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A NEW APPROACH TO OFFENDER MANAGEMENT IN ENGLAND AND WALES

Brian Stout
De Montfort University
Leicester

SUMMARY

The Probation Service in England and Wales is undergoing one of the most radical reorganisations in its history. The proposals include the introduction of end-to-end management for offenders, and allowing private and voluntary bodies to bid to provide probation services. It is argued by the government that these reforms will reduce reoffending and address some of the perceived shortcomings of the present probation regime. Opponents of the changes contend that the changes essentially amount to the destruction of the probation service, one year short of its centenary year in 2007. This article outlines these changes, and the arguments in favour and against them, and provides an indication of the current state of the change process, midway through 2006.

Keywords: offender management, probation

The Carter Report and the Government's Proposals

The origin of the process of change was the report 'Managing Offenders, Reducing Crime' (Carter, 2003, hereinafter referred to as the Carter Report) which was produced by Patrick Carter at the request of the Prime Minister. The report identified problems with prison and probation disposals being used too much with first time offenders and being poorly targeted, and with too much regional variation in sentencing. Carter proposed that a solution to this could be found in a new way of managing offenders that would reduce crime and maintain public confidence. This new approach suggested that a new role should be established for the judiciary and that sentences should be targeted and rigorous. This article concentrates on the third of Carter's proposals, that a new approach should be taken to managing offenders.

Carter suggested that the Prison and Probation Services should be restructured into one service, the National Offender Management Service (NOMS). In this service Regional Offender Managers would work across prison and probation and fund the delivery of specified contracts. The system would be focused on the end-to-end management of offenders throughout

their sentence, and there would be a clear separation between the role of supervising offenders and that of providing punishment and intervention.

In immediate response to the Carter Report, the government issued the paper 'Reducing Crime – Changing Lives' in January 2004. This paper accepted Carter's recommendations and outlined the creation of a new body, NOMS, that would bring together the prison and probation services to provide end-to-end management of offenders. The intention was that a National Offender Manager would report to the NOMS Chief Executive and manage ten Regional Offender Managers (ROMs).

These ROMs will be responsible for sourcing prison places and community supervision through contracts with providers from the public, voluntary and private sectors.

In addition to responding to the Carter Report, the government proposals are designed to facilitate the sentencing framework created by the Criminal Justice Act 2003.

Some of the sentences created by this Act require much greater cooperation between prisons and probation. For example, 'custody minus' allows an offender to undertake a community punishment under the

threat of swift imprisonment for non-compliance; 'custody plus' involves a short prison sentence followed by a period of supervision in the community; and 'intermittent custody' will allow some offenders to spend part of the week in the prison and part of it in the community. The Criminal Justice Act 2003 also created a new generic community sentence that provided the courts with the maximum flexibility to tailor interventions to the particular circumstances of the individual offender. The government's view is that the NOMS reforms will allow this new sentencing regime to be implemented most effectively. Crucially, the government proposed that the new system would be accompanied by a check in the increase of numbers in custody. It estimated that changes in sentencing practice could ensure that the prison population in 2009 would be 80,000, rather than the projected 93,000.

The two most significant changes that NOMS will bring to the Probation Service are related to the concepts of end-to-end management and contestability: End-to-end Management: it is proposed that there should be a single person responsible for each offender from the point where he enters the criminal justice system to the time when he leaves it, regardless of whether he is serving his sentence in prison, in the community, or both.

Contestability: the government intends to encourage the private and voluntary sector to compete to manage more prisons, and to compete to manage offenders in the community. The intention is to encourage partnerships between public sector, private sector and voluntary bodies which harness respective strengths.

The government anticipated that these changes could be introduced quickly, with a fully regionalised service introduced within five years, and invited responses to its proposals.

Reaction to the Proposals

The reaction to the Government's proposals has been overwhelmingly negative. In the House of Lord's debate on NOMS, the former Chief Inspector of Prisons, Lord Ramsbotham stated that of the 750 responses to the consultation only 10 had been in favour of the government's proposals. Opposition has been expressed in both the House of Commons and House of Lords, by academic commentators and by penal reform organisations. The strongest opposition has come from the National Association of Probation Officers – the Trade Union and Professional

Association for Family Court and Probation Staff (NAPO). NAPO has led the campaign against the introduction of NOMS, and its response will first be outlined, followed by comments from other interested commentators.

