentee's probation officer. In addition we would like the Probation Service to signpost young people to our programmes as a meaningful and positive activity that they can do while on probation. Programmes, such as Team, help young people to progress to education, training and employment and to sustain these outcomes.

#### 6. PAYMENT BY RESULTS AND OUTCOMES

We feel that payment-by-result models should acknowledge the many steps taken to rehabilitate/support a young adult involved in the criminal justice sector, for example, the client has:

- Remained engaged with our service/their probation officer.
- Secured sustainable accommodation.
- Registered with GP/mental health services.
- Reduced their drug/alcohol misuse.
- Applied for benefits/managing finance/debts.
- Changed their attitude/behaviour towards crime.
- Integrated into community eg hobbies, volunteering.
- Improved relationships with their family/children.
- Progressed to education/training/employment.
- Reduced re-offending in terms of frequency/severity or completely.

January 2011

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### **Supplementary written evidence from the West Yorkshire Probation Trust (PB 65)**

What follows is a brief submission on behalf of the West Yorkshire Probation Trust in response to the Select Committee's request for supplementary evidence.

#### INTRODUCTION

The submissions relate to the freedoms from bureaucratic control that would assist Probation Trusts to manage offenders and reduce reoffending more effectively, and with greater economies at a time of reducing public sector budgets.

#### PTRS—PROBATION TRUSTS RATING SYSTEM

PTRS, like the IPPF which preceded it, is made up of a number of targets divided across four domains: public protection, offender management, interventions, and organisational capability. The majority of the targets relate to timeliness, volumes or other tick boxes. Very few bear a relationship to reducing reoffending, which in any event is measured separately. Even the domain heading public protection is a misnomer, as the targets within that domain only have a loose connection with protecting the public from serious offenders.

This therefore is an example which the collection of data has become an end in itself, which is only tenuously connected with what the public or government might reasonably expect from the probation service.

The answer must be to have fewer targets and this needs to be outcome focussed.

#### NATIONAL STANDARDS

The probation service is still currently working to the 2007 national standards. These impose a raft of mainly timeliness targets which vary according to the tiering (risk) the offender is deemed to pose. For example, a tier 2 offender (relatively low risk) must be seen by their offender manager within five working days of sentence. They must be seen weekly for the first four weeks, then fortnightly for the next 12 weeks etc. They must have an OASys assessment at commencement, then every four months, again if there is a significant change to risk factors (this is sensible), and finally at termination.

If this rigidity were replaced with the use of professional discretion and judgement there would be a substantial saving in resources and the public would be better served as there would be more face to face work with the offenders.

## THE CONTRACT

All Trusts were obliged to sign a standard contract with almost no meaningful opportunity for negotiation. This makes all national standard requirements, all PTRS targets and quite a few extras into mandatory contract requirements. In West Yorkshire we have recently requested that we should be permitted to do OASys assessments on low tier (ie low risk) cases every six months, instead of every four. Our regional Director of Offender Management agrees that this is an entirely sensible resource saving. We have, however, so far (three months after the request) not yet been given permission by NOMS to make the change.

## AUDIT

Probation Trusts are relatively small organisations. Even the larger ones generally have budgets of less than £40 million. Yet the audit requirements placed upon them are out of all proportion to the size of the value that could be gleaned from this form of assurance activity.

## SONNEX RETURNS

This arose from a horrific murder case in 1 Trust area. Nevertheless, ever since every Trust has had to provide a monthly return on how many cases in each tier are supervised by POs and how many by PSOs. Also, how many high risk of harm cases are supervised by POs or by PSOs. This has now been continuing for almost two years and so far there has never been any feedback from those collecting the statistics. It appears to be a meaningless exercise.

## DELEGATED POWERS

These are a misnomer. Very little is delegated and comparatively small payments require approval from NOMS or sometimes even the Treasury. For example, in order to settle an Employment Tribunal claim, the Trust Chief Executive is given a delegation of only £3K (almost useless), the Regional Director of Offender Management was given a delegation of only £30K (a bit more useful). Everything else needs approval from central NOMS. This involves not only the submission of legal advice (the assumption seems to be that Trusts would not know to take legal advice without the system) but also the preparation of business cases in the correct format, and while approval is nearly always forthcoming, the time and bureaucracy creates an industry in itself.

It should also be noted that curiously the delegations are not given to Trusts. They are given to the Trust Chief Executive. This is presumably because those charged with writing the delegated powers document have not appreciated that Trusts are corporate legal entities in their own right, and are not part of the civil service structure for which it would be appropriate to give a delegation to a particular individual in the departmental hierarchy.

