

ACADEMY FOR SOCIAL JUSTICE LECTURE – TUESDAY 30th JUNE – JUSTIN RUSSELL, CHIEF INSPECTOR OF PROBATION

PROBATION - IN CRISIS OR ON THE ROAD TO RECOVERY?

Many thanks to the Academy for the invitation to speak to you today. Glad that we've been able to find another way for me to deliver this lecture.

SLIDE 1 - THEMES

I want to cover three things today.

First, some reflections on the current situation and the impact of Covid on the CJS generally and on probation more specifically.

Second, to talk a bit about our probation inspection programme and some early results from the second round of inspections we completed before the lockdown against a new set of inspection standards. What do they tell us about whether probation performance is on the road to recovery after the impact of TR?

And third, I want to say more about a key area of probation practice that we focus on during our inspections – the management of risks of serious harm to the public – which we've consistently found to be the weakest area of performance over the past couple of years – including what our recent review of the processes around serious further offences have told us.

SLIDE 2 – COVID & PROBATION

The Covid crisis and probation

As an inspectorate, we announced that we were suspending all of our inspection work on 17th March and the following week, from 23rd March the probation service itself announced that it was switching to a radically different set of operating assumptions – what they call the exceptional delivery model.

I pay tribute to the speed with which the probation service adapted to the new world. Changes which would normally take months, if not years to implement were brought in overnight for the 180,000 or so people under supervision in the community rather than in prison.

So, we saw, all but the highest risk offenders switched to phone rather than face to face supervision; door step checks for the highest risk cohort; all unpaid work and most accredited programmes halted and major changes to the way that court teams and approved premises have had to operate to fit with public health guidelines.

HMIP is currently I be carrying out a thematic inspection to look at what these arrangements have meant in practice for a sample of cases and probation areas. We'll be interviewing staff and service users to see how the new operating model has felt to them and what it has meant for the quality of work that offender managers have been able to do with their caseload. And we'll publish our findings in the Autumn.

SLIDE 3 – DOES FACE TO FACE MATTER?

Probation work is all about building and sustaining relationships. There is good evidence that the quality of the relationship between a probation officer and those they supervise, can have a significant impact on promoting desistance from crime. And the assumption up to now has been that this relationship has to be a face to face one – either one to one or in groups. And it's only fairly recently that all CRC contracts were amended to insist on monthly face to face contact with everyone under supervision.

That assumption is being severely tested by Covid. For the probation service, as for everyone else working in the public sector, the switch to remote contact by phone or video link is completely uncharted territory. As we found, when we did an evidence review two years ago, there has been no robust research into the effectiveness of phone based rather than face to face supervision.

It's essential therefore that these new arrangements are tested and adjusted where necessary. There will be important learning to capture for the future – for example, in relation to the way that offending behaviour programmes are delivered and the potential for a more online and one to one approach. This may be something that many service users themselves may actually prefer – given how lukewarm, I know some are about group programmes, which I suspect have always been more popular with probation services than with service users themselves

SLIDE 4 – CHALLENGES OF RECOVERY PLANNING

As attention starts to switch to recovery planning and the Ministry of Justice published its route map for recovery recently, I know the focus will now be on how far and how fast (if at all) probation services can return to normal over the rest of this year. It's likely to be far more difficult to come out of lockdown than it was to go in.

There will be ongoing impacts on staff availability as staff and their families come in and out of self-isolation

Ongoing rules around social distancing will severely restrict the volumes of staff and service users that can be accommodated in probation offices

There will be major challenges around how unpaid work can be restarted in a way which sticks to social distancing guidelines and deals with the considerable backlog of community payback hours that will have built up?

And there will be large backlogs also of breaches and trials to deal with.

SLIDE 5 – CORE PRINCIPLES REMAIN

Lessons from inspections to date

While Covid may have changed the operating model of the probation service radically overnight, the core responsibilities of the service remain the same – to deliver the sentence of the court; to support those under supervision to turn their lives around and to protect the public.

