



Speech

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Sentences, sentencing and probation in the new world

Good afternoon and thank you so much for inviting me to address what I believe to be the first meeting of the Probation-Sentencer Liaison Network. It is a privilege to do so in this impressive College building at the heart of Middlesex University, built in 1939 in the grand, neo-georgian style.

Sentencers and probation professionals have worked together and alongside each other since time immemorial – or at least since 1876, when probation services first began. In that year, Hertfordshire printer Frederic Rainer, a volunteer with the Church of England Temperance Society wrote to the society of his concern about the lack of help for those who come before the courts, and he donated five shillings (25p) towards a fund for practical rescue work in the police courts. The Society responded by appointing two "missionaries" to Southwark court with the initial aim of "reclaiming drunkards". This formed the basis of the London Police Courts Mission, whose missionaries worked with magistrates to develop a system of releasing offenders on the condition that they kept in touch with the missionary and accepted guidance.

Ten years later, The Probation of First Time Offenders Act allowed for courts around the country to follow the London example of appointing missionaries, but very few did so. The 1907 Probation of Offenders Act offered some encouragement, in that it gave the missionaries official status as "officers of the court", later known as probation officers, but government gradually became rather disaffected with these missionaries – seeing them as 'often not well educated, and their temperance orientation - securing attendance to church and encouraging pledges to avoid alcohol - overshadowed proper probation work'. That said, it was not until 1938 and as this building was built, that the service was established on a proper footing as a professional, public service. So, our association is not so ancient, after all. As with this building, it is easy to assume it is older than it is.

Enough of the past, as we are here to talk of the present and the way this established relationship works now, in what you have called the new world. Many of you will have much more everyday experience of this than me, and experience of many years, and so I hesitate to give my own views, and will happily stand corrected. What I do have to say is taken from my short experience so far as Her Majesty's Chief Inspector of Probation, and from the inspections we have undertaken during and since the implementation of the new delivery arrangements for probation services.

We first inspected the implementation of Transforming Rehabilitation in 2014 and produced our fifth and final TR implementation report in May this year. In each report we consider the relationship and working practices as between three key players – the NPS, the CRC and the court and its sentencers.

Back in Autumn 2014 we found there were significant challenges in getting the court end processes working as they should. More positively, the quality of reports provided by the National Probation Service to courts supported sentencing proposals appropriately, but communications between the three key players were still developing. Arrangements have developed since then of course. Let me speak of court reports first of all, and then go on to communications between the three key players before touching, finally, on sentencing.

Court reports

In the last of our Transforming Rehabilitation implementation inspection reports in May this year, we found that courts reports varied in quality, with written reports generally much better than reports presented orally.

Unsurprisingly, assessments were generally better for cases allocated to the National Probation Service than to the Community Rehabilitation Companies; these are the higher risk and Multi-Agency Public Protection Arrangement cases and were more likely to have been adjourned for a written report, allowing the author more time to gather information.

In some cases the risk of serious harm presented by the offender was not fully assessed, sometimes because checks had not been made to find out whether there were concerns about child safeguarding or domestic abuse, or the results of such checks had not been received. Where information was missing at the point of sentence, this should have been recorded on the allocation documentation, but was often missing or not always read by the responsible officer to whom the case was subsequently assigned. In addition, in some cases there was no written record of the oral report which had been presented to the court.

Some court staff had not received sufficient training, and lacked confidence in completing the necessary assessments. Some report writers did not know enough about the work offered by the local Community Rehabilitation Company, which made it difficult for them to propose interventions most likely to address the offender's problems. Sometimes they proposed a rehabilitation activity requirement 'to address offending behaviour', rather than a more targeted proposal which would help the responsible officer assigned to the case quickly to plan the appropriate work.