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## Supplementary written evidence from Nacro (PB 69)

### INTRODUCTION

Nacro is the UK's largest crime reduction charity, with over 40 years experience of working with offenders and those at risk of crime. We run over 300 service delivery projects in communities across England and Wales and, last year, around 90,000 people benefited from their contact with Nacro. Our services include: prevention and early intervention for young people; education, training and employment for prisoners and offenders in the community; and resettlement services (including accommodation) for those on release from custody. Nacro Community Enterprises is a Registered Social Landlord.

Nacro is pleased to contribute to the Select Committee's Enquiry into the role of the Probation Service. This submission follows the Committee's request for supplementary evidence and is in addition to the submission we made to the Select Committee in November 2010.

*What are the relative merits of payment by results and place-based budgeting models as means to encourage local statutory partnerships and other agencies to reduce re-offending? What can be learnt from the implementation of payment by results models in health and welfare reform? What results should determine payment in applying such a model to criminal justice?*

In our view, the key features and merits of payment by results are as follows:

- (i) It is difficult to argue against the notion of paying providers for the outcomes they achieve. If they don't produce the right results, they don't get paid. Payment by Results has the potential to bring simplicity into an inherently complex world. In the criminal justice world this requires that local commissioners, who share an investment in the outcomes they wish to achieve, focus their attention on what is achieved, leaving the provider to determine how best to achieve it. To win work and get paid down the line, the provider will have to have programmes in place which they believe, based on evidence, will bring about the right outcomes. This means having all the right components

in the right combination, to the right level of intensity, to match the risks and needs of a particular offender cohort. It also means having the right organisations taking part.

This focus on outcomes—reducing crime, reducing reoffending, securing jobs, securing safe accommodation—puts partnership working on a new footing. Those investing in the service and those providing it *have* to work together to define the outcomes, making certain these are both realistic and measurable and that they match offender’s risks and needs.

- (ii) We foresee an extension to the concept of competitive dialogue between commissioners and providers, where less reliance is made on the detailed tender specification in favour of robust due diligence arrangements. In this situation, those procuring the service would engage with potential providers in terms of who they are, what they do, what they stand for, and more importantly, what they have actually achieved to date. As in the business world, investors would intervene locally, getting involved to turn a situation around, ensuring the focus stays on the outcomes. They would provide help and support, without becoming preoccupied with managing the service themselves.
- (iii) Under payment by results, providers would have the freedom to develop new and innovative partnerships. The onus is on them to develop strong, coherent strategic and delivery arrangements which stand up to rigorous scrutiny. Here, the constituent organisations will have worked out the unique contribution they each make to the partnership overall and how they will strengthen the delivery, enhance reach and build credibility, while complementing each other’s brand.
- (iv) Payment by Results provides a way forward for new thinking and innovation. This has been shown in the Peterborough Social Impact Bond pilot, where bright new partners have been brought to the table, including those who would otherwise not have been involved in tackling reoffending.
- (v) We believe that under Payment by Results, the delivery landscape may change. There are few charities who could immediately take on the business and financial risks of Payment by Results on their own. If, as is envisaged, Payment by Results paves the way for longer term contracts with larger volumes of offenders, we are likely to see charities joining up with other like-minded organisations via joint ventures and special purpose vehicles or becoming involved in mergers and acquisitions.
- (vi) Payment by Results lends itself to locality based thinking. Reducing reoffending in a particular location is never the sole reserve of one department or agency. Neither does it rest with the statutory sector. Our experience is borne out by evidence that the more the non-offending community—community groups, employers, social enterprises—is involved, the more chance there is of reducing crime and reoffending. In order to define and deliver measurable outcomes, targets have to be confined within clear and measurable boundaries as is the case with the Peterborough Social Impact Bond.

#### LESSONS FROM HEALTH

- (i) We are aware that in recent years the Department of Health has made progress in relation to Payment by Results, particularly in fields of acute surgery. However, it has yet to make this work in more complex areas such as mental health. Whereas it is feasible to set a national price-per-operation with, for example, hip replacements, this is less straight forward when it comes to psychiatric treatment. Likewise, in the sphere of criminal justice, it will take time to get the funding mechanisms right. We believe pilots and pathfinders will inevitably play their part here. We welcome the suggestion in the Breaking the Cycle Green Paper that the move towards Payment by Results is brought in incrementally and is seen as a journey from activity based funding through market testing, to notions of transferring risk to suppliers, and on to payment in exchange for outcomes.
- (ii) One of the challenges is to consider the “level” at which commissioning takes place. We envisage a variable geometry where some contracts are handled locally whereas other large scale opportunities are commissioned nationally. Against this backdrop, it is important that work is done to ensure the right balance between a national framework (to avoid postcode lotteries) and localism.
- (iii) Most of the payment by results experience to date in health appears to be in areas where personal choice is the dominant policy. Personalisation and service user involvement is still in its infancy in the criminal justice system and we would welcome any impetus Payment by Results could provide in determining how personalisation might play a more dominant role in criminal justice going forward.