And as the service returns to something more like normality over the coming year, it's important that the lessons of our recent inspections aren't lost in delivering this core business.

Since September of last year, we've embarked on a second round of inspections of every probation service against the new set of standards and ratings we launched in 2018. And I want to bring the data from those together for the first time this afternoon to identify key findings.

SLIDE 6 – HMI PROBATION INSPECTIONS

Before that, a quick reminder about how our inspections work and what our first round of inspections showed.

HMIP's inspection methodology

We currently inspect every probation service every year– though Covid has significantly delayed many of the second year of inspections.

So, between summer 2018 and summer 2019 we inspected all 28 local services looking at over 6000 individual cases and conducting over 1900 interviews with individual POs and PSOs.

SLIDE 7 – OUR METHODOLOGY

Our methodology is a very thorough one. We spend three weeks visiting each service; interviewing staff at every level. We ask for a wide range of supporting data and written evidence and take a detailed look at a wide range of cases.

We interview POs and PSOs about the cases they supervise but also their more general views on workload and the support they get to do their job. And we are increasingly asking service users for their views too – a big priority for me since I started in post.

We make judgments about the overall leadership and management of each service – including staffing levels and the range and quality of services provided.

But we also take a very detailed look at individual cases, to check on the quality of initial assessment; of the sentence plans; on how well these plans are delivered and reviewed on an ongoing basis.

For each case we look at how well the person being supervised is engaged in the process and at whether all of their needs are identified and met. We look at the protective factors in their lives and at whether these are spotted and strengthened. And we look at the risk they may pose, both to their immediate family and the wider public – and at whether these are properly assessed, managed and reviewed.

And we do the same for samples of unpaid work and through the gate cases.

We then combine the qualitative and quantitative data from this process, to reach judgements on 10 different quality standards which are then added together to produce an overall rating on a four point scale from inadequate to outstanding.

For each of the standards relating to individual casework, two thirds of the cases we inspect have to be satisfactory for the service to be rated as 'good' against this standard.

SLIDE 8 – OVERALL RATINGS ROUND ONE

Our results

So, what were the key findings on our first round of inspections last year?

First, you won't be surprised to hear, we found a significant gap between the performance of National Probation Service divisions and CRC services.

Of the 7 NPS divisions, we gave an overall rating of 'good' to five – although we found real issues with probation officer vacancies and facilities management contracts where our ratings were lower.

By contrast, only 1 out of the 21 CRC services got this rating, with 19 rated as requiring improvement.

Whilst we often found good and committed leadership in CRC services and a commitment to investing in decent accommodation and IT and other equipment for staff, this was all too frequently undermined by what we regarded as unacceptably large caseloads, which too often made good quality casework all but impossible.

SLIDE 9 - CASELOADS

Whereas two thirds of NPS responsible officers had a caseload of 40 or less – the situation was exactly the reverse for the CRC staff we spoke to – two thirds of whom had a caseload of over 50. Forty two percent had caseloads over 60 and significant minorities over 70 and into the eighties.

SLIDE 10 – IMPACT OF CASELOADS STORIES

The impact of this on some of the staff we spoke to was clear. Some were in tears as we spoke to them. Others spoke of being burnt out and of having to work evenings and weekends to keep their head above water.

SLIDE 11 – CORRELATION OF QUALITY RATINGS AND CASELOAD]

Not surprisingly, we found a clear correlation between size of caseload and our rating of the quality of work done. As caseload increases, the proportion of staff saying their caseload is manageable sharply declines (the red line on the chart) and our judgements on the quality of supervision (the yellow line) also drops.

Whilst this may not have amounted to a crisis – and we only gave one CRC a rating of inadequate in our first set of inspections – it certainly indicates a service that in places was under great stress.

SLIDE 12 – IMPACT OF TRANSFORMING REHABILITATION

And that stress was becoming greater as the flaws in the CRC funding model started to play out over the past couple of years.

