

## **What Next for Probation? Roundtable discussion**

**July 2019**

On 24 June 2019, the CJA held a roundtable discussion on the topic of probation reforms, hosted by Lord Ramsbotham at the House of Lords. At a time of significant change for probation services, the event provided the opportunity for members to discuss the government's response to the 'Transforming Probation' consultation, the proposed future model for probation and Lord Ramsbotham's interim report on the future of probation.

Forum attendees included:

- Browns Community Services
- Clinks
- Learning and Work Institute
- Magistrates' Association
- Nacro
- Probation Institute
- Respond
- Safe Ground
- Switchback
- Trailblazers Mentoring
- Why Me?
- Women in Prison
- Zahid Mubarek Trust

Richard Burgon MP, Lord Ramsbotham and John Samuels QC also attended. Attendees were asked to consider the following questions:

1. *What are your views on the proposed new organisational and governance structure for probation?*
2. *What would help to achieve more effective local and regional joined-up work with NHS Trusts, Local Authorities, PCCs, courts etc.? How might Regional Reducing Reoffending Boards work in practice?*
3. *The proposal indicates an enhanced role for community-based Responsible Officers supported by OMiC key worker prison officers. It also suggests Governors take responsibility for offender management for longer sentenced prisoners. What are your thoughts on the role of prisons proposed?*
4. *What should 'quality measures' and a new 'performance framework' for probation prioritise and how should they be scrutinised?*
5. *What more is needed from the probation reforms to help deliver reductions in short sentences, recalls and remands into custody?*
6. *What are the key lessons from TR, DWP, PCC and prison education commissioning and contracting that the MoJ should learn from*

This briefing note reflects the key themes discussed at the meeting. The views expressed in the note are not necessarily those of individual CJA members.

## **1. Increasing sentencers' confidence**

Attendees agreed that sentencers' confidence in community sentences needs to improve. Some attendees commented that information between CRCs and the NPS is not currently flowing. As a result, courts don't understand what is happening on the ground and are therefore losing confidence. The new reforms must ensure that people engaging with the courts in the future have a full understanding of what is available in the community, as this can make the difference between a short custodial sentence and a community sentence.

Attendees also noted that there needs to be more effective join-up at a local level between sentencers and probation services. This particularly applies to Magistrates, who need to be more actively engaged. For example, it was suggested that Magistrates need more training and opportunities to visit projects to increase their understanding of community sentences. It was commented that magistrates also need to be able to see when things do not work, so they can learn from this.

## **2. Commissioning arrangements**

Concerns were raised that the new contracts for innovation partners will be for large geographic areas and may consequentially exclude much of the voluntary sector, apart from large charities. Some attendees emphasised the importance of effective local partnership working, such as in Cleveland, but raised concerns that the size of the contracts will make this difficult. The question was asked why the new areas could not be coterminous with PCC areas.

It was mentioned that Community Rehabilitation Companies are currently 'regrouping' to prepare to bid for the new contracts and there are concerns that future arrangements will repeat the same mistakes as under TR and exclude any meaningful involvement of the voluntary sector.

Some attendees suggested that recent experiences with the Dynamic Purchasing System for prison education do not bode well for the future dynamic framework for probation services and lessons must be learnt. For example, some of the specifications for tenders can be unrealistic in their expectations and the process itself can be overly onerous on small, voluntary sector organisations. The contracts are also only for one year which makes sustainability difficult. Concerns were raised about unrealistic expectations put on the bidders and that commissioning the lowest cost bid could result in a lower quality service being provided. Concerns were also raised that in some circumstances the prison education DPS took away the opportunity for a discussion between the commissioner and potential providers about the tender design for example what is needed and what might be possible.

Questions were asked about how the new dynamic framework will actually incentivise services that result in individual behaviour change, rather than box ticking measures.

Some attendees expressed the view that new commissioning arrangements need to provide greater join-up and co-ordination, and to ensure that a whole-person approach is taken rather than working on each issue in silos. Some attendees were concerned that the framework might drive up competition but drive down collaboration. For small organisations, they felt this could drive down creativity and reduce the scope for important specialist work. It was felt that the new arrangements should allow for consortium bids. Some attendees felt that there was a danger that voluntary sector organisations will be excluded from these commissioning arrangements and left to rely on funding from trusts

and foundations, which is becoming harder to obtain. Some suggested grant funding should be considered as an alternative model, in particular for specialist services.

### **3. Devolution and local arrangements**

Attendees raised concerns about the lack of information about how the Ministry of Justice sees probation services in relation to other services such as housing and community services. Some felt that the criminal justice system can only be properly understood in its entirety and that examining the future of probation is pointless without considering its relationship with local authorities, prisons and the courts.

It was noted that, in many areas, criminal justice is still not currently understood as a local issue. It can be difficult to inject localism into a 'top down' system where so much responsibility rests with central government, leaving many local partners to 'shrug their shoulders' when it comes to criminal justice issues. Some attendees thought that the imposition of greater statutory responsibility on local authorities with regard to education and health of people under probation supervision may improve local join-up, but that responsibility has to be made real through meaningful, regional accountability mechanisms, such as criminal justice boards and reducing reoffending boards.