#### RESULTS DETERMINING PAYMENT

- (i) Tackling reoffending will always require a patchwork of interventions from, preventative to rehabilitative, big and small, national and local, intensive and generic, covering different levels of risk and different types of need. Some of these will lend themselves to payment by results more than others. It is therefore crucial that standardised tools are used to define levels of risk and need so that the right interventions are used for the right cohort of offenders. Reoffending outcomes

that can be achieved with one set of offenders might be markedly different from outcomes with another cohort.

- (ii) The ultimate key to success with Payment by Results is the extent to which more than one social outcome can be achieved with the same set of interventions. For instance, programmes delivered by Nacro might set out simultaneously to reduce reoffending, get offenders into sustainable employment, and relieve homelessness.
- (iii) In line with this, there is a need for improved systems to track long term gains to verify improvements over time because short-term gains will not satisfy the public of the programme benefits. We are aware that the Government is looking to introduce Payment by Results in respect of drug treatment. In view of the correlation between drug misuse and offending, any such development will be highly relevant to the reduction of reoffending.

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## Supplementary written evidence from the London Probation Trust (PB 70)

### CONSTRAINTS ON PROBATION TRUSTS

#### INTRODUCTION

Probation Trusts were first introduced in 2008 when five former Probation areas gained Trust status. The offer was that areas who demonstrated strong performance and organisational capability would be granted Trust status with various freedoms attached. These “freedoms” eg ability to disengage from national contracts, have less monitoring etc did not materialise and within a year the whole approach to Trust status changed and new contracts were drafted. Two further probation areas were granted Trust status with a different style of contract and a new test was put in place and all probation areas, including the five areas who had initially become Trusts were told they must apply or disappear as an entity. There was no longer any offer of freedoms and indeed the constraint within the contract was even more restrictive about what a probation area could do.

### CONSTRAINTS ON PROBATION TRUSTS

#### 1. *Performance*

Probation Trusts have been held to account by a series of performance frameworks eg Integrated Probation Performance Framework (IPPF), Probation Trust Rating System (PTRS). These are made up of a range of mainly process measures that in many cases record the time it takes to undertake activities eg complete OASys in 15 days, and very few outcome measures. The lack of focus on quality is compounded by measures such as “complete high risk OASys in five days”—these are the most difficult and complex cases and yet there is much less time to undertake a proper assessment. Trusts acknowledge that timeliness measures are important but to have a framework based on so many such measures which can drive perverse performance is frustrating. Several of the measures require a great deal of recording, chasing and auditing eg number of offenders who sustain employment for four weeks. Time spent on counting would better be spent actually helping offenders into work. In summary there have been too many measures with too little focus on quality and real outcomes.

Trust status did not bring with it any freedom from recording, monitoring and auditing, even for those Trusts who had consistently high levels of performance. Although NOMS have now said there will be a lighter touch and a “revised” PTRS, the early drafts have changed little.

#### 2. *Standards and Specifications*

The Probation Service works within a set of National Standards (currently under revision) which are highly prescriptive about the number of appointments and contact levels. These are monitored monthly and deviations attract negative consequences for performance. There is virtually no room for professional discretion or amendments. This limits ability to innovate eg do intensive work in the first six months when change is more effective, and much less in the latter part. There is also a set of specifications being developed for every aspect of probation practice. Whilst standards and specifications are helpful, Trusts should have more ability to deviate when there is sound evidence or cost reasons.

#### 3. *IT*

Trusts are part of a national contract held by Steria and part of a national infrastructure called OMNI. Early indications that areas who became Trusts might have the freedom to do things in a way that is more responsive to local area need were never forthcoming. There are a number of constraints with the current situation. The first is cost—areas are locked into buying through the Steria contract which appears very expensive eg blackberry monthly charge is £75 but there are many more examples. If an area wants to develop an application a business case has to be made and the costs are often so high that no progress can be made.

Because we have a national infrastructure the needs of individual Trusts are often not met because small areas have different needs to large areas. The ability to innovate is severely constrained eg it would be good to develop hand held devices for staff on community payback placements or out on home visits. This would

be much more efficient and when Trusts are facing competition it seems to give other providers an advantage. Young staff who join the service are severely frustrated by the poor quality of IT—eg it is impossible to access most websites from desktops as these *are blocked*.

#### 4. *Premises and Facilities Management*

Prior to 2001 individual probation areas owned or leased their property but a national contract was then put in place. A similar national contract for facilities management was instigated. Both are highly inflexible and inefficient. It is almost impossible to either downsize or access additional property. Properties are in a very poor state of repair and decoration is rarely done so that Trusts have to spend money provided for offender services to maintain even a minimum standard. Again this was a freedom or flexibility highlighted as possible with Trust status but was never allowed.