NAPO argues that the National Probation Service has been a success, and that the organisation is performing well against its targets. It expresses concerns that the government is planning a major reorganisation at a time when so much has been achieved. Its main objection is to the introduction of contestability into the provision of probation services. It argues that the government has failed to explain how the introduction of contestability will lead to a reduction in reoffending rates, and that contestability will jeopardise what are currently good working relationships between different organisations in the criminal justice system. It further argues that it is questionable whether competition has been effective in prisons, and that introducing such a market to probation services would undermine the links between probation and communities. NAPO summarises its argument in the conclusion to the discussion paper (2005:25):

“The model of contestability as applied to the Probation Service in the consultation paper's proposals, will fail and will not achieve any of its objectives”

The Probation Boards Association (PBA) expressed itself more cautiously than NAPO did (PBA, 2005) but also expressed concerns about the introduction of a market to probation services. The PBA emphasised that it was imperative that future probation services retained a community link and local accountability. Other responses to the consultation include a contribution from the Prison Reform Trust (2005). This organisation is not as opposed to the government's proposals as NAPO, and accepts that the involvement of private and voluntary organisations can bring some benefit. However, the PRT recommends that Probation Boards should remain, and that the substantial core of the Probation Service should remain in the public sector. In a separate article the Deputy Director of the PRT expresses concern that the creation of NOMS may lead to a loss of community involvement and of emphasis on community sentences (Dobson, 2004). Faulkner (2005) argues that more consideration needs to be given to issues of accountability with the introduction of NOMS. Rungay (2005) expresses concern that the changes will lead to the probation service being changed beyond recognition, leading to a loss

of skills and expertise and a consequent increased use of imprisonment.

Perhaps the most surprising critic of the government's proposals has been Martin Narey. He was the first director of NOMS but subsequently resigned to take up a post as Chief Executive of children's charity Barnardo's. In a magazine interview (Jerrom, 2006: no pagination) Narey supports much of what is planned by the government and makes a strong defence of the concept of end-to-end management:

"I have never been in any doubt that having a single offender manager to determine what we do with offenders in and out of custody is the key to making improvements in our crime reduction work."

End-to-end management is supported by most contributors to the consultation, including NAPO and the Prison Reform Trust. However, Narey argues that the original conception of NOMS was that it would be introduced alongside an evening out of the prison population. Narey argues that NOMS cannot be a success unless prison numbers stabilise at a manageable level.

Developments in 2006

The plans to introduce NOMS have continued into 2006, as the government proceeds with its proposals. These up-to-date proposals will be outlined, but prior to that, it is necessary to understand the changing criminal justice context and the increasing public disquiet with the perceived failings of the probation service.

The work of the Probation Service has received a much higher public profile in 2006, due to the publicity given to a number of incidents where serious violent crimes have been committed by offenders under probation supervision. The most prominent of these incidents was the murder of banker John Monckton at his home in London, by two convicted offenders, Damien Hanson and Elliot White, who had been released early from prison and were being supervised in the community. The Inspection Report into this incident revealed failings in probation supervision at both an individual and organisational level. Closely following on from this, four of the six men convicted of the murder of Mary-Ann Leneghan were revealed to be under the supervision of the probation service at the time that this murder took place. A forthcoming report into the supervision of Anthony Rice, a convicted sex offender who committed a murder while subject to probation supervision, is also expected to reveal mistakes and failures in the system (Doward et al, 2006). The cumulative effect

of these reports has been to reduce public confidence in the Probation Service, and to increase the pressure for reform. The Home Secretary, Charles Clarke, has linked the introduction of NOMS to the need to improve the current system, and it appears likely that the Bill will receive much more attention as it proceeds through Parliament than would otherwise have been the case.

The government provided a formal response to the consultation process in March 2006 (Home Office, 2006), in advance of legislation that is expected to be published in May 2006. With regard to contestability, the government acknowledged that, although there was support for the involvement of other providers from the voluntary sector, its original proposals had not been popular. In particular Probation Service respondents considered contestability to be synonymous with privatisation. Many within Probation are ideologically opposed to profit-making companies being involved in the criminal justice system, others were concerned that it might pose a risk to public safety. The government, however, remains committed to contestability.

The government also re-stated its commitment to end-to-end offender management, with a single named officer taking responsibility for the management of all services provided to the offender. There was no real opposition expressed to this idea. The proposal to separate offender management from the delivery of interventions did receive a more mixed reception, but the government still intends to proceed with it.

Conclusion

Although the Bill to create NOMS has not yet been introduced to Parliament, or even published, it would be wrong to assume that the change process has not begun.

Senior appointments, including a National Offender Manager and Regional Offender Managers, have been made and the work to set up the structures of NOMS is proceeding at a fast rate. Despite the forthright opposition from within the Probation Service the government is determined to introduce contestability into probation work. End-to-end management, a much more popular proposal, also appears to be the preferred future way of working. The next eighteen months, which will lead into the Probation Service's centenary in 2007, look to be crucial in determining the future direction of probation work. It is clear that the changes to be made will continue to attract both a high degree of professional opposition and public interest.

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