



Speech

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Good day, and thank you very much for inviting me to be with you today.

The Chief Inspector of Probation, Dame Glenys, had hoped to do the honours here today, but she has been detained down south, doing media work for a significant thematic inspection report we are publishing tomorrow. She sends her sincere apologies and regrets. I know she wished very much to be here, not least as her first experience of probation inspection was here in Chester-le-Street: not in this fine building, Lumley Castle, but in the Salvation Army premises in town.

I know that Glenys was delighted to see the range of excellent work represented in the certificate winners, and thrilled as well for the award winners on this occasion. Glenys always argues that good probation and rehabilitation services are not delivered by probation alone, and that people need help from their families, mental health professionals and others. In her view, starting in prison - and most particularly for short sentence prisoners - the real prize is to find, sustain and build on those things that support an individual on his release. Accommodation, yes, but also family relationships, and help with mental health, addiction and debt - and once a person is released, finding ways in which to continue to encourage that individual to live and think differently, just as Running for Recovery is doing.

Our prize winners today are doing just that, focusing on those things each individual needs to have some chance of changing their lives for the better, and I share Dame Glenys' delight in their hard work, their collaborative approaches, their real successes, and the recognition given today by these awards.

I know Dame Glenys would not wish me to miss the opportunity to talk with you more broadly about probation, and to give you an insight into how things stand at the moment, as the Ministry of Justice is just closing its consultation on the future arrangements for probation services.

We know already that government has decided to reduce the number of Community Rehabilitation Companies and increase the number of NPS divisions, and to change the contractual arrangements and expectations set for CRCs. For this region it means change, and the creation of a bigger CRC area.

The timetable for these changes is not settled yet, but we appreciate very well at the inspectorate the uncertainty and anxiety that probation staff and their leaders will already be experiencing. We know that staff trust in the system is low overall; that much rides on how well the transition is managed; and we will do all that we can to influence transition planning – because we appreciate that the service must retain as many competent and

skilled probation staff as possible, and keep them motivated, to continue to deliver, through and beyond the transition.

In speaking with Dame Glenys about today, we both thought it might be most helpful to speak with you now about two things in particular: some of the drivers in the system that we think are shaping government thinking about the future of probation services, and then some of the systemic issues in probation where we would like to see action, and change. Let's start with three key drivers.

In December 2017 we reported fully on the differences in the quality of work, as between the NPS and those CRCs where we had inspected (that is, most CRCs). Our inspection data and information show a two-tier probation service, with those under supervision by the NPS receiving better quality supervision overall. That is not to criticise or judge Durham Tees Valley CRC: when we last inspected here, back in 2016 we found much good work as well as room for improvement. But nationally, the picture is poor overall.

And then more recently, the Justice Select Committee reported on *Transforming Rehabilitation*, unconvinced that the current arrangements could ever deliver an effective or viable probation service. In short, there is plenty of evidence to show that the current arrangements are not working as they should and that across England and Wales as a whole, change and improvement are required.

Secondly, judges and magistrates report that they lack confidence in community sentencing and the implementation of those sentences in the community. This is a worrying position, with sentencers inclined more than would otherwise be the case towards prison and suspended prison sentences.

Government will wish to bolster sentencer and public confidence. There is a key cost driver of course, given that the Ministry of Justice estimates that it spends about £35,000 on each prison place each year. But there is also a strong research evidence base to show that community sentencing is more effective at rehabilitation and reducing sentencing, when compared with short prison sentences.

Ministers know that to increase judicial and public confidence, they must take steps to improve the delivery of community sentences, and ensure more purposeful activity happens more often with those serving community sentences. Government needs to be able to show that community sentences (including unpaid work) are delivered well, that risks to the public are managed well and that orders of the court are delivered, in full and as intended.

One might think all this could be done within existing CRC contracts, and CRC arrangements, but I am afraid not. That brings me to a third driver. Government recognises that CRCs have been under-rewarded under the existing contracts, and that those contracts are structured in ways that make it extremely difficult to now reward well enough what is actually required of CRCs, to make a material difference to the lives and life prospects. There is a chance to reward CRCs better and also to structure the contracts so that it is much more likely that all CRCs will deliver good quality work, and work purposefully and effectively with those under probation supervision.

Moving now to systemic issues in probation – and here, I hope that those of you not from probation will bear with me. I'd like to mention three issues, all apparent from our routine inspections. There are many others I would love to speak about, but time is short I know.

