



Her Majesty's
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Probation

If reoffending is not the only outcome, what are the alternatives?

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Foreword

HMI Probation is committed to reviewing, developing and promoting the evidence base for high-quality probation and youth offending services. *Academic Insights* are aimed at all those with an interest in the evidence base. We commission leading academics to present their views on specific topics, assisting with informed debate and aiding understanding of what helps and what hinders probation and youth offending services.

This report was kindly produced by Kevin Wong, highlighting the complexities of measuring outcomes. Probation provision is complex, with a range of providers dealing with diverse service users and performing differing functions. In consequence, a range of outcome measures are required which can: (i) be tailored to the type of provision, making them as meaningful as possible for each provider; and (ii) produce a more complete and nuanced picture, helping to overcome the limitations of each measure on its own. Within HMI Probation, we are considering how we could measure outcomes and 'effectiveness' in our future probation inspections, and we will pay careful attention to the points set out in this report.



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Author's Profile

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The views expressed in this publication do not necessarily reflect the policy position of HMI Probation.

1. Introduction

Dame Glenys Stacey, in her last annual report as the Chief Inspector of Probation, stated as follows:

'While changes in the rate of proven reoffending have been used as a strategic measure of the success of individual probation providers, I argue that changes in reoffending rates are not wholly and directly attributable to their work. Although evidence-based and evidence-led probation work can reduce reoffending, factors such as an individual's maturity, or police priorities influence the reoffending rate as well.

I put forward the view that more immediate measures of the quality of probation services (for example, our inspection findings and ratings) are more telling of the likelihood of success.'

(HMI Probation, 2019)

The perhaps not so 'new' landscape of regional National Probation Services (NPS) working alongside regionally commissioned private and voluntary sector innovation partners set out by the Ministry of Justice (MoJ, 2019) and in the blueprint by Her Majesty's Prison and Probation Service (HMPPS, 2019), offers an opportunity to re-think the outcomes that this mixed market of probation provision can achieve.

A one-size fits all approach to outcome measurement – based principally on the proven rate of reoffending (while strategically and symbolically important) – is unlikely to be sufficiently fine-grained and nuanced to reflect the complex reality of probation provision. The plurality of providers, the different services/functions that they will be performing (from statutory supervision, punishment and monitoring to social welfare support), and the different changes in people with convictions that these services are intended to bring about cannot be adequately captured in a simple binary (reoffended or not reoffended) and frequency (if so, how often) measure.

For the purposes of this paper, probation services/provision refers to this plurality of providers and the different functions that they deliver. The intention here is to offer insights into alternative outcomes. It draws on learning from two key sources:

- the experience of evaluating criminal justice programmes where a basket of measures has been used to assess impact (for example, see Maguire et al, 2010; Ames et al, 2017); and
- alternative outcomes (to proven reoffending) previously trialled by the MoJ, HMPPS and the Youth Justice Board (Wong et al, 2015a; 2015b).

Additionally, it is intended to open a dialogue into how it may be possible to combine these alternative outcomes to offer a proxy measure of desistance, the concept that has 'caught fire' (Maruna and Mann, 2019) amongst criminal justice professionals, while at the same time remaining unclear, meaning different things to different people (Moffat, 2014).

2. Reoffending is not the only outcome...

This paper proceeds on the assumption that measuring the right kind of outcomes can serve two related purposes:

- 1) providing a feedback loop to aid the improvement of services; and
- 2) enabling the impact of public services to be appropriately assessed, so that we can determine whether or not they work and if they do, how well (Noble, 2016).

2.1 Why reoffending is a limited outcome measure

Proven reoffending using police national computer (PNC) data has been the dominant way of measuring the effectiveness of probation services in the United Kingdom for almost two decades (MoJ, 2016). While reoffending is a useful measure, it has limitations. Indeed, as a way of measuring desistance from crime, it is flawed. Research by amongst others Maruna (2001), Bottoms and Shapland (2016) and Farrall (2004) suggests that desisting from crime is not a one-off event; people do not stop reoffending as a singular act. Instead it is a back and forth zig-zag process and like life more generally, sometimes a person makes progress and sometimes they have setbacks. When it comes to measuring desistance, McNeil and Weaver (2010) argued that there was merit in developing:

'quantitative methodologies that allow for 'survival analyses' of desistance efforts, rather than relying on outcome evaluations (whether based on randomised control trials or other methods) that rely on blunt measures of reconviction at fixed points in time'.

