

## **Strengthening probation, building confidence**

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**September 2018**

The Criminal Justice Alliance (CJA) is a coalition of 140 organisations – including charities, voluntary sector service providers, research institutions and staff associations – working across the criminal justice pathway. Our members employ more than 12,000 people between them. The Alliance works to achieve a fairer and more effective criminal justice system. Our members are listed on our website.

The CJA welcomes the opportunity to respond to this consultation. We have engaged with our members on many of the issues raised, including at a discussion forum hosted by the Ministry of Justice on 14 September. Our response is based primarily on the outcomes of that event as well as discussions with our wider membership.

Our response focuses on five questions identified by our members as the most pressing.

Several key themes also emerged as priorities:

- A refocussing on the building of positive and meaningful relationships between probation officers and the people they work with.
- A stronger emphasis on thorough assessment of needs in order to identify relevant support and activities to address them.
- Improving confidence in community sentences by working with sentencers, promoting more collaboration between the courts and probation services and improving the quality of community sentences.
- The potential use of technology to remove practical barriers affecting people on licence or under supervision, as well as reducing digital exclusion.
- Measuring success of the service by looking at the quality of the assessments, the distance travelled by individuals' compared to their plans and by listening to the feedback of service users about their experiences.
- The need to work effectively with other government departments to ensure that people are able to access suitable accommodation.

### **4. What changes should we make to post-sentence supervision arrangements to make them more proportionate and improve rehabilitative outcomes?**

Post-sentence supervision arrangements were heralded as the opportunity to provide short-term prisoners with meaningful support to desist from crime. This was, in theory, a welcome approach to help address the many complex problems preventing this cohort from maintaining crime-free lives. However, it is clear from our members that in practice the reforms have either maintained or even worsened the barriers to desistance and lowered the prospects of rehabilitative outcomes.

In particular, the recall system has become an inflexible barrier to sustained progress under supervision, with over half of recalls occurring because of non-compliance with requirements rather than reoffending. Recalls to prison are huge disruptions to the lives of people subjected to them, as well as their families. More graduated and proportionate responses to non-compliance could help to better establish whether more formal sanctions are needed. Greater involvement of the judiciary in sentence supervision could also help these decision-makers to make better-informed decisions about the most appropriate responses to non-compliance.

It was also suggested that there should be a greater emphasis on outreach and engagement for those who are not complying. In particular peer-led engagement at this point could be effective. The paradox in these situations is that the people who are being recalled for non-compliance are often the people most in need of more support, not less. But instead of offering greater opportunity, returning someone to prison, even only for 14 days, has a hugely negative effect on their ability to sustain any positive progress they might have.

Members highlighted that the first day of release for a person leaving prison is often a critical time to establish the basic support to address their needs and increase their capacity to desist from crime in the future. Aside from meeting with a probation officer, a person's first day of release from prison will very often include making arrangements with the local housing authority, applying for benefits and registering with a GP or other mental health or substance misuse services. This is often an impossible ask of prison leavers because of the distances between these services.

The problem is compounded when a person is released on Friday, as evidenced by Nacro's policy briefing.<sup>1</sup> More than a third of prison leavers are released on Friday, heaping more pressure on services and increasing the chances of being released later in the day, which reduces the already limited time for a prison leaver to arrange their support. And because services in the community often run a reduced or no service over the weekend, prison leavers who are not able to arrange all the support they need on the Friday will have to wait until Monday. This situation can leave people without access to crucial medication or force them to sleep rough.

The first days post-release are crucial to creating the positive momentum needed for effective resettlement. But the current requirements on a person's first day of release are creating barriers and negatively impacting on their engagement. When people miss appointments, through no fault of their own, it devalues the importance of engaging with these important steps in the resettlement process. Releasing a person on Friday only exacerbates these problems.

Even without legislative change, there are still a number of ways to reduce the numbers of people being released on Friday such as greater use of ROTL and HDC to release people early or for the Parole Board to exercise their discretion in early release for people on determinate or extended sentences.