Firstly, changes in responsible officer. Continuity of probation supervision is so important in our view, to enable the individual and his probation worker to form a supportive, challenging and enduring relationship. We have found surprising levels of change in responsible officer, and this is one area where we have found not much difference as between the NPS and

CRCs. On inspection we find that only one in two individuals are supervised by the same officer throughout their case. In 5% of cases there had been three or more officers.

There are a number of reasons for this, but the most prevalent is staffing – and poor staffing levels overall. Government has the opportunity to change that, as it moves to new delivery arrangements for probation services, and we are urging government to make provision for minimum professional staffing levels, in future.

Secondly, we have seen a notable the reduction in the use of accredited programmes and other types of evidence-based interventions since the implementation of TR. We will be reporting tomorrow, for example, on the relatively low use of the Building Better Relationships programme for domestic abuse perpetrators, when it is the only available accredited programme.

Why is this? Instead, we are finding probation staff without sufficient training on the supervision of domestic abusers, and resorting on occasion to looking on the internet for ideas. This cannot be as it should be. In our view, accredited programmes and evidence-based interventions have their clear place, and need to be reinstated.

Thirdly, the provision of the specialist services locally that different individuals need, and that are so commonly provided by the voluntary sector. These can provide help to find accommodation, or something as niche as help to write a CV and to prepare for a job interview. The point is, they are needed, they are essential ingredients in the rehabilitation of offenders. Yet we have found that the third sector is less involved than ever in probation services, despite its best efforts, when many under probation supervision need the sector's specialist help, to turn their lives around.

There are reasons for this. CRC finances have not worked out as intended, and many have had to make difficult choices between one expense or another. Specialist providers often wish to do more for individuals than a CRC is prepared to pay for, when CRCs are uncertain about future income, and risk hefty financial penalties for failure to meet contractual targets. And central guidance and controls over subcontracting have been contentious and are perceived to be bureaucratic, making it off-putting for all.

It is an exasperating situation. Third-sector providers remain eager to work in the sector, and we have found the quality of their work reasonable overall. Provision is thin, however, and set to get thinner still, as CRCs continue to review and slim down provision. Government is now talking with the sector, and consulting on the best ways to enable the sector to play a much fuller part in probation delivery, and we very much welcome that.

There are other systemic issues we could talk about of course, but I don't want to depress you too much – especially when we are here to celebrate success, rather than focus on the problematic. Can I end then, by congratulating once again our winners, and indeed all participants today. It is a complete joy to leave the everyday issues behind for once, and celebrate the best of things, here in Chester le Street.

The voluntary sector

The voluntary sector has long delivered specialist services and interventions (such as mentoring, or bespoke services for women) for those under probation supervision, working alongside probation trusts and their predecessors, but now came new expectations: that the third sector would play a key role in delivering probation services, and that probation providers would innovate, and find new ways to rehabilitate offenders¹.

¹ 2010 to 2015 government policy: reoffending and rehabilitation <https://www.gov.uk/government/publications/2010-to-2015-government-policy-reoffending-and-rehabilitation/2010-to-2015-government-policy-reoffending-and-rehabilitation>

Government expected that CRCs would be a mix of third sector organisations (such as mutual organisations) and privately-owned companies, but early hopes that voluntary sector organisations would wholly own CRCs dissipated, when it became clear that they were reluctant or unable to bid because of the financial guarantees required. A competitive process of tendering resulted in the awarding of contracts to eight owners. A Sodexo/NACRO² partnership owns six CRCs, but of the others, only one is owned by an owner from the third sector.

Nevertheless, third sector organisations could still provide services, through CRCs. CRCs can fulfil many of their Through the Gate obligations through sub-contracted providers, should they choose. In any event it was assumed and expected that in their day to day work, CRCs would work with a diverse range of local sub-providers coming very largely from the third sector, to provide specialist rehabilitation services in a timely way, to meet the diverse needs of all those under probation supervision.

Statutory partners

We know that to be most effective, probation services need joined-up local partnership working with statutory authorities, as well-managed partnering approaches and multi-agency working are a necessary feature of good probation practice.

The Ministry of Justice expected all probation providers to continue to work with statutory partners, much as before. In practice, this hasn't always been straightforward, as all statutory partners are now working with two probation partners (the local NPS division and local CRC) with different working practices and priorities. However, appropriate working arrangements are by now established, in most if not all areas.