As you know, the new arrangements put an increased emphasis and dependency on the quality of court reporting, and this has been proving problematic, in part due to the demands of speedy justice. Oral reports are increasingly common, but a good system record and domestic abuse and child safeguarding checks are needed in all cases, so as to inform sentencing and enable Community Rehabilitation Companies to focus promptly and knowledgeably on the work needed to reduce reoffending. In addition, court staff need to be sufficiently aware of what Community Rehabilitation Companies can offer so as to advise the court appropriately in relation to rehabilitation activity requirements, a common feature of course of community sentences.

Let me expand, and also give you an example of how these arrangements can work sufficiently well. Under the new probation service arrangements there is a fault line between the NPS and CRCs, with NPS staff preparing court reports that both sentencers and CRCs rely on. More than 40% of these are oral reports (to meet the needs of speedy justice).

At the moment reports vary in quality, with written reports generally much better than reports presented orally. Sometimes checks are not made to find out whether there are concerns about child safeguarding or domestic abuse, or the results of such checks are not received in time. And sometimes those writing reports do not know enough about the work offered by the local CRC, making it difficult for them to propose interventions likely to address the offenders' problems.

Hats off then to the team in Hull, Humberside, where the Court administration staff initiate children's services and domestic abuse checks at the earliest opportunity and indeed when we inspected we found that on the overnight lists of those appearing in court the next day, they had already been marked with tiers, risk status and relevant information needed for court duty. This included information about domestic abuse and breach.

We also observed discussions between the Court team and a range of people, including ushers, solicitors, and the CPS. The discussions included sharing information about individuals in the cells about whom the NPS had not been informed. Court staff were confident, known throughout the court and were knowledgeable and well regarded. They were approachable and they used their authority well, we thought.

There was a good level of information provided by children services and the police, and the Court staff were proactive. So we saw telephone contact with DRR workers about the suitability of a DRR proposal for Crown Court. We also saw good use made of previous information known about offenders, and staff were astute in picking up where there were potential issues, including mental health concerns.

In short, the staff had good processes, and had a really good understanding of them. They were well regarded and respected, they were thinking ahead, making the most of the good relationships they had established, and they were assiduous. They were well led. But of course, we will not find this everywhere. We are now inspecting probation services delivered by the NPS and CRCs in individual PCC areas, and let see what we have found in our two most recent inspections.

In Derbyshire we found that overall, courts had well-established processes in place to enable the completion of quality reports, supported by full and accurate risk assessments. Court work had been prioritised within the NPS. The NPS team was seen as being well-organised and efficient in delivering work for the court. The magistrates and the Judge to whom we spoke were positive about the service received from probation staff at court. Magistrates considered that on the day reports were helpful, comprehensive and thorough. In the main, they felt confident about following the proposals in reports. They were routinely offered the full range of sentences including unpaid work, curfews and programmes.

In our last adult probation services inspection in Kent, we found the NPS struggling in many respects but even so, Court reports were of a good standard overall. The reports we saw had proposals that focused on the right issues in four out of five cases. We thought that the overall assessment (at the point of allocation) in relation to reducing reoffending was sufficient in 73% of cases, and it was clear that those that worked in the court were thought to be delivering a high quality service.

We will continue to look at the quality of court reports in every adult probation services inspection we do. We know there will be problems, and shortfalls in some areas and where we find that, we will make recommendations for improvement, but if our recent inspections are indicative then court work and court reports are improving.

Of course, our recent inspections may not be indicative. We do want to know whether they do represent the position more widely, and before leaving court reporting and moving on to communications, I should say that to reassure ourselves and others, we

are conducting a thematic inspection of court work, and court reporting. I am sure you will be interested in what we find, and in any recommendations we make.

Communications

Let me turn now to communications between the three key players. By May this year, and in the last of our series of TR implementation reports, we found that those communications had improved. Certainly the National Probation Service and Community Rehabilitation Companies were working and communicating better together than they were in the months immediately following implementation, although there is always room for improvement and of course there will be local variations.

So for example in our recent inspection of services for women who offend, published last month, we found Magistrates and District Judges were generally positive about their working relationships with the National Probation Service staff. They told us that they were normally able to obtain sufficient information from pre-sentence reports on women, to inform sentencing decisions.