#### 5. *Financial inflexibility*

One of the biggest barriers to good management of the budget has been the lack of any year end flexibility. There were periods in the past when Trusts could have limited flexibility eg 2% or even 4% carry forward or overspend, this was removed several years ago. This makes financial planning extremely difficult particularly in times of reducing resources so, for example, a Trust cannot make savings in one year to carry forward to help manage further cuts in the year ahead. Any underspend is given back to NOMS. With a budget the size of London, £145 million, it is extremely difficult to spend exactly within a year. All redundancy costs must be met by Trusts in year—there is no other “pot”, and given that about 85% of our budget is on staffing (and because we have limited opportunity to cut other budgets such as IT and premises as per above) managing staff cuts is extremely difficult. Also the information about actual budget always comes late—I do not at this point know the budget for London Probation Trust for 2011–12—it could be anywhere between a 4.5% and a 6% cut which would make a difference of almost £2 million and as the main way to make the savings is by staff cuts is extremely difficult to plan. We do have an underspend which has been saved for this purpose but knowing how many staff we need to cut cannot yet be set. Again with the approach of competition Trusts do not have a level playing field and the ability to innovate is seriously limited.

#### 6. *The Contract*

The actual contract between Probation Trusts and NOMS was rewritten after the first wave of Trusts and is much more inflexible and less similar to a contract given to a private or voluntary sector provider. One example is the media protocol in which Trusts have limited ability to respond or do proactive work with the media without involving the MOJ press office whose main focus is to protect the reputation of Ministers. This is particularly difficult for London where most media matters attract national interest and at this point the MOJ take control of the response.

The contract includes a number of volume targets eg number of accredited programmes to be delivered. These do not always match the demand of such orders coming from the court eg London was contracted to deliver 370 domestic violence programme completions but the actual number coming from court is likely to be over 1,000. The resources to deliver at this level were not provided nor planned for but the need is there and these programmes have to be delivered.

#### 7. *National Versus Local delivery*

Probation Trusts are local delivery organisations but work within a national organisation, NOMS that does not support or in many cases understand local delivery. Reducing reoffending at a local level requires investment in good partnerships with police, health, local authority and the voluntary sector but this work is not valued or recognised by NOMS eg there is little mention in the contract or the performance frameworks. The prison service, also part of NOMS, is a national organisation and this impacts on both cost and effectiveness eg most probation areas have offenders in every single prison in England requiring probation staff to travel significant distances for essential visits. It also makes resettling offenders back into a local area more challenging.

#### CONCLUSION

Probation Trusts struggle with a myriad of constraints that mitigate against being innovative and efficient. Probation Trusts should be supported in their role as local commissioners and providers of services for offenders. The framework in which they operate should be less tightly controlled with more focus on outcome measures. Clearly this is the direction of travel referred to in the Green paper but there needs to be much speedier progress towards this goal. This is particularly imperative if Probation Trusts are to compete alongside other providers.



### Written evidence from Rebecca Clarke (Greater Manchester Probation Trust) (PB 73)

As part of the Justice Reform Agenda, set out in the Justice Green Paper published in November 2010, the Ministry of Justice (MoJ) is seeking to test a justice reinvestment/payment by results model. This aims to deliver savings to government and to local partnerships, through efficiency and effectiveness savings against a suite of interventions and outcomes.

The key objectives of the Transforming Justice (TJ) Project are to:

1. reduce crime, reoffending and the wider impact of crime and dependency on society;
2. work better across criminal justice and partner public, private and voluntary agencies to reduce duplication and deliver sequenced, integrated interventions and stream line services; and
3. reduce costs to the criminal justice system.

Across these three objectives the Transforming Justice initiative offers opportunities for the Probation Trust to engage with both CJS and non-CJS agencies on these important issues. Establishing a forum where these agencies prioritise their role working to identify and address social and individual factors which are linked to offending and reoffending. More specifically it has the potential to increase awareness and service provision for non-statutory offenders serving less than 12 months in prison.

As part of the Transforming Justice pilots in both London and Manchester the MoJ has developed a local financial incentives (LFI) approach. In relation to the adult Financial Incentive Model (FIM) the MOJ will pay back half of their calculated cashable savings if a 5% reduction in adult demand is achieved (with an upper limit threshold 20% reduction in demand). For the Youth FIM the threshold is 10%, Youth Justice Trust colleagues indicate that there are significant challenges with this due to the level of reduction we have already seen in recent years on the number of first time entrants.

The issue of improving against the baseline years is also an issue within the adult context and the potential for Probation Trusts to trigger a reward in relation to metrics such as the reduction in custody. In recent years there has been a relatively significant investment to address this aim of reducing the prison population. The impact of this activity will be registered within the baseline period, yet this funding does not continue within the TJ pilot period. A clear example of this is in Greater Manchester is the £2 million invested in the Intensive Alternative to Custody pilot which has demonstrably reduced the number going to short term custody. The MOJ funding ended on 31 March 2011 and it is a significant challenge to retain this pilot within mainstream budgets, and almost impossible to extend this beyond the existing cohort and geography in the current financial context (and therefore impact on the FIM).