(McNeil and Weaver, 2010:11)

Given the widespread claims among criminal justice professionals that what they do contributes to desistance, few would say that reoffending as a measure reflects what their services do to enable desistance among their service users. Furthermore, for any single agency working with offenders, reoffending as a measure is flawed because there are likely to be many things going on in the life of a person with convictions that can influence whether and to what extent they desist from crime. Whether a person reoffends or not is unlikely to be solely due to the service that that agency provides to that person.

In addition, the measure of reoffending used by Government whilst clear and unambiguous is not service friendly. It is based on an 18 month wait from the time when a person starts an intervention; 12 months to see if a person is convicted or not, with another 6 months to allow for a conviction to be recorded on the system (MoJ, 2016). It is a long time for a service to wait to see if what they do on a day to day basis makes a difference. Moreover, for reoffending to be useful as a feedback mechanism to improve practice, it is predicated on services being able to access conviction information from the PNC system, which as the name suggests only the police have direct real-time access to. Nor with data sharing restrictions can services readily ask the police or the MoJ, the government department with access to PNC.¹

¹ Providers do have the option of applying to the Justice Data Lab, which provides group-level reoffending information. See <https://www.gov.uk/government/publications/justice-data-lab>.

2.2 Fairer alternatives

Fundamentally, if probation provision or commissioners of that provision cannot be sure that what they do directly stops someone reoffending, what can they be sure about? Perhaps a better way to measure the effectiveness of probation provision is to examine the specifics of what the services do and measure the effect and/or intended effect this has on their users. The following measures are therefore suggested:

- user engagement with provision;
- changes in the needs (criminogenic and non-criminogenic) that the provision is directly helping the user with; and
- changes in wellbeing, agency and relationships – using standardised measurement tools.

The reasons for proposing these measures are threefold.

They are measures that services can directly affect

Before defaulting to using reoffending as the outcome measure for the payment by results (PbR) element of the *Transforming Rehabilitation* probation contracts, the MoJ had trialled other PbR measures. The Local Justice Reinvestment Pilot and the Youth Justice Custody Reinvestment Pathfinder used reductions in demand: numbers and duration of short term sentences and community order requirements for the former; and custody bed nights for the latter. The evaluations of these two programmes (Wong, Ellingworth Meadows, 2015a, 2015b) found that the outcome measures worked best:

- 1) when they lent themselves to being directly affected by what frontline practitioners did with their service users;
- 2) where practitioners could receive direct and early feedback on the results of their actions based on data that they could easily access; and
- 3) in the case of the latter programme, where the outcome measure – reduction in the use of custody bed nights – aligned with practitioner ethos (in this case, custody as a last resort).

As explained above, reoffending based on reconviction data (or *proven* reoffending data) does not fulfil the first two of these two requirements. And while practitioners will inevitably promote their services as contributing to reducing reoffending, in practice often their more immediate concerns and what they feel that they can most easily effect are welfare-related outcomes, e.g. housing, access to benefits. These primary concerns allow for the expression of warmth and the interactive relationship between one human being and another which arguably is at the core of probation as 'a complex social service' (HMI Probation, 2019:3).

The measures are not without precedent

The MoJ and HMPPS had previously considered similar ideas but to date have not trialled them more widely. HMPPS, in its previous guise as the National Offender Management Service (NOMS), commissioned researchers (in 2012) to develop intermediate outcome measures. This recognised the distant causal link between the type of support that voluntary agencies typically provide to people with convictions, such as mentoring and family support, and the effect of this on reducing reoffending. Firstly, the researchers undertook rapid evidence assessments of intermediate outcomes on: arts interventions (Burrowes et al, 2013); family and intimate relationship interventions (Hunter et al, 2013); mentoring interventions (Taylor et al, 2013); and peer relationships interventions (Skrine et al, 2013).

These fed into the development of validated standardised measurement tools which were finally published by the MoJ/HMPPS in 2019. The Intermediate Outcomes Measurement Instrument (IOMI; Maguire et al, 2019) while originally designed to measure outcomes related to arts and mentoring interventions provides measurement of seven dimensions which arguably have applicability beyond these type of interventions – for probation provision more generally. The dimensions are as follows:

- 1) resilience
- 2) wellbeing
- 3) agency/self-efficacy
- 4) impulsivity
- 5) motivation to change
- 6) hope
- 7) interpersonal trust

Although intended as an evaluative tool, the IOMI tool provides an example of the type of instrument that could be used to provide an assessment of change over time in relation to people with convictions which effective probation practice is intended to effect, as indicated in the core correctional practice literature (Dowden and Andrews, 2004; Gendreau et al, 2010).