### **4. Police and Crime Commissioners**

Some attendees raised the concern that PCCs are currently pre-occupied mainly with policing and victims – perhaps just five per cent of their remit is focussed on reducing reoffending. Some felt it may be possible to increase PCCs' involvement in probation but such a move raises the possibility of differing availability of services if different PCCs fund different programmes. It was suggested that unwanted variation could be addressed by ensuring probation services retain 'core' statutory responsibilities, whilst also enabling innovation. The point was raised that mapping the probation regions onto PCC areas would facilitate this join-up.

Other attendees raised concerns that PCCs may not always be the most appropriate stakeholders in probation services because they operate under the remit of the Home Office. It was argued that Police officers should not be carrying out the duties of probation officers and that there should be a clear separation of powers.

### **5. The role of the prison officer**

Many attendees welcomed the renewed focus on the importance of building good relationships in prison. However concerns were raised about relying on prison officer keyworkers to take over the duties of the responsible probation officer for longer sentenced prisoners, given that the OMiC key worker scheme is yet to be fully rolled out and evaluated.

Insights from one organisations' 'Experts by Experience' group suggested that there are problems with the roll out, for example they had anecdotal evidence that people in prison were being assigned OMiC key workers but never actually saw them.

There was also concern raised that prison officers might be overly pre-occupied with risk, which leads to overly cautious behaviour and may disproportionately affect BAME people.

Attendees felt it was crucial to understand exactly what the relationship should look like and to determine the best person in the prison to build that relationship and the training and supervisions they would therefore require. For example, are the relationships concerned with providing practical help, like assisting with benefits applications, or is it about providing more therapeutic support?

Furthermore, it was commented that without trying to strategically reduce the size of the prison population, the aim to spend 40 minutes a week with each prisoner may be unrealistic and an inappropriate use of already limited resources.

## **6. Reforms could be repeating the same mistakes**

Some attendees raised concerns that marketing events for the new contracts are already underway, while the same issues are being raised as before and important questions remain unanswered. For example, there has been a recurring complaint about the waiting time post-release before a person can access benefits. This problem has existed for many years and is preventing access to one of the 'fundamental building blocks' for rehabilitation, along with access to accommodation.

It was suggested that the changes to probation warrant a comprehensive revisit of the many criminal justice related reviews published over the last five years to assess the proportion of recommendations not yet acted on, and act on them.

## **7. How to measure success**

Many attendees raised the importance of looking at a range of measures to assess success, including service user and staff satisfaction, relationship measurements and the 'distance travelled' towards goals like securing housing and stable employment or training.

'Fundamentals' like setting up bank accounts and obtaining benefits should also be incentivised. Attendees commented on the difficulties with applying for benefits on release from prison, which are particularly frustrating when the system allows benefits to be stopped very easily on entry into prison.

However, some attendees were concerned that there may still be significant work to do in persuading sentencers and policymakers to use and value 'soft' targets instead of, or at least alongside, 'hard' targets.

It was suggested that people on probation should have a meaningful mechanism for feedback and performance improvement/impact and that this could be a great way for staff and users to work together to develop and maintain high standards. This could be developed in line with the HMPPS Service User Advisory Group.

## **8. The role of the private sector.**

Attendees recognised that the move to bring case management back into public sector control is a welcome one, and something many people in the sector were calling for. Some were concerned that the proposed changes may simply amount to the government 'moving the line' to allow privatisation of all aspects of probation services except case management.

## **9. Victims of crime**

Attendees felt that there is currently little or no information about how the reforms will support victims of crime as in some areas Victim Liaison Units are already being downgraded in terms of staff pay. Concerns were also raised that Restorative Justice and restorative practices are largely absent from the proposals, raising questions about how victims' entitlements under the Victims' Code will be ensured.

## **10. Qualifications for probation officers**

Some attendees felt that postgraduate qualifications for probation officers may need to be looked at more closely and international examples, such as in the Nordic countries, may be useful comparators. However, there was also recognition that a move towards requiring

postgraduate qualifications may prevent people with lived experience, who have valuable expertise, from becoming probation officers because most will not have a first degree. Progression routes for people with lived experience employed by probation should be explored to enable them to progress.

### **11. Problem-solving courts/judicial monitoring**

Some attendees commented on the proven usefulness of judicial monitoring of sentences, also known as problem-solving courts, which could play a role in probation reforms by being embedded from the beginning. Judicial monitoring could not only provide a form of accountability for the individual but also for the probation service provider.

### **12. Recalls and post-sentence supervision**

Some attendees raised the concern that recalls are currently being driven by risk-averse probation services with no judicial oversight. Some felt this problem may also be down to a lack of training for probation staff.

Attendees commented that post-sentence supervision appeared to be a positive idea when it was introduced but that it has not worked as intended. It was intended to be a supportive endeavour, not a punitive one, and some attendees commented that they are aware of instances where the recall is grossly disproportionate to the reason for triggering it, particularly given the disruption caused by recall and the negative impact it has on the prison population and churn.