MoJ's central requirement is a substantial reduction in criminal justice outcomes (i.e. suspended sentence orders, community orders, order requirements, short custodial sentences and all other convictions and associated disposals) when compared to a baseline of 2010–11. The baseline and payment by results are calculated through a list of five metrics which quantify costs associated with these different outcomes.

MoJ does not prescribe how the reduction is achieved or which parts of the criminal justice system are reduced in volume. They do require however that any payments by results from the FIM are used where possible for services aimed at reducing reoffending. The GM pilot would also seek to use a proportion of the FIM payment to support further integration and reform. If the thresholds are achieved, payment will be made to Greater Manchester partners by 30 November 2012 for year 1 and 30 November 2013 for year 2.

Analysis has been undertaken by a TJ Data & Design Group in GM exploring a number of possible "scenarios" for meeting the necessary reductions in demand in order to release the reward from the FIM. The scale and impact of each intervention was modelled, and the resulting change in costs using the Financial Incentive Model metrics was calculated based on diversions from one disposal route to another or out of the criminal justice system.

The process of analysis by this group has not included reductions in demand which would be due to the potential impact of the various options on reoffending rates. This is both because the robust evidence of impact on reoffending for these options is limited, and because recent trends indicate that CJS demand is not necessarily correlated with reoffending. Furthermore, any reduction is unlikely to impact the first year of the programme. In discussion with colleagues from MOJ it is viewed that the evaluation process (to be defined and commissioned by MOJ) will be the key route through which an understanding regarding the link between the FIM activity and reoffending will be established.

The key conclusions from the "scenario modelling" work to date are as follows

- Interventions that are intended to reduce dependency, eg the Intensive Alternative to Custody (IAC), which are believed to be useful long term approaches to managing offenders do not result in large savings in the FIM because:
  - They are focussed on a relatively small cohort.
  - They often involve community orders with a high volume of requirements; therefore increases on these two metrics (orders and requirements) offset the savings from the reduction in custody.

- The analysis does not take into account underlying trends in crime or economic conditions. It is possible that the volumes of convictions could reduce or increase due to changes outside the proposed interventions. For example, changes in the number of front line police officers could impact on the numbers of arrests leading to a resultant change in the number of court convictions.
- Due to the make-up of the metrics in the FIM, almost half of the costs are associated with the “Other Convictions” metric. In order to hit the 5% cost reduction threshold interventions will need to be focused on diverting high volumes of individuals away from the courts through the increased use of interventions such as Restorative Justice, conditional cautioning and PND or for example, reviewing how TV license disposals are dealt with. Scenario modeling has predicted that a minimum reduction of approx 4,300 court convictions would be required. This would result in a payment from the MoJ of £850,000 (based on 2009–10 figures). It should be noted that there would need to be significant policy changes to achieve the above reduction.

Such an approach will only achieve objective 3—to reduce costs to the criminal justice system. In order to achieve the other Transforming Justice objectives we need to consider the Community Budget approach that will engage a wider partnership of services delivering sequenced and integrated interventions.

A number of the interventions modelled have benefits outside of the criminal justice system that are not captured in the FIM. This is especially true for those interventions designed to reduce dependency. For example, early evaluation results from the IAC programme show promising results in getting offenders into employment. Work has started to assess some of these interventions and to understand the potential savings to a wide range of agencies. This could lead to investment agreements between agencies based on a wider set of outcomes than are included in the FIM. Another key area for exploration here would be interventions for women offenders, but once again despite the fact that such initiatives could achieve significant cost savings across a wide group of agencies, the low numbers would not release any monies through the FIM.

As a result of these complexities the monitoring of the pilot will need to be multi-faceted. Enabling measurement in relation to the outcomes as measured by the FIM metrics (specifically around demand on the CJS) as well as the potential for interventions or approaches developed under the Transforming Justice banner to impact upon re-offending and the dependency of offenders which impacts on the budgets of a wider group of agencies. This means the TJ pilot is a particularly challenging enterprise not just for delivery but in terms of monitoring and evaluating to support understanding of the impact across the objectives outlined at the start of this paper. An evaluation is currently being scoped by the MOJ and the design will need to reflect the range of priorities within the pilot in such a way that those participating in the TJ Pilot within London and Manchester (and those keenly watching from the sidelines in other localities) can be confident that future decisions regarding such payment by results approaches are based on the learning from this pilot.

