



Speech

Dame Glenys Stacey, HM Chief Inspector of Probation

Academy for Social Justice Commissioning

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Reflections on the delivery of probation services and the commissioning of probation services.

Good evening, and thank you very much for inviting me to talk with you today about a subject dear to my heart, the delivery of probation services. And I am delighted to be speaking here in Manchester, such a glorious city and the home of our main office at HMI Probation as well.

You have asked me to speak of two things: the delivery of probation services, and the commissioning of probation services, so let me start by speaking of delivery first of all. I should declare straightway that I am no expert in commissioning, not at all. But in what I say, I will try to reflect your interest in commissioning and how it has played out, in probation services. Some of you here are much closer to the commissioning of probation services than I am – so please do shout if you think I am talking nonsense! But let me start by reflecting a little on probation services.

Probation services

Many of you will know that probation services first emanated from the Church of England Temperance Society, which appointed two missionaries to the Southwark court in 1876, with the aim of reclaiming drunkards. These early police court missionaries were in the vanguard of what was to become a professional probation service, but were said to be ‘often not well educated and of a temperance orientation.’

Probation officers were put on a statutory footing in 1907, but still, courts and local authorities were not obliged to employ them. It wasn’t until 1938 that the Home Office finally adopted probation responsibilities, and so the true professionalisation of the service began in earnest. And in the decades that followed, the probation role was summed up in just three or four words, ‘advise, assist and befriend’. But our expectations of probation services have changed considerably, since then.

In 2004, the National Offender Management Service was established with the aim of reducing reoffending through more consistent and effective offender management. The notion of end to end offender supervision was born. And in a White Paper, the government proposed to introduce commissioning and contestability into the provision of probation services, to drive up standards further among existing providers and to enable new providers to deliver services.

That commissioning ambition came to fruition a decade later, when the government implemented its *Transforming Rehabilitation* initiative. This is the latest and perhaps the most seismic change in probation since the Temperance Society walked into Southwark Court over 140 years ago.

Transforming rehabilitation

For those not familiar with *Transforming Rehabilitation*, 35 self-governing probation trusts were replaced by new public sector National Probation Service, and 21 Community Rehabilitation Companies owned by eight

organisations, each different in constitution and outlook.

With *Transforming Rehabilitation* came new expectations: that the voluntary sector would play a key role in delivering probation services, and that providers would innovate, and find new ways to rehabilitate offenders. National probation standards were already on the wane, and gave way to allow for innovation. Probation supervision was extended for the first time to offenders released from prison sentences of under 12 months (over 40,000 people each year). And CRCs must now provide offenders with resettlement services while they are in prison, in anticipation of their release, in a programme known as 'Through the Gate'. To incentivise CRCs, a portion of their income depends on whether those they supervise go on to reoffend.

The original policy intent of *Transforming Rehabilitation* was exceptionally ambitious. Government sought to reconfigure probation delivery while also requiring new probation services to be delivered, and with new payment mechanisms as well. New probation providers needed to become notably more efficient than the 35 probation trusts they replaced, to deliver all expected of them within their anticipated funding. The changes to what and how probation was delivered were to be brought about very quickly. Government was successful in restructuring probation services to time and within the implementation budget¹.

The voluntary sector

The voluntary sector has long delivered specialist services and interventions (such as mentoring, or bespoke services for women) for those under probation supervision, working alongside probation trusts and their predecessors, but now came new expectations: that the third sector would play a key role in delivering probation services, and that probation providers would innovate, and find new ways to rehabilitate offenders².

Government expected that CRCs would be a mix of third sector organisations (such as mutual organisations) and privately-owned companies, but early hopes that voluntary sector organisations would wholly own CRCs dissipated, when it became clear that they were reluctant or unable to bid because of the financial guarantees required. A competitive process of tendering resulted in the awarding of contracts to eight owners. A Sodexo/NACRO³ partnership owns six CRCs, but of the others, only one is owned by an owner from the third sector.

Nevertheless, third sector organisations could still provide services, through CRCs. CRCs can fulfil many of their Through the Gate obligations through sub-contracted providers, should they choose. In any event it was assumed and expected that in their day to day work, CRCs would work with a diverse range of local sub-providers coming very largely from the

¹ NAO Report Transforming Rehabilitation 28 April 2016

² 2010 to 2015 government policy: reoffending and rehabilitation <https://www.gov.uk/government/publications/2010-to-2015>

³ NACRO is a criminal justice charity

third sector, to provide specialist rehabilitation services in a timely way, to meet the diverse needs of all those under probation supervision.