They provide a proxy measure of desistance

The combination of measures arguably provides a way to quantitatively measure desistance as advocated by McNeill and Weaver (2010). Considering user engagement, in relation to compliance with a statutory order, it is:

'...a common-sense notion that offenders who comply with requirements of the order are more likely to be the ones who desist in the future.'

(Hucklesby, 2013:140)

In a similar vein, it is reasonable to assume that people with convictions who continue to voluntarily engage with a service (where no compulsion is involved) are more likely to be desisting and to continue in the future. The conceptualisation of desistance as a process and/or processes is well established (Maruna, 2001; Ward and Maruna, 2007; McNeill and Weaver, 2010; Bottoms and Shapland, 2016). That engagement with probation provision is similarly a process, where individuals engage and disengage (and may return to voluntarily where this is an opt-in service, or as a consequence of a further court order following a later conviction), seems to lend itself to being adopted as part of a proxy measure of desistance.

Engagement data in combination with data on criminogenic and non-criminogenic needs met or not met and measures of changes in wellbeing and agency could be used to provide proxy measures of the three theorised interrelated (and non-linear) desistance processes (McNeill and Weaver, 2010; McNeill, 2016; Nugent and Schinkel, 2016):

- Primary – act desistance, 'a lull or crime-free gap in a criminal career' (McNeil and Weaver; 2010:13), measured by individual's engagement with services and achieving stability through having their criminogenic and non-criminogenic needs met.
- Secondary – identity desistance, reconfiguring of the individual's personal identity or sense of self, with a focus on agency, wellbeing and motivation (Ward and Maruna, 2007; Giordano et al, 2002), measured by sustained engagement with services and changes in wellbeing.

- Tertiary – relational desistance, the recognition by others that the individual has changed; and the development of a sense of belonging (McNeil, 2016), measured by sustained engagement with services and changes in relationships at a micro level with family and partners, boyfriend/girlfriend and peers (Nugent and Schinkel, 2016)

2.3 Limitations of measurement

There are inevitably limitations to the use of engagement and other management data as a proxy measure of desistance, but then these will exist with any data source. The trinity of measures proposed is intended to go some way to mitigating any such limitations.

It should be recognised that where engagement with probation provision is voluntary – e.g. a voluntary sector mentoring scheme – this may provide a more straightforward proxy measure of desistance. Where probation provision is mandated – e.g. formal probation supervision – this is more complicated. For example, case management data can only provide information about whether an individual attended and completed supervision (formal compliance), as opposed to actively engaging in supervision (substantive compliance) (Sorsby et al, 2017). It is substantive compliance which is key to promoting longer-term desistance from offending (Robinson and McNeill, 2008). Engaging with individuals without effecting changes in their needs and/or wellbeing and agency will not be adequate. Where individuals choose to engage with services, e.g. for voluntary opt-in services, active engagement is amenable to measurement, using data collected by the agencies. Although, this could be subject to gaming, the combination of proposed measures is intended to minimise this.

How long and whether a user remains engaged with a service is not solely a function of the staff-user relationship and/or user willingness to engage.

- Firstly, a range of individual and social factors may impact on attending appointments (Sorsby et al, 2017). These may include practical obstacles for the individual service user, such as childcare and transportation costs, which have nothing to do with criminality (Ugwudike, 2010), and therefore whether or not they are desisting from crime.
- Secondly, individuals may choose not to continue with a service because they have achieved a degree of stability and do not require further assistance – a proxy indicator of desistance.

Understanding an individual's reasons for non-compliance and/or non-engagement with probation provision in whatever form is therefore important and is aligned with the resurgent interest in understanding the lived experience of service users to inform and refine service design and ultimately service outcomes.

3. Conclusion

The last ten years have provided a fertile testing ground for measuring criminal justice outcomes in different ways, principally driven by the policy agendas of Justice ministers. It almost goes without saying that establishing a culture within probation providers where performance measurement is accepted and genuinely drives change and (importantly) is seen to genuinely drive change is an ideal. However, reaching a settlement on which outcome measures might lever such an institutional response is not straightforward.

Performance measures can easily fall prey to the cynicism encapsulated by the maxim that "what gets measured gets done", i.e. that individuals will behave in an instrumental fashion to only do what is measured and nothing else. On the other hand, determining outcomes for what each provider (in the anticipated matrix of probation provision) can achieve and which are meaningful to the different interests of frontline practitioners, government ministers and every other stakeholder in-between may alleviate this concern.

Given the current importance attached to the lived experience of service users in designing and shaping justice services (see, for example, HMI Probation, 2019b), it seems to naturally follow that deciding on the outcomes for probation should involve some level of co-production leading to a negotiated consensus involving all stakeholders and not the somewhat one-sided diktat that providers have latterly experienced.

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