As a result of fundamental flaws in that model – in particular very flawed assumptions around the ratio of fixed to variable costs and of the income that would flow from payment by results- CRCs have received far less funding from MoJ for each case they supervise than the NPS.

The NAO calculated in March last year that the MoJ will end up paying CRCs £822m less over the 7 year lifetime of the contracts than it had originally forecast it would (and that the Treasury had been willing to spend). That has meant that some CRCs have fallen far short of what they need to provide a decent service.

The issue for me, is not that staff working for a private company or non-profit provider, can't deliver a decent service – I've met many talented and very committed managers and staff on my visits to CRCs. It's that they can't do this if they're not receiving the funding they need to make caseloads manageable and to recruit and retain the skilled probation officers needed to manage the more complex work.

Two other inherent aspects of private provision, add to the problem.

First, in order to outsource probation, a very complex business with many hundreds of moving parts, has to be turned into 21 different contracts. And if any of the assumptions underlying these contracts are wrong, as they've turned out to be, then it can take months, if not years to renegotiate the necessary changes – if indeed these changes can be made at all under contract law. In the meantime, performance and the income needed to support that, continues to be problematic.

And second, because the great majority of the CRC contracts are owned by large parent companies – some of them with multinational interests –they can be brought crashing down by the wider failure of the parent company – as happened at the beginning of last year when Working Links, the owner of three large CRC contracts, went into administration.

These challenges around the contracts have affected different providers in different ways. Whilst some were cautious in their initial bids; took action early on to rein in costs and have seen their financial position stabilised by contract changes in 2018 – others have been in a much more perilous position and even with the contractual changes have seen significant cuts in their operating budgets this year compared to last which has had a real impact on the quality of service we are finding they're able to deliver.

When you add the impact of Covid into the mix, on top of these major challenges around outsourcing, it's perhaps not surprising that the Government has now decided that the safest way forward is to abandon the planned re-procurement of unpaid work and behavioural change programmes and return delivery of these to the public sector from June 2019.

As I said on the day this was announced, whilst this is likely to be welcomed by many, it is not a magic bullet for improving performance by itself. The probation service must be properly funded. The quality of probation supervision will not improve merely by lifting and shifting large volumes of cases from CRCs back into the NPS next year. Vacancies for

probation officers must be filled and staff properly trained for their new responsibilities. The positive innovations that CRCs have brought with them – must not be lost.”

Year two of inspection

In the meantime, while we wait for next year’s reforms and almost one year on from our first round of inspections, is there any sign that things have improved?

[SLIDE 13 – YEAR 2 OVERALL RATINGS TO DATE]

Well there are some grounds for optimism but it’s still a pretty mixed picture.

Since September 2019, we have been re-inspecting the services we visited in 2018 and 2019 – starting with the CRCs and using broadly the same methodology.

So far we have published the results of nine of these local inspections and I wanted to give you an overview of what this is showing so far.

In terms of overall ratings, all 9 of these CRCs were judged to be requiring improvement in our first round of inspections against the new standards.

Our year two ratings, show that three of these nine have now improved their overall rating to ‘good’. One other was just one point off being rated ‘good’. Whilst the remaining four have seen little shift in their scores and remain a concern.

SLIDE 14- STANDARDS BREAKDOWN

Across the nine services, we assigned ratings to 90 individual quality standards – 10 at each service. Looking at the distribution of markings across these 90 standards, we see an upward trend in performance with a majority of standards – 48 out of 90 – now rated as ‘good’ or ‘outstanding’ compared to 35 previously and a small drop in the number rated as ‘inadequate’ from 22 to 20.

SLIDE 15 - SHOWING YEAR 1 VS YEAR 2 – AVERAGE STANDARD SCORES

We can also compare the average scores for each quality standard to last year.