They commented, however, that reports were not usually female-specific and did not differentiate the needs of women from those of men. This mirrored our findings, in that we found that it was not always possible to tell the individual's gender from reading the report. And sentencers lacked information about interventions specifically designed for women, in particular rehabilitation activity requirements and local support services. We found that concerning, of course, and I will come back to rehabilitation activity orders shortly.

Sentencers also felt they lacked information about outcomes for women, and the progress they were making following their court orders. They said they would welcome regular updates of aggregate information and trend data. Suggestions included regular newsletters, joint meetings, or informal feedback sessions.

Despite these expressed concerns, in that inspection we found some excellent examples of good communications practice and in the time I have left today I will mention three in particular, as they relate not just to communications about women before the court. Rather, they are examples of how communications can work well more generally between the three key players (NPS, CRC and sentencers) and more widely.

Probation Liaison Committee: Camden

The Camden Probation Liaison Committee is attended by the District Judge and six magistrates, together with NPS senior managers. There are bi-monthly newsletters for magistrates, with updates on probation service matters. Good links exist between the legal team and probation staff. Within the court there is a community advice desk, with a debt clinic, housing advice and signposting to services. Early morning awareness-raising sessions were about to be introduced as we inspected, and this was welcomed by sentencers.

Probation liaison meetings: Wrexham

In Wrexham, probation/magistrates liaison meetings are held twice per year, covering a range of topics. Sentencers had a very clear understanding of the profile of women

who offended in their area and the types of offences they committed, incidentally, and they also felt that good information was provided about voluntary sector services and also substance misuse services. A mental health worker was present when the court was sitting, and sentencers were able to consult with probation court duty staff if specific information about a case was required.

Links with mental health services: Brighton and Bristol

We have found strong links with mental health teams in both Brighton and Bristol. In Brighton, mental health workers together with police community liaison officers meet with service users where necessary, either in police custody or in the magistrates court. In Bristol, sentencers felt they received good and timely information from the mental health team. This gave them the confidence to consider recommendations for community sentences for women with complex mental health needs.

We provide details of these examples in our Women's thematic report, and hope that those involved in criminal justice find that they stimulate thought, and action where it is needed to improve communications.

Sentencing

Let me end by touching on sentencing, and one type of order in particular, as I was asked to speak about sentences, sentencing and probation in the new world. In this new world we have a new type of order, the Rehabilitation Activity Requirement order – in effect an umbrella order, with CRCs able to design interventions to suit individuals sentenced to up to a specified number of RAR days.

We are aware that sentencers' confidence in these orders varies, most especially if you are not sure what interventions, what work will be undertaken with the offender, and whether or not that work is likely to be effective in reducing reoffending. We are interested in Rehabilitation Activity Requirement orders, and how they are working in practice, and indeed we have thematic inspection in hand. Field work is well underway, and we expect to publish our findings in the spring.

And here we are doing something a little different. We will publish our report, yes, but we will also publish our view on what good RAR looks like. We will set out in a separate document what we expect to see, and what we judge is acceptable as CRCs implement RAR orders, so that all CRCs can see and refer to that, as they consider and evaluate their own practice. And over time, we hope that this will make it more likely that good RAR activity is delivered consistently, and consistently well so that sentencers can have more confidence in these orders.

Conclusion

Probation started as a volunteer service with the initial aim of 'reclaiming drunkards'. The service and our expectations of it have moved on. We now expect probation services to protect the public, ensure the sentence of the court is served, and to reduce reoffending. Probation work can get off to a good start if court reports are comprehensive and well prepared, so that sentencers can sentence confidently and appropriately. Communication between the key players before, during and after sentencing has a critical role to play.

We will continue to inspect and report on probation services, and play our full part in both reporting good practice, and driving improvement where it is necessary in sentencing and probation in the brave new world.

Thank you. Thank you for listening.

ENDS