Statutory partners

We know that to be most effective, probation services need joined-up local partnership working with statutory authorities, as well-managed partnering approaches and multi-agency working are a necessary feature of good probation practice.

The Ministry of Justice expected all probation providers to continue to work with statutory partners, much as before. In practice, this hasn't always been straightforward, as all statutory partners are now working with two probation partners (the local NPS division and local CRC) with different working practices and priorities. However, appropriate working arrangements are by now established, in most if not all areas.

Separately, the Ministry of Justice encouraged third sector organisations to register their interest in working with a CRC, although CRCs were free to develop their supply chain in such a way as to support their individual service delivery models. Her Majesty's Prison and Probation Service would have oversight of the supply chains through their role as contract managers of the CRCs. Best practice in subcontracting was encouraged through adherence to Ministry of Justice designed Industry Standard Partnering Agreements, known as ISPA's.

Transforming rehabilitation in practice

The NPS and CRCs have inter-related responsibilities, and there is an assumption that in NPS cases, the NPS will purchase specialist services locally from CRCs. Those services are to be selected from the range of specialist rehabilitation services developed by CRC as suitable for all under supervision (by either the CRC or the NPS) or else particularly directed at one group or another. Indeed, the only way an NPS division can directly commission rehabilitative interventions is from the local CRC. Each CRC keeps a list of what is on offer and the fee for each service on offer in a document known as the rate card.

Specialist services (interventions)

Probation trusts and their predecessors were formerly obliged to spend a proportion of their money on external (third sector) providers. Although initially controversial this proved an effective way of introducing specialist provision into probation services.

However, CRCs contracts do not require CRCs to commission services from the third sector or from others. In practice, CRCs have the freedom to meet specialist needs as they wish, and to offer as much or as little as they wish to the NPS for purchase.

Two CRCs started with the intention of providing specialist services in-house, using their own staff. But I recollect that in our inspections immediately post Transforming Rehabilitation, most CRCs expressed to us their ambitious plans for extensive supply chains and a good range of specialist services, to meet the diverse needs of those supervised by probation services. Sadly, these plans have not come to full fruition.

Instead, CRCs have available a limited range of services, and those providing those services tell us they are being cut back, and that provision is not secure. I am concerned about that, about the fact that already, some individuals under probation supervision wait many months for a much-needed service or are not offered it at all. And so we are now undertaking a thematic inspection of CRC supply chains, to get to the root of things.

Two things are already apparent to me. Firstly, some CRCs tell us that financial insecurity and funding difficulties lead them to hesitate to commit to commissioning services from third parties. Some are making or have made difficult choices between the extent of services they

commission and the number of professional staff they can afford to employ. Although CRC contracts are not open book contracts – the financial detail is not in the public domain – but I have little doubt that some CRCs are having to make these hard choices.

Provision varies across CRCs. We find drug and alcohol misuse interventions are provided in eight or nine cases out of ten, when needed. But in South Yorkshire we found that almost two-thirds of individuals under probation supervision were not getting the drug misuse services they needed, and more than three-quarters were missing out on the alcohol misuse services they needed. Such poor provision may cause those early temperance folk to turn in their graves.

Secondly, there was never any one body responsible for the stewardship of specialist services nationally. To a variable extent, probation trusts and those before them assumed responsibility and nurtured local provision, with the wider probation value chain in mind. There is still no one body with that stewardship responsibility, but post *Transforming Rehabilitation* the dynamics have changed.

The continued availability of much needed specialist services is at increased risk because they are not being commissioned or otherwise funded at the levels expected. CRCs supply chains are much thinner affairs than first envisaged. We have not found any evidence to suggest that, in the fast-paced work to implement *Transforming Rehabilitation*, this potential difficulty was foreseen.

The key tenets of probation services: a value chain

I have touched already on the central place of local relationships with key statutory partners – the courts, the police, and local authorities for example. They are important, they remain important, they have a central role in the value chain for probation services.

I have also spoken of the importance of specialist services, available locally and in a timely way to meet the diverse needs of those subject to probation supervision. Probation workers cannot do it alone, in so many cases.

These two things – local strategic partnerships and the provision of specialist services – are two key tenets of effective probation services. And there is a third key tenet: a trusting, supportive, challenging, enduring professional relationship between the probation worker and the individual under probation supervision. And so we should ask ourselves the impact of *Transforming Rehabilitation* has had (if any) on that relationship.

I have expressed before my concerns about individuals supervised by some CRCs being seen in open booths or in other places lacking sufficient privacy. I have also expressed before my concerns about those CRC operating models that provide for up to four in ten individuals to be supervised remotely, for example by six-weekly telephone contact. As one of our inspectors put it to me last year: you don't change people by not seeing them. Indeed we know of no evidence base to suggest that remote supervision works on its own to reduce reoffending or manage the risk of harm effectively.