First, the good news. Comparing this year’s average scores for each standard with last year’s – [the grey line is year 2; the black is year 1] we see that these services continue to be rated reasonably positively on their overall leadership; on the menu of services they offer and on the quality of facilities and IT for staff. [A score of 2 is equivalent to a ‘good’ rating]

On through the gate services, we are seeing positive signs that the investment of an extra £22m a year by the Ministry of Justice in supporting prisoners being released from custody, is paying real dividends, with 6 out of 9 CRCs we’ve inspected so far being rated as ‘outstanding’ on this aspect of their work.

With the extra money, CRCs have been able to put significantly more staff into prisons and to strike innovative deals with voluntary sector partners to provide more specialist help with accommodation and mentoring services, so that more (though still only a minority) of the

highest need individuals can be met at the gate and supported through the first days after release.

SLIDE 16 – SIGNIFICANT IMPROVEMENTS IN TTG – DTV EXAMPLE

Durham and Tees Valley CRC, for example, has seen its rating for through the gate work improve from ‘requires improvement’ to ‘outstanding’ over the past year, with much better and more personalised resettlement planning.

SLIDE 17 – DTV EXAMPLE – ‘MARY’

And this fed through into the individual cases we inspected as well – like this one for someone we have called ‘Mary’.

And we found similar examples in the East and West Midlands, South Yorkshire and Thames Valley, even where other aspects of these services gave cause for concern.

Offender management

SLIDE 18 – AVERAGE STANDARDS SCORES

But the picture on core offender management is less positive. Across the four key stages of the supervision process that we inspect – initial assessment; sentence and risk planning; sentence delivery and ongoing review – we’ve seen little shift in average scores. In four of the CRCs we inspected, we found more than half of the cases we inspected to be ‘inadequate’ in terms of core supervision – with five out of nine CRCs being rated ‘inadequate’ across all four case supervision standards.

A clear gap has started to emerge between different providers, with some continuing to invest in trained probation officers and manageable caseloads and others going backwards.

Once again, we seem to be finding an association between workloads and quality.

All of the CRCs we’ve given a rating of ‘good’ to, for example, report caseloads for both POs and PSOs of 50 or less – with probation officer caseloads in South Yorkshire and Durham and Tees Valley, now under 40.

SLIDE 19 - SHOWING ‘MANAGEABLE CASELOAD %’

But overall, we haven’t seen a shift in the average proportion of responsible officers telling us they feel their caseloads are manageable – if anything this has got slightly worse, particularly for PSOs with over half of probation officers and PSOs now saying they think their caseloads are unmanageable – though this hides a wide variation between services.

In one service we found almost 70% of POs were struggling; in another, 83% of PSOs told us their caseloads were unmanageable. Although at the opposite end of the range, in one of the best performing areas only a third thought this was the case.

We were worried to see that in a few of the services we have re-inspected, there has been an increasing shift of caseloads from more skilled and experienced probation officers –

whose numbers are declining – to recently recruited and less highly trained PSOs – who have been easier (and cheaper) to recruit. It was particularly concerning to find PSOs, some of them only recruited in the previous 6 months, being expected to take on more complex, medium risk domestic violence cases, which up to now had been reserved for experienced probation officers.

SLIDE 20 – CASE OF PAUL

And as in our first round of inspections, the impact of all this on the individual cases we inspect was often very evident – as for example with this complex IOM case being supervised by a PSO whose caseload was still in the high seventies, having been over 90 at one point.

SLIDE 21 – SERVICE USER ENGAGEMENT

Not all areas of supervision were equally concerning. We continued to find, for example, that many CRCs have invested significantly in engaging with service users across each stage of supervision – with a welcome commitment in some areas to using ex-service users as mentors and to run induction courses for people just starting probation. Service User councils have been funded in many areas to represent their views and feed in ideas for service improvement and routes into paid employment within the service have been created. And there has been a good focus by responsible officers in engaging individual service users in their assessment and sentence plans and the delivery of interventions, with up to 70% of the cases we inspected receiving positive marks for these aspects of supervision.