The Probation Trust has committed to participating in the pilot, with a view to using this as an opportunity to raise the profile of the work we do and promote an integrated approach to reducing reoffending in our locality. We will carefully consider the value of aligning some of our resource with other agencies where there is evidence that this will increase both efficiency and effectiveness in relation to outcomes for offenders and victims. We are keen to see if obstacles can be overcome and the opportunities can be realised and this can assist the agencies involved in reducing reoffending deliver their services in a way which demonstrates value for money.

*March 2011*

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#### **Written evidence from Excalibur Procurement Services Limited (PB 76)**

1. I have been closely following the oral evidence currently being provided to the Justice Committee on the Role of Probation. We have been working with Probation and NOMS since 2006 and have been closely involved in the transition from Probation Boards to Trusts as well as advising Ministers during the passage of the OM Act through parliament and project managing the introduction of the first wave Probation Trust contracts. We are currently working with 10 Probation Trust as well as providing commissioning support and training to many others through a collaborative partnership with the Probation Association.

2. Although we have not been called to give evidence to the Select Committee, I felt our in depth knowledge on the commercial capabilities of the Probation service may be useful in informing the Committees understanding of the issues that will influence the development of a more commercially astute and fully integrated probation service in local communities.

3. I have attached a report for the Select Committees information that we published in October 2010.(not printed) This provides an assessment of probations commissioning capabilities at that time. I am pleased to say that our prediction in the report that Trusts commercial capabilities would continue to develop at pace is proving to be correct with most now taking a more hardnosed business approach to service delivery and commissioning strategies.

4. However as a businessman with significant experience in the commissioning of community based services, I am extremely concerned that the NOMS and MoJ approach to market testing probation services is driven by the need to save money rather than ensuring efficient and effective services that are sustainable. There is a danger that people within NOMS and the MoJ are treating community based offenders as a form of commodity and that these offenders exhibit a similar compliant nature to those offenders in prison. Even more worrying is that the larger private sector providers also adopt the same approach and have based their whole commercial business strategy on this rationale. This is a dangerous assumption and the risks of not understanding the true dynamics of this offender group will not only end up costing more through higher levels of enforcement but also result in a degradation of quality and increased levels of reoffending. Those who work in probation know that they are dealing with a chaotic group of individuals who are not contained and require very different management to those offenders in prison.

5. The voluntary sector is also in my view culpable in fundamentally misunderstanding the role of the probation service and I am increasingly concerned at the number of larger voluntary organisations who are actively seeking to take over the delivery of a whole service. What they are not taking into account is the stringent conditions that a Probation Trust has to operate both in terms of reporting but also in the lack of business flexibilities and maintaining high quality standards. They are assuming that they would run a probations service in a similar way to their own operation which would not be the case. One needs to question whether they would be as interested if they had to meet many of the requirements imposed on a current Probation Trust or whether a Trust freed of some of the constraints would in fact be able to deliver services in a very different way.

6. I would like to assure the Committee that I am not advocating that Probation Services remain in the public sector, in fact the ten Trust I am working with are using our services primarily to help them introduce a mixed economy delivery model that sees services delivered by providers best suited to meet the need. What I am advocating (as recognised as best practice in commissioning) is that the commissioning decision is taken as close to the point of delivery as possible, which means at a Trust level. The benefits of this approach are that Trusts become true commissioners of services, pooling resources and making commercial decision in collaboration with local partners from all sectors that are designed to meet local offender needs. This will ensure that offenders undertake and complete the appropriate punishment issued by the Court but are given the necessary support in the community, by the community to ensure they do not reoffend. National contracts by their nature will distance the local involvement and lead to high central procurement and contract management costs, poor governance and increased risk, which in a probation environment is likely to lead to public protection issues.

7. I and many other commentators recognise that historically Probation Trusts have been seen as the “delinquent child” of the criminal justice sector and that the proposed MoJ market testing strategy is a thinly disguised mechanism designed to finally get rid of the service altogether. I would however urge caution in adopting this approach because it is clear that many really do not recognise the level of complexity in delivering probation services. It is also clear that some politicians favour moving probation back under the control of local government (the Scottish model) but one only has to look at the current problems in social care to soon see that probation services would soon become a small cog in a big wheel and offender management would likely suffer accordingly.

8. The natural commercial evolution currently underway in Probation Trusts is testament to their renewed commitment to become more businesslike. This and the reduction in their budgets together with an insistence (through their contract with NOMS) that they themselves market test offender services, would in my view be enough to see a mixed economy in service delivery as well as a much more integrated local service. It would also be less costly than implementing a significant central programme of market testing.