Separately, the Ministry of Justice encouraged third sector organisations to register their interest in working with a CRC, although CRCs were free to develop their supply chain in such a way as to support their individual service delivery models. Her Majesty's Prison and Probation Service would have oversight of the supply chains through their role as contract managers of the CRCs. Best practice in subcontracting was encouraged through adherence to Ministry of Justice designed Industry Standard Partnering Agreements, known as ISPAs.

Transforming rehabilitation in practice

The NPS and CRCs have inter-related responsibilities, and there is an assumption that in NPS cases, the NPS will purchase specialist services locally from CRCs. Those services are to be selected from the range of specialist rehabilitation services developed by CRC as suitable for all under supervision (by either the CRC or the NPS) or else particularly directed at one group or another. Indeed, the only way an NPS division can directly commission rehabilitative interventions is from the local CRC. Each CRC keeps a list of what is on offer and the fee for each service on offer in a document known as the rate card.

Specialist services (interventions)

Probation trusts and their predecessors were formerly obliged to spend a proportion of their money on external (third sector) providers. Although initially controversial this proved an effective way of introducing specialist provision into probation services.

However, CRCs contracts do not require CRCs to commission services from the third sector or from others. In practice, CRCs have the freedom to meet specialist needs as they wish, and to offer as much or as little as they wish to the NPS for purchase.

Two CRCs started with the intention of providing specialist services in-house, using their own staff. But I recollect that in our inspections immediately post Transforming

² NACRO is a criminal justice charity

Rehabilitation, most CRCs expressed to us their ambitious plans for extensive supply chains and a good range of specialist services, to meet the diverse needs of those supervised by probation services. Sadly, these plans have not come to full fruition.

Instead, CRCs have available a limited range of services, and those providing those services tell us they are being cut back, and that provision is not secure. I am concerned about that, about the fact that already, some individuals under probation supervision wait many months for a much-needed service or are not offered it at all. And so we are now undertaking a thematic inspection of CRC supply chains, to get to the root of things.

Two things are already apparent to me. Firstly, some CRCs tell us that financial insecurity and funding difficulties lead them to hesitate to commit to commissioning services from third parties. Some are making or have made difficult choices between the extent of services they commission and the number of professional staff they can afford to employ. Although CRC contracts are not open book contracts – the financial detail is not in the public domain – but I have little doubt that some CRCs are having to make these hard choices.

Provision varies across CRCs. We find drug and alcohol misuse interventions are provided in eight or nine cases out of ten, when needed. But in South Yorkshire we found that almost two-thirds of individuals under probation supervision were not getting the drug misuse services they needed, and more than three-quarters were missing out on the alcohol misuse services they needed. Such poor provision may cause those early temperance folk to turn in their graves.

Secondly, there was never any one body responsible for the stewardship of specialist services nationally. To a variable extent, probation trusts and those before them assumed responsibility and nurtured local provision, with the wider probation value chain in mind. There is still no one body with that stewardship responsibility, but post *Transforming Rehabilitation* the dynamics have changed.

The continued availability of much needed specialist services is at increased risk because they are not being commissioned or otherwise funded at the levels expected. CRCs supply chains are much thinner affairs than first envisaged. We have not found any evidence to suggest that, in the fast-paced work to implement *Transforming Rehabilitation*, this potential difficulty was foreseen.

The key tenets of probation services: a value chain

I have touched already on the central place of local relationships with key statutory partners – the courts, the police, and local authorities for example. They are important, they remain important, they have a central role in the value chain for probation services.

I have also spoken of the importance of specialist services, available locally and in a timely way to meet the diverse needs of those subject to probation supervision. Probation workers cannot do it alone, in so many cases.

These two things – local strategic partnerships and the provision of specialist services – are two key tenets of effective probation services. And there is a third key tenet: a trusting, supportive, challenging, enduring professional relationship between the probation worker and the individual under probation supervision. And so we should ask ourselves the impact of *Transforming Rehabilitation* has had (if any) on that relationship.

I have expressed before my concerns about individuals supervised by some CRCs being seen in open booths or in other places lacking sufficient privacy. I have also expressed before my concerns about those CRC operating models that provide for up to four in ten individuals to be supervised remotely, for example by six-weekly telephone contact. As one of our inspectors put it to me last year: you don't change people by not seeing them. Indeed we

know of no evidence base to suggest that remote supervision works on its own to reduce reoffending or manage the risk of harm effectively.

And what of workloads, caseloads and the vexed question of continuity of probation worker – for that enduring relationship between the probation worker and the individual under supervision?