Removing practical barriers by reducing the number of appointments on a person's first day of release should also be considered and, where possible, processes streamlined. For example, members suggested that in some cases it might be appropriate for a Through-the-Gate worker to notify the probation centre rather than require the individual released to attend in person.

Time spent at probation centres also needs to be made more valuable. Appointments should not simply be a check-in process but also an opportunity to address needs. Members suggested that probation offices could act as 'hubs' that bring together agencies

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<sup>1</sup> <https://www.nacro.org.uk/policy-and-research/end-friday-releases/>

that share information could help streamline this process, giving clients greater opportunity to access support and incentivising their attendance.

For areas where there is a greater geographical spread of clients, members suggested that probation officers could also be empowered to work with their clients remotely through technology or enabling greater outreach opportunities for officers, such as a mobile probation unit. One member suggested that an app could remind clients about appointments, allow them to communicate with their probation officer and provide other relevant information, advice and guidance.

## **7. How else might we strengthen confidence in community sentences?**

There has been a well-documented decline in the use of community sentences in recent years. While we understand that this trend began before the introduction of the Transforming Rehabilitation reforms, it is clear that the reforms have done nothing to reverse that trend. This is in spite of the evidence that community sentences are often a more effective response to offending behaviour than short prison sentences, and offer much better value for money. As a priority, the Ministry of Justice must assess the reasons behind this decline and take steps to rebuild confidence in the use of community sentences. The experience in Scotland, where community sentences have increased in recent years, should be looked at for reference.

A vital part of rebuilding confidence will be to improve the relationship between probation services and sentencers. Research carried out by the Magistrates Association showed only 34 per cent of magistrates were confident that CRCs provide adequate support to offenders in their area, and nearly half thought they did not have enough information on local requirements available.<sup>2</sup>

Some of our members have noted that greater involvement of probation services in court could help build confidence, rather than relying on briefings alone. Much more could also be done to improve local interface between magistrates and CRCs and NPS more widely, such as allowing for probation services to engage with magistrate induction training.

The CJA has been a long-standing supporter of problem-solving courts, which promote greater engagement by sentencers in the journey of an individual's sentence. Problem-solving courts rely on close collaboration between the courts and probation services so they could provide an innovative vehicle for addressing the current lack of effective communication.

Providing sentencers with better information about the range of community sentence options available, including supporting them to visit community provision and providing regular feedback on an individual's progress would help to build confidence. Some members have expressed concern that this dearth of information is compounded by quick turn-around reports lacking all the relevant information, that too often lead to incorrect allocation. The courts could also consider greater use of adjournments and fewer same day reports to improve this. A member also commented on CRC's current inability to liaise directly with sentencers as a particularly immediate barrier to providing the courts with thorough information.

Building confidence in community sentences will also come from improving their content and quality, such as reducing reliance on telephone contact between probation officers and clients and creating more opportunity for face-to-face contact. One member

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<sup>2</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/transforming-rehabilitation/written/73801.pdf>

commented that community sentences which just focus on group work, could be made more robust and productive by including one-to-one casework support to the individual.

Members commented that unpaid work was an underused option and also had the potential to be made more valuable to those carrying it out, through a greater focus on developing skills and training, as well as practical work experience which could be used to gain employment. But some members have expressed concern about a 'risk averse mentality' that is currently creating practical barriers to finding work placements.

## **8. How can we ensure that the particular needs and vulnerabilities of different cohorts of offenders are better met by probation?**

In order to address the needs and vulnerabilities of different cohorts of offenders, some suggested greater resource needs to be given to making individually tailored assessments and acting on these to provide a continuity of care for vulnerable groups, particularly those suffering from mental health problems.

CJA member Inquest has repeatedly raised the often-overlooked issue of people dying while under post-release supervision in the community. The number of deaths increased by 273 per cent between 2013/14 and 2016/17, which far outstrips the increase of 60 per cent in the number of people on post-release supervision due to Transforming Rehabilitation.<sup>3</sup> These deaths raise serious questions about the quality of assessment of people's well-being when they leave prison and the quality of support available to them.

The promise of a person-centred approach where each individual is supported end-to-end by a single probation worker as a 'single point of contact' (irrespective of whether they work in the public, private or third sector) needs to be returned to as a priority. Establishing positive and trusting relationships is the bedrock of good probation work and allows services to better identify and respond to the individual's needs.