*1 October 2010*

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### **Written evidence from Home Group (PB 82)**

#### **1.0 HOME GROUP**

Home Group is one of England’s largest registered providers of affordable rented housing. We house over 110,000 people in our general needs and supported housing stock. Stonham is part of Home Group and leads on providing specialist care and support services dealing with many client groups. Starting with 500 beds for ex-offenders in 1976, we have since grown to become the largest provider of care and support services in England. We believe this unique mix gives us a broad understanding of working with offenders in a wider community setting at both a local and national level. Within Stonham we work with over 22,000 vulnerable people in over 140 local authority areas each year. We provide housing, care, support and employment, training and education opportunities to people who:

- have a history of offending;
- have mental health issues or a learning disability;
- are under 25 and who are vulnerable or at risk;
- are fleeing domestic abuse; and

- are vulnerable for some other reason.

Our portfolio of services for ex-offenders is broad. We work with over 3,300 ex-offenders each year in 75 accommodation-based settings and 19 floating support (non-residential) services commissioned by local authorities, probation trusts and the Ministry of Justice (MoJ) through our Accommodation and Support Services for Bail and Home Detention Curfew (BASS) contract.

We have highly specialised knowledge of the particular issues faced by young offenders and women offenders, and how tackling these issues appropriately not only delivers sustainable outcomes but can also minimise other costs to the public purse (for example, reducing the number of children being taken into care). We understand the importance of both support and compliance and can evidence successful outcomes. For example between April 2009 and March 2010:

- Only 12% of offenders in our services returned to prison in this period;
- 78% of offenders complied with their statutory orders;
- 82% of offenders managed their mental health better;
- 87% of offenders became more integrated into their local community and engaged with groups;
- 24% of offenders participated in paid work; and
- 66% of offenders participated in training and voluntary activity in preparation for work.

This document highlights our stance on the role of the private and voluntary sectors in delivering probation services.

## 2.0 SUMMARY OF MAIN POINTS

This main points of the document are summarised below:

- Home has had a positive experience from winning the BASS contract commissioned by the MoJ. It has broadened our knowledge of probation services and improved outcomes for our clients.
- There is a role for the private and voluntary sectors in delivering probation services. This is likely to relate to the compliance and enforcement roles of the probation services.
- Handling different offender groups appropriately is vital in acting to reduce reoffending rates.
- We support the use of payment by results models and we are already successfully integrating them into our services.

## 3.0 THE ROLE OF THE PRIVATE AND VOLUNTARY SECTORS IN THE DELIVERY OF PROBATION SERVICES

Home views the integration of the private and voluntary sectors in delivering probation services as a positive step. The private and voluntary sectors can deliver the compliance and enforcement role present in probation services, and Home is an organisation that has the experience to do so. Home can demonstrate this through our BASS contract and 94 other offender services. These schemes illustrate how Home has a vast experience of working with offenders offering support to those on community based sentences and those released on home detention curfew. Home enhances the delivery of probation services through our key objective—supporting offenders to build better resettlement outcomes. 87% of the offenders we support become more integrated into their local community and engaged with groups. Home is particularly suited to working in partnership with the MoJ due to the access we have to accommodation and our offers of an integrated support plans.

Prior to the BASS contract, Home had little interaction and knowledge of courts. Through BASS contract has broadened our knowledge of the probation system which has acted to improve our ex-offender support services. BASS has enabled Home to contribute to sentence plans and we now believe that we can be seen as a probation function and a vital element in helping the Government “break the cycle” of offending.

### 3.1 *Private and Voluntary sectors—Payment by results*

In addition, Home believes that through the combination of private and voluntary sectors with payment by results initiatives, the financial strength and level of innovation required to deliver probation services can be achieved.

Our Atlas service, jointly commissioned by the local authority and Probation Trust in Gloucestershire is a payment-by-results individual budget service for prison leavers. Each prisoner leaving HMP Eastwood Park receives support, brokerage and a small pot of money to aid resettlement. This voluntary scheme has had an overwhelming reaction from offenders on release, supporting four times the anticipated level. As a result of the Atlas project, 70 offenders have successfully resettled into the local community and been supported to access private rented sector accommodation and a life away from crime. This innovative and successful model could be rolled out at low cost across the prison estate and deliver reductions in reoffending rates.

## 4.0 THE HANDLING OF DIFFERENT GROUPS OF OFFENDERS BY THE PROBATION SERVICE

Offenders need to be treated as individuals in order to improve the chances of successful rehabilitation. Different offender groups have specific issues connected to them which need to be readdressed to reduce the

risk of reoffending. Below there different offender groups are highlighted, and an explanation is provided as to how Home tailors their support.

#### 4.1 Women

When dealing with female offenders alternatives to custody and tough Community Orders are of particular value. These alternatives can help prevent the children who we know are at a greater risk of being taken into care from ending up in the criminal justice system. The Corston Report (2007) in particular has highlighted the need to alter how women offenders are addressed and supported. From this report, we have used the findings to work innovatively and improve our services for women.