Risk of harm

SLIDE 22 - SHOWING AVERAGE ROSH SCORES YR 1 vs YR 2]

By far the weakest area of performance in last year's inspections however, was the quality of work to manage risk of harm – particularly amongst the type of cases managed by CRCs, where we rated over half the cases we looked at as unsatisfactory.

Although, we've found that many CRC have invested significantly in retraining staff on the basics of risk management over the past year, it's been disappointing to see that this hasn't translated into better management of the cases we've inspected more recently.

On every aspect of supervision in relation to risk of serious harm, apart from initial assessment, we continue to find that on average less than half the cases we assessed across the 9 re-inspected services were satisfactory in relation to planning, delivery or review of actions to reduce risk of harm.

SLIDE 23 – CHANGES IN ROSH SCORES FOR EACH CRC – YEAR 1 VS YEAR 2]

That's not to say there hasn't been some improvement in some services. Four of the eight CRC reports we've published so far on our second round of inspections show an

improvement in the management of risk of harm – and this was a significant factor in their improved overall ratings .

But less than half of the cases we inspected at the remainder were satisfactory on this crucial aspect of probation performance.

SLIDE 24 - SHOWING % OF DOMESTIC ABUSE CHECKS

Time and again we are finding that some of the fundamental tasks of effective risk management have been missed.

Take the checks that every responsible officer is supposed to run with their local police domestic abuse team at the point of initial assessment.

As you'll see from this chart, our latest inspections continue to show a big variation in the proportion of cases where this is being done – with neither the NPS or the CRC doing these checks in over a third of cases and a couple of areas where less than 40% of cases getting the checks they should have done.

SLIDE 25- SHOWING % OF HOME VISITS

Or take home visits – in pre-Covid times an essential part of proper risk assessment for many cases but something that our latest round of inspections is showing is happening in less than 40% of the cases where my inspectors think it should and in some areas in as few as a quarter of cases.

SFO reviews

SLIDE 26 – SFO reviews

Where the risk of harm isn't properly managed then the consequences can potentially be disastrous – for the members of the victims involved and for the reputation of the probation service.

Indeed, it's sad but true, that the only time the public may get to hear about the probation service is when something goes wrong and a high profile Serious Further Offence results.

Over the past 6 months we have been looking at these Serious Further Offences, or SFOs and the way that they are investigated, so see if this might be improved.

There were about 500 reviews of SFOs undertaken by the probation service in 2018 – of which 124 were for cases where someone under probation supervision was charged with murder or manslaughter.

Overall, 57% of the SFO offences involved someone under NPS supervision and 43% someone under CRC supervision. About half involved someone already identified as high risk of harm.

SLIDE 27 – RISK LEVELS IN MURDER SFOs

For homicide cases, we found that two thirds of cases involved someone who had previously been assessed as low or medium risk – suggesting a previous failure to identify the true underlying risk presented by that person.

That decision on which risk level to assign at the point of initial assessment or review is a crucial one which can make a significant difference to the way someone is supervised.

Someone classified as high risk rather than medium, is more likely to get access to an approved premises bed after release from prison; will be assigned an experienced and trained probation officer rather than a PSO; will be seen weekly by that officer and if identified as a MAPPA level 2 or 3 case will get multi-agency management – including by the police – as well as the probation service.

And all of these things can make a real difference to the way that risks are mitigated, when so many other cases will be competing for an offender manager's attention.

Equally crucial, is the way things are managed when circumstances change. When someone under supervision moves in with a new partner, or starts to test positive for class A drug after a period of clean tests; or is arrested or spotted with old criminal associates.

