



Speech

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14:10 -14:50 Panel Session – Modernising Probation Services and Alternative Sentencing

Good afternoon, and thank you for the invitation to speak at this magnificent and most fitting venue, the Tower of London. I do hope that all from both near and far are not too troubled by the Tower's past role in executing – literally in some renowned cases - the orders of the state. That is in the long distant past, when a call to the Tower was to be resisted at all costs. We can be at ease today, but nevertheless there are instruments of torture and other grim reminders to be seen here, least we forget how far justice has come.

In this session, with others I am speaking of modernising probation services. I intend to say a little about the expectations we have of probation services, and then speak of how things are at the moment before looking to the future. Rob and others will take a different stance and I hope that together we provide food for thought.

Those already familiar with UK arrangements must bear with me as I explain briefly for others that in 2014, our government made profound changes to probation services, extending probation supervision for the first time to offenders released from prison sentences of under twelve months (over 40,000 people each year¹). Now, over 250,000 adults are supervised by probation services annually, and all offenders released from prison on licence are subject to supervision. In addition, since May 2015, in an initiative known as 'Through the Gate', probation services must provide offenders with resettlement services while they are in prison, in anticipation of their release.

Probation services were formerly provided by 35 self-governing Probation Trusts working under the direction of the National Offender Management Service. They are now provided in a mixed economy model, with an expectation of greater involvement of the third sector. Government wished to promote innovation in probation services, and in June 2014, under the *Transforming Rehabilitation* programme, probation services in England & Wales were divided into a new public sector National Probation Service and 21 new privately-owned Community Rehabilitation Companies (CRCs) providing services under seven-year contracts with a lifetime value of about £3.7bn.

¹ Figures relate to releases from determinate sentences of less than 12 months during 2015 (excluding 15-17 year olds). Source: Offender Management Statistics, Ministry of Justice, October 2016

Earlier this year the National Audit Office reported that government had successfully restructured probation within ministerial timescales and without major disruption to services. The current published performance data for the NPS and CRCs also look promising in many respects.

And yet, on field inspections we are finding a mixed and troubling picture, as we evaluate the extent to which the enduring requirements we all have of probation services are being met. The National Probation Service is generally performing to an acceptable level (albeit there are exceptions) whereas CRCs are generally struggling to deliver consistently well.

So for example, we see CRCs making further changes to their newly implemented operating models, and of course managing change and change again distracts from overseeing the day job. We see the intended wider supply chains much less developed than expected, with less than anticipated third sector involvement. We are not yet seeing a wealth of innovation in interventions, or a wealth of new and promising endeavours designed to change lives for the better.

What is more, we see some concerning shortcomings in the quality of services delivered – in what is actually being done. When we ask ourselves why the picture is so troubling, we can identify some of the underlying reasons.

The new expectations of probation providers are demanding.

Providing services to a new cohort – those who serve sentences of less than twelve months - has not been straightforward. Their needs are complex, and meeting them is not always within the grasp of the CRC. Accommodation for example is in short supply for all. They tend to be the more prolific and troubled offenders, less receptive to rehabilitation and indeed, like the Ravens here in the Tower, they can tend to go missing. Recall rates are notable.

Similarly, Through the Gate services require persistence and good joint working, and for the moment those arrangements appear the least well-developed.

The transition to the mixed economy model has been challenging.

Some longstanding difficulties were not addressed before *Transforming Rehabilitation*, most pressing the poor standard of the IT. CRCs inherited legacy systems that are dated and lack functionality. As they invest in new systems alongside managing other aspects of transformation, CRCs find themselves struggling with the Ministry of Justice's data protection and other system requirements. Implementing modern day systems is taking longer than intended, but we should welcome the much needed investment and underlying ambition, nevertheless.

Some of the new operating models have proved challenging and some are testing for staff – new ways of working are not always welcome, most particularly when reducing numbers or changing the roles of professional staff. Teething problems sometimes prevail and CRCs can find themselves changing their model before it has bedded in fully, because in practice they find difficulties with it *or* because of new financial pressures.

Reduced work volumes and income

NPS caseloads are higher and CRC lower than anticipated, with that shortfall varying between 6% and 36%. There is a consequential effect on CRC income and a high level of uncertainty about immediate and future funding. Government is reviewing the financial model, and of course CRCs would welcome more income or at least more certainty. Many feel constrained at the moment, unable to make firm supply chain commitments and instead having to consider again whether staffing levels are affordable.

Contract pressures and the range of expectations

CRCs are focused necessarily on meeting their contractual requirements. Those requirements are generally task orientated, rather than more qualitative in nature. The available data provides some necessary assurance to funders that tasks are being done, but as a consequence and given other pressures and constraints, we generally find that CRC immediate focus is too often on measured tasks, with staff supervision, training and quality assurance often taking a back seat.

Again, government is reviewing the contract measures in an attempt to redress the balance but of course, as contract expectations need to be sufficiently specific, demonstrable and measurable, this is not straightforward, and tensions arise as between what can be measured and what we may reasonably expect of the quality of work, and the underlying standards that should underpin quality services.

I mentioned earlier our enduring expectations of probation services. We expect to see that the public are protected, the sentence of the court is served, and individuals are rehabilitated so as to reduce the risk of reoffending but in practice we find the quality of CRC services variable at best. For CRC providers, these expectations are now over-layered with more immediate, task-related expectations set by contract and monitored closely.

What is more, with the clear expectation that providers would innovate, and with permissive orders enabled by the Rehabilitation Activity Requirement, the place of more traditional probation standards and expectations is less clear, less immediate and less pressing. I find this troubling.

Standards and expectations

On inspection we are finding some staff and managers confused as to what is expected of them. I believe this confusion stems at least in part from an unclear relationship between the seeming new freedoms in the new world, the more immediate contract expectations and then the enduring standards and expectations I speak of.

But when I look to see those enduring standards and expectations clearly stated, I find a mixed picture of national and international standards. Our national standards are not comprehensive, and some would argue that they have not kept abreast of recent developments in expectations (for example, expectations of Through the Gate provision and effective Rehabilitation Activity Requirement Order practice). But they reflect a philosophy from earlier this decade, a view that stated standards constrain discretion and freedoms.

I am increasingly uncomfortable with that, and question whether a better balance can be struck as between freedoms on the one and standards on the other. As I consider that I find comfort in the Council of Europe Rules. I find them appealing, as they capture key research findings and evidence based principles. I find them readily understandable and relevant to current delivery models and practice, as they include organisational, staffing, inter-agency and practice elements, and I find them pitched well, covering those aspects of quality that are most essential and enduring, while leaving scope for innovation. They are balanced across domains which are discrete and coherent, and what is more I believe they can support objective, consistent judgments on the quality of services provided.

And so as we look to the future, and how UK probation services can best be supported (and challenged) to provide good quality probation services, like others I await the outcome of the government's Probation Services Review. But I also see the place for stated standards and expectations alongside the freedom to innovate, and warm to the Council of Europe Rules.

Let us see what can be done. As we continue to develop our inspection methodologies, I believe stated inspection standards and expectations have their place alongside simplified contractual measures, and may well clarify expectations about the professional standard and quality of services to be delivered. That could provide much welcome clarity for those leaders and staff struggling to reconcile conflicting expectations.

Thank you. Thank you for listening.

ENDS