NPS staff numbers have increased since inception, and the organisation uses a workload management tool to estimate the extent to which each probation worker is under or overworked. Save in Kent and Suffolk, we have found NPS staffing levels broadly acceptable. NPS probation workers commonly carry about 25-40 cases each.

CRCs are tightly staffed at best, and although many aim for sensible caseloads for professional probation staff, we find some CRC leaders accepting of our view that the CRC is very clearly understaffed. CRC probation workers commonly carry 50–90 cases each, and sometimes more. By way of example, Suffolk CRC aimed for caseloads of between 55 and 70, but last year we found much higher caseloads in practice: staff held up to 106 cases.

There is no set formula, but we do not believe probation workers can actively manage more than 50 or 60 cases effectively and safely at any one time.

Junior probation staff providing telephone-only supervision commonly carry 160–200 cases, and sometimes notably more. In Gloucestershire CRC, for example, we found junior staff were expected to be responsible for about 160 cases each, but were actually carrying 190-200 cases each, due to temporary staffing problems. There is no set number of cases that any one individual can manage (as cases vary so), but such high numbers are simply untenable in our view.

A key question is whether workloads affect the probation worker's ability to do a good job, taking into account the profile of the cases and the range of work required. On inspection, about one in two NPS staff tell us that their workload was so high that it hampered their ability to provide a high-quality service, while this rises to seven in ten for CRC staff. But on a key measure, the number of changes of probation worker during the period of supervision, our early data shows the NPS and CRCs to be broadly comparable, with two or three changes of officer. We are keeping a close eye on that.

So what does all this tell us about how best to commission probation services?

As I said when I began speaking, I am no expert on commissioning. But I am incautious enough to offer a few reflections, observations and considerations for those who may design, configure and commission probation services in future.

The role of probation services and our expectations of it have changed since the temperance folk and since the days of advise, assist and befriend. There are enduring expectations – that probation services will protect the public, reduce re-offending and ensure that the sentence of the court is served. But often enough, probation services are engaged with others locally in addressing complex and seemingly intractable societal issues, as well.

If probation services are delivered well, they make a big difference to those receiving them and to wider society. About a quarter of a million people are supervised each year. If all these services were delivered well there would be less reoffending and fewer people being returned repeatedly to prison. The prison population would reduce, there would be fewer people living on the streets, and fewer confused and lonely children, with a smaller number taken into care. Men women and children currently afraid of assault could lead happier, safer lives.

These things matter to us all, and bring me to my first observation, that together, the enduring expectations of probation and our wider expectations are enormously difficult to contractualise, and to reduce to simple measures of achievement.

Let me finish now with a few other observations for those considering commissioning conundrums.

1. Firstly, before pressing ahead with commissioning, it makes sense to think in terms of design principles, in my view. Rather than getting bogged down (or hooked up!) on questions of publicly-owned or privatised services, it is wiser in my view to consider what the delivery model must be able to achieve. So for starters, and by way of example design principles – and by no means a complete set of design principles - I suggest the probation delivery model should:
 - Ensure the environment and facilities support productive engagement between the probation worker and the individual;
 - Ensure continuity of engagement between the probation worker and the individual;
 - Maximise engagement of skilled probation officers with service users TOGETHER with the use of evidence-based principles to deliver a targeted rehabilitation plan linked to the risk of reoffending.
2. Secondly, in my view, whatever the model for probation services in future, it stands the best chance of success if it nurtures, protects and enshrines the key tenets of probation, those three things at the centre of the value chain for probation. To remind you, they are strong local strategic partnerships, the timely provision of a good range of specialist services to meet the diverse needs of those under probation supervision, and the central relationship between the probation worker and the individual under probation supervision.
3. Professional standards matter, and should be given a central role. I am delighted to be producing inspection standards for youth offending and probation services, developed consensually with YOTS and probation providers through workshops nationwide and a national consultation exercise.
4. To have the best chance of success, any model for probation delivery needs to be sufficiently well-funded.
5. Finally, incentives drive behaviours. Payment by results work best when the measure that triggers payment is sufficiently direct (directly attributable to the work of the organisation) and sufficiently immediate, so as to influence behaviour now. And ultimately, payment mechanisms must be sufficiently fair.

I am afraid my time is up, but I hope that what I have said has stimulated debate and questions – even it is just to put me right on any matter you think I have misjudged!

Thank you. Thank you for listening.

[ENDS]