The lack of safe and affordable accommodation for people leaving prison remains a serious concern for many of our members. Studies have shown repeatedly that securing suitable housing for people leaving prison has a positive impact on the likelihood of reoffending, but over a third of people are leaving prison without housing in place.

We welcome the duty on Local Authorities to provide housing advice to ex-offenders in the Homelessness Reduction Act 2017 and the provisions for people leaving prison in the Rough Sleeping Strategy. However, members expressed concern that these are being undercut by Local Authority decisions to declare some ex-offenders as 'intentionally homeless', which means they are no longer required to provide long-term housing.

Members also expressed views on a need for greater use of restorative justice (RJ) options in the courts, ensuring that judges and magistrates are aware of the programmes available. In particular, the National Probation Service needs to be more active in promoting RJ, particularly in light of its responsibilities under the Victim Contact Scheme. While RJ has significant benefits for victims, it also has tremendous capacity to address the needs of offenders and reduce reoffending.

Addressing needs also means providing greater trauma-informed training for all staff and ensuring that pre-sentence reports are more consistent in reflecting the trauma that many people have faced, particularly women offenders.

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<sup>3</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/transforming-rehabilitation/written/79203.pdf>

Responding to the distinct needs of women should also be reflected in commissioning frameworks and women-only services for women with complex needs to be made available in all areas. The Female Offender Strategy makes welcome commitments to reducing the number of women in prison and recognizing the value of community-based services that can address the multiple complex needs often at the root of offending. But in order for this commitment to be realized across the country, rather than current patchy access, the government will need to make much greater resource available.

Probation services also need to work better with BAME community voluntary organisations to ensure that people's specific cultural needs are reflected in the resettlement process.

Young people from the age of 18 to 25 also need to be supported in a way that reflects the fact they are still maturing and recognises that increasing contact with the criminal justice system increases their risk of reoffending.

#### **14. How can we better engage voluntary sector providers in the design and delivery of rehabilitation and resettlement services for offenders in the community?**

The reforms under Transforming Rehabilitation offered the promise of productive competition and collaboration with the voluntary sector as agencies with strong track records of delivering cost-effective and innovative solutions in probation. However, the intervening years have seen the voluntary sector increasingly squeezed by the pressure of inflexible contract arrangements.

Concerns have been raised that current payment arrangements are too inflexible for many voluntary sector providers and that contract sizes and processes are too cumbersome and too long. This is leading to significant amounts of resources being tied up in contract management and data processing to satisfy evaluation requirements from prime contractors.

Consideration might be given to the use of dynamic purchasing systems to reduce bureaucratic pressures and allow greater flexibility and nimbleness in responding to local needs. However, such mechanisms should allow for services to be commissioned for longer than the 12 months in the Education Framework dynamic purchasing system.

Better engagement of the voluntary sector in the design and delivery of services needs to begin at early stages in the process in order to ensure that the problems like those created by the Transforming Rehabilitation reforms can be quickly challenged. The voluntary sector's unique knowledge and skills in providing specialist services for women and BAME people must be prioritised.

#### **17. What should our key measures of success be for probation providers, and how can we effectively encourage the right focus on those outcomes and on the quality of services?**

Many members agree that reducing reoffending is a key measure of success for probation providers. However, the binary measurements currently in place are promoting a culture of box-ticking rather than building meaningful relationships and recognising the incremental journey towards desistance. One-size-fits-all interventions that attempt to wrap this process into a neat package often fail to promote people's strengths and, crucially, address their individual needs.

Greater weight needs to be given to outcomes such as accessing education, training and employment, securing housing, improved mental and physical well-being and addressing

substance misuse issues as the ‘small stepping stones’ towards crime-free lives. Measuring ‘distance travelled’ is a much more nuanced way of assessing success than reconviction rates, which can be affected by factors beyond the control of probation services.

Feedback from service users about their experiences should also form part of the measures of success for probation providers.

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**This response does not reflect the individual policy position of any member organisation of the CJA.**