And what of workloads, caseloads and the vexed question of continuity of probation worker – for that enduring relationship between the probation worker and the individual under supervision?

NPS staff numbers have increased since inception, and the organisation uses a workload management tool to estimate the extent to which each probation worker is under or overworked. Save in Kent and Suffolk, we have found NPS staffing levels broadly acceptable. NPS probation workers commonly carry about 25-40 cases each.

CRCs are tightly staffed at best, and although many aim for sensible caseloads for professional probation staff, we find some CRC leaders

accepting of our view that the CRC is very clearly understaffed. CRC probation workers commonly carry 50–90 cases each, and sometimes more. By way of example, Suffolk CRC aimed for caseloads of between

55 and 70, but last year we found much higher caseloads in practice: staff held up to 106 cases.

There is no set formula, but we do not believe probation workers can actively manage more than 50 or 60 cases effectively and safely at any one time.

Junior probation staff providing telephone-only supervision commonly carry 160–200 cases, and sometimes notably more. In Gloucestershire CRC, for example, we found junior staff were expected to be responsible

for about 160 cases each, but were actually carrying 190-200 cases each, due to temporary staffing problems. There is no set number of cases that any one individual can manage (as cases vary so), but such high numbers are simply untenable in our view.

A key question is whether workloads affect the probation worker's ability to do a good job, taking into account the profile of the cases and the range of work required. On inspection, about one in two NPS staff tell us that their workload was so high that it hampered their ability to provide a high-quality service, while this rises to seven in ten for CRC staff. But on a key measure, the number of changes of probation worker during the period of supervision, our early data shows the NPS and CRCs to be broadly comparable, with two or three changes of officer. We are keeping a close eye on that.

So what does all this tell us about how best to commission probation services?

As I said when I began speaking, I am no expert on commissioning. But I am incautious enough to offer a few reflections, observations and considerations for those who may design, configure and commission probation services in future.

The role of probation services and our expectations of it have changed since the temperance folk and since the days of advise, assist and befriend. There are enduring expectations – that probation services will protect the public, reduce re-offending and ensure that the sentence of the court is served. But often enough, probation services are engaged with others locally in addressing complex and seemingly intractable societal issues, as well.

If probation services are delivered well, they make a big difference to those receiving them and to wider society. About a quarter of a million people are supervised each year. If all these services were delivered well there would be less reoffending and fewer people being returned repeatedly to prison. The prison population would reduce, there would be fewer people living on the streets, and fewer confused and lonely children, with a smaller number taken into care. Men women and children currently afraid of assault could lead happier, safer lives.

These things matter to us all, and bring me to my first observation, that together, the enduring expectations of probation and our wider expectations are enormously difficult to contractualise, and to reduce to simple measures of achievement.

Let me finish now with a few other observations for those considering commissioning conundrums.

1. Firstly, before pressing ahead with commissioning, it makes sense to think in terms of design principles, in my view. Rather than getting bogged down (or hooked up!) on questions of publicly-owned or privatised services, it is wiser in my view to consider what the delivery model must be able to achieve. So for starters, and by way of example design principles – and by no means a complete set of design principles - I suggest the probation delivery model should:

- Ensure the environment and facilities support productive engagement between the probation worker and the individual;
 - Ensure continuity of engagement between the probation worker and the individual;
 - Maximise engagement of skilled probation officers with service users TOGETHER with the use of evidence-based principles to deliver a targeted rehabilitation plan linked to the risk of reoffending.
2. Secondly, in my view, whatever the model for probation services in future, it stands the best chance of success if it nurtures, protects and enshrines the key tenets of probation, those three things at the centre of the value chain for probation. To remind you, they are strong local strategic partnerships, the timely provision of a good range of specialist services to meet the diverse needs of those under probation supervision, and the central relationship between the probation worker and the individual under probation supervision.
 3. Professional standards matter, and should be given a central role. I am delighted to be producing inspection standards for youth offending and probation services, developed consensually with YOTS and probation providers through workshops nationwide and a national consultation exercise.
 4. To have the best chance of success, any model for probation delivery needs to be sufficiently well-funded.
 5. Finally, incentives drive behaviours. Payment by results work best when the measure that triggers payment is sufficiently direct (directly attributable to the work of the organisation) and sufficiently immediate, so as to influence behaviour now. And ultimately, payment mechanisms must be sufficiently fair.

Thank you. Thank you for listening.

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