Our specialist services such as Promise in Plymouth have excellent results in reducing future demand on services. We have supported 23 out of 25 women to successfully complete Community Orders in the first six months. Our Family Intervention Projects in Hampshire and Norfolk also evidence how intensive support can deliver real decreases in reoffending rates for families with offending histories. A national expansion of these programmes will deliver significant decreases in custodial costs, decreases in the number of children taken into care and the associated costs, and deliver significant respite to communities blighted by low level and petty crime.

Consideration should also be given to women who offend and have complex needs, including very high levels of drug and alcohol abuse, often linked to domestic abuse and sex-working. We believe that a different approach is required for women offenders, focused on specialist support around mental and emotional health. We operate 38 refuges and a further 19 projects for vulnerable mothers and children. Often our clients are women with an offending history and chaotic behaviour; they enter these services due to the lack of a more suitable alternative. We believe this places a high degree of risk on other clients in these services and in the wider community and would welcome the opportunity to work with MOJ colleagues to pilot alternative approaches such as supported, semi-secure housing in the community. This would be supported by basing staff in courts or in partnerships with Integrated Offender Management (IOM) to engage with women at an early stage.

Home is currently integrating this work into our BASS contract, recognising that women on Home Detention Curfew (HDC) have different support needs than men. Home would be in favour of more open debate between the private and voluntary sectors and the probation trust to increase innovation and flexibility when handling different groups of offenders.

#### 4.2 Young people

From our perspective as the biggest provider of foyers for young people in the country, we are convinced that developing more semi-secure foyers is a step in the right direction when dealing with young offenders. We see education, training and resettlement as the key objectives to reduce young people reoffending. With 75% of young offenders in custody reoffending after 12 months, there is much room for improvement. The focus of the private and voluntary sectors on the individual as opposed to the offence is key in developing the way in which young offenders are managed in probation services.

#### 4.3 Older people

We also believe that older offenders, particularly those who have been on high tariffs, present with specific issues and their rehabilitation requires a specific approach to help them learn to live in a noninstitutionalised setting. Often rehousing these ex-offenders directly into a community setting is not successful as they do not have the tenancy management skills required to manage independent living. This could be overcome through the use of tenancy training within the prison establishment such as our Home Achievement Programme (HAP).

In addition to pre-release pre-tenancy training, we also believe there is a need for tiered support and accommodation for a small cohort of older offenders, especially those on life licence, who have been in prison for many years. Their risk of offending is higher due to their institutionalisation and a step-down approach, similar to that delivered in mental health settings (where step-down accommodation is the route between secure wards and independent living in the community) will be beneficial.

#### 5.0 THE RELATIVE MERITS OF PAYMENT BY RESULTS AND PLACE-BASED BUDGETING MODELS AS MEANS TO ENCOURAGE LOCAL STATUTORY PARTNERSHIPS AND OTHER AGENCIES TO REDUCE RE-OFFENDING

Home supports the use of payment by results and place-based budgeting models in relation to encouraging local statutory partnerships and other agencies to reduce re-offending. We envisage that these models will have to be tailored to different groups of offenders in order to be successful, or alternatively be flexible enough to allow movement to address individual issues eg different models will apply to low and high tariff offenders.

Home does agree that payment by results and focusing on outcomes as oppose outputs will free up providers to deliver more innovative solutions. However, in order to ensure the diversity of the market, careful thought needs to be given to the phasing of payments. Smaller and community-based organisations will be unable to survive financially without payments for a two-year period, leaving only larger and private sector organisations able to compete for contracts.

Home is already incorporating payment by results services into our portfolio, for example our Education Training Employment and Volunteering (ETEV) and drug and alcohol service in Worcester.

In operation since April 2011, the service offers free and confidential support for individuals and ex-offenders with problematic drug or alcohol use. Support is provided either through supported accommodation, floating support or through a drop-in service. Support is provided for those in any tier of substance misuse treatment, with the aim of sustaining the support for 13 weeks. The purpose of this Drug and Alcohol Action Team (DAAT) commissioned service is to increase the number of service users who are supported to access and sustain education, training, employment and volunteering opportunities.

The service is a combination of a payment by results contract and supporting people contract. For year 1 80% of payment is fixed with 20% dependent on results; in year two this balance changes to 70%/30% and in year three and subsequent years, payments are made on a 60%/40% basis. The “by results” element is based on profiling of achievement towards outcomes via agreed indicators. Providers can choose from a basket of between five and 20 indicators to be assessed on for this variable element. If four out of five selected outcomes are achieved, 4/5 of the 20% payment is paid to the provider. However, if the provider selects 20 outcomes to be measured against and achieves 18/20, then 18/20 of the 20% is paid. This enables providers to balance their own risk and focus on achievement of outcomes that they are confident they can deliver.

## 6.0 CONCLUSION

We believe that this approach would enable the Government to reduce re-offending rates, “break the cycle” and ultimately embed localism through small, medium and large providers of services.

*May 2011*

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