SLIDE 28 – COMMON WEAKNESSES IN RISK MANAGEMENT

A failure to show the necessary professional curiosity about these things or trigger the appropriate action can prove literally fatal – as we found in our analysis of the case of Joseph McCann which was published today. This showed a catalogue of errors, from a downgrading of his MAPPA classification too soon after release from prison; to a lack of co-ordination of prison, police and probation intelligence; to the three different probation officers he had during the 3 months before his release from custody in February 2019. And most damningly of all eight missed opportunities to revoke his IPP licence between 2017 and 2019, which would have ensured he could not have been re-released from prison without a Parole Board hearing.

All of these things – lack of professional curiosity; the wrong assessment of risk; poor information sharing with the prisons and police; over-optimistic assessments of progress and premature relaxation of controls – are things that we find again and again in the cases we look at in our local inspections. Which is why it's so important to learn the lessons when things go wrong.

SLIDE 29 – SFO THEMATIC SUMMARY

SFO reviews are conducted by local probation services themselves and quality assured by a central HMPPS team.

For a thematic inspection we published in May, we undertook a detailed inspection of almost 50 of these reviews. We also visited 8 probation areas – NPS and CRCs - to talk to probation officers and managers about what the process felt like to them.

Overall, we found that about half the reviews we looked at required some improvement. There were long delays with the central quality assurance process and we felt opportunities were missed for learning lessons which could improve national practice or policy.

The reports themselves were often very long and dense and focused more on what happened rather than why. And although it was good to see that victims can now access the full reports, they weren't drafted in a way which made them easy to understand and we were surprised that so few victims or their families asked to see them.

Some of the probation officers involved in the process told us they found it a "horrible" or "shameful" experience and felt it was more about assigning blame than learning lessons.

We've made a number of recommendations to improve the learning from these reviews – including, in particular, that other agencies like the police or social services should be involved when they have also had contact with an offender. Of the 46 reviews we looked at only 3 had involved this sort of multi-agency element.

And to bring greater transparency to the process, we recommended that an outside body like HMIP should independently quality assure a sample of SFO reviews on a regular basis and publish an annual summary of its findings. A recommendation I'm pleased to say that the Lord Chancellor has accepted and which we will start to do from April of next year.

SLIDE 30 - IN CONCLUSION

Conclusion

So, in conclusion, and to return to my original question. Whilst I don't believe the probation service as a whole is, or was, in 'crisis' – it was undoubtedly severely tested by the transforming rehabilitation reforms and some CRC services remain of significant concern.

Of the nine CRCs we have reinspected since last September, it has been encouraging to see that almost half have responded to our previous recommendations and shown signs of improvement – with three now rated 'good'. It's also been good to see the very real progress that's been made with through the gate services – with 6 services now rated outstanding on this standard – even where day to day offender management may still be inadequate. This shows the impact that significant new resources can make on quality and the importance of properly resourcing the next stage of probation reform.

For the other half of the services we've re-inspected however, things don't look so encouraging. Reducing budgets have led to a significant loss of trained probation officers and the skills and experience that went with them – with caseloads for those that remain and the PSOs who have often replaced them continuing to be unacceptable and unmanageable as far as these staff are concerned.

Good, committed leaders in these services are doing their best to engage staff and improve services, but they are often fighting a losing battle as resources diminish and there is a real risk to delivery over the next year as increasing numbers of CRC leaders are recruited by the National Probation Service to the new regional divisions that go live from this Autumn.

The new, unified national offender management model is the right way to go from next year, but it won't be a magic bullet by itself. Adequate resourcing will be crucial.

But it's also important that we don't lose the innovation that transforming rehabilitation did unleash in some areas. Not all the CRC staff I speak to relish moving into the NPS. They've enjoyed the freedoms they've had to try new things; to move into decent office accommodation for the first time or to work out of community hubs; to develop much easier to use offender management software. And service users as well have benefitted from the real commitment shown by many CRCs to listen to their views and give them a role in their services as mentors and ultimately as paid staff.

So, a service that is on the road to recovery, but still a long and winding one to traverse and huge challenges ahead as they deal with a new crisis that none of us had expected 5 or 6 months ago. It's going to be an extremely interesting and challenging year ahead for all of them.