



COMMUNITY JUSTICE FILES 27

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Reform of Community Sentences and Probation Services

The two recent consultations on community sentences and probation services have now closed but, given their content a summary of the proposals and some of the published responses will be of interest to readers.

Punishment and Reform: Effective Community Sentences

This consultation document has three sections: tough and effective punishment; reparation and restoration; and rehabilitation and reform.

As part of tough and effective punishment there is a proposal to develop Intensive Community Punishment, which will include a combination of Community Payback, an electronically monitored curfew, exclusion, a foreign travel ban, a driving ban, and a fine. It is also intended that the purpose of all community sentences should be punishment and that all should include a 'distinctly recognisable punitive element'. The consultation includes a section on extending the use of electronic monitoring, both in terms of the extent and purpose of its use, including tracking the movements of offenders. The paper presents ambitions to extend the use of technology more broadly in the punishment and management of offenders. Greater use of fines is to be encouraged, both as a sentence on its own and combined with other community sentences, and probation officers are seen to have an important role here by more frequently recommending such options to the courts. They should also provide information about offenders' means to enable the court to ensure 'that the punishment is fair and the relative impact of the fine on each offender is substantially the same regardless of that offender's means'. Sentencing guidelines will also be reviewed to give the courts more flexibility in the fines imposed. Enforcement of payment is an issue that will be addressed, and resources will be allocated to the development of a commercial partnership to improve this, though the report does say '[we] are also drawing on behavioural approaches to look at other influences and incentives to encourage offenders to pay their debts promptly'.

The reparation and restoration section includes a commitment to build capacity and capability for restorative justice (RJ) in the community and in custody, including substantial training for staff in probation and prisons. The Thames Valley Partnership Restorative Justice Services will develop best practice templates for the effective introduction, implementation and delivery of face-to-face conferencing across prison and

probation services. Pre-sentence restorative justice will be supported by 'working with one or more local areas to test pre-sentence RJ processes to establish when it would be appropriate, how it can be carried out and how it influences the views of the court'. There is a stated commitment to increasing the role of victims in the court process by reinforcing existing provision, though nothing new here with local innovation being seen as the best way forward. There are, however, plans to extend the imposition of compensation orders alongside community sentences as reparation for the victim rather than punishment for the offence.

Rehabilitation and reform highlights the use of payment by results as the way to improve the effectiveness of 'offender services', with pilots running for four years from 2013. The needs of women offenders are given specific consideration in this section, though through reference to the potential positive impact of proposals elsewhere in the CJ process rather than any specific provision. Drugs and alcohol, and mental health related offending receive special attention, with proposals for more drug recovery wings in prisons and police custody liaison services. There are plans to extend the range of drug and alcohol treatments, with consideration being given to the introduction of compulsory sobriety schemes, initially in the form of pilots.

Compliance with the requirements of a community sentence is also an issue addressed in the paper, with a proposal to create a new option for offender managers of giving a financial penalty without returning the offender to court.

Punishment and Reform: Effective Community Sentences can be found at:
<https://consult.justice.gov.uk/digital-communications/effective-community-services-1>.

Punishment and Reform: Effective Probation Sentences

This paper essentially describes proposals to introduce competition into the delivery of 'probation services'. Probation Trusts will hold devolved budgets and become the commissioners of services and responsible for the local delivery of 'better outcomes to protect the public and reduce reoffending'. The Trusts will retain direct provision of court reports, the initial risk assessment of all offenders and the supervision of high risk offenders. All other work with lower risk offenders will be open to competitive tendering, increasingly incentivised by payment by results. This may result in a reduced number of Probation Trusts.

Punishment and Reform: Effective Probation Sentences can be found at:
<https://consult.justice.gov.uk/digital-communications/effective-probation-services>.

Responses

A range of organisations have published their responses to these documents.

The Prison Reform Trust welcomes many of the proposals, but adds several notes of caution. They are particularly concerned that the focus on the punitive aspects of sentencing could be counter-productive: first, because the rhetoric may reduce rather

than increase public confidence in community sentences; and second, because the stringent compliance procedures could well result in more breaches of orders. They believe that probation services should remain in the public sector for several reasons, perhaps the most important of which is that risk is a dynamic concept that can change suddenly creating difficulties for case management. See:

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/effective%20probation%20services.pdf>

and

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/effective%20community%20sentences.pdf>.

NAPO (National Association of Probation Officers) expresses its commitment to a public sector Probation Service promoting best practice in probation work and highlights the punitive elements that currently exist within community sentences. It welcomes some aspects of the proposals but is concerned about the impact of competition in relation to, amongst other things, public protection, rehabilitation, risk assessment, and staffing. See: <http://www.napo.org.uk/about/news/news.cfm/newsid/202>.

HM Inspectorate of Probation argue that the proposals for offender management could 'compromise public safety' and that this responsibility should remain with Probation Trusts in the public sector. They point to recent inspections of Multi-Agency Public Protection Arrangements (MAPPA) and Integrated Offender Management (IOM), which highlighted the complexities of multiple agencies working together on cases and the dynamic and changing nature of risk, and remind us that most of the serious further offences that have occurred have initially been assessed as low or medium risk and changed circumstances have increased that risk. At the same time, they support the proposals for increased commissioning by Probation Trusts. See:

<http://www.justice.gov.uk/downloads/about/hmiprob/response-probation-review.pdf>.

Perhaps unsurprisingly, the Restorative Justice Council has responded positively to the proposals, presenting a range of arguments in support of pre-sentence RJ, in particular that it has already been substantially trialled and evaluated as successful, and had a better rate of offender participation than post-sentence RJ. They argue the need for a legislative framework to enable this to happen, with complementary training for sentencers. See: http://www.restorativejustice.org.uk/news/help_make_restorative_justice_available_from_the_first_opportunity/.

It's Complicated: The Management of Electronically Monitored Curfews

This report by HM Inspectorate of Probation presents the results of the follow-up to a criminal justice joint inspection of electronic monitoring (EM) in 2008. Its findings, coming as they do at a time when the latest government proposals for sentencing include increasing the number and range of electronic monitoring of offenders, give cause for concern. In her foreword, the Chief Inspector of Probation, Liz Calderbank, says:

[C]urfews applied in recent years have only rarely been used to best effect. In the vast majority of cases in our sample, the curfew was unrelated to the circumstances of the offence. We saw very few instances where it had been imposed specifically to stop the individual from doing something, or was part of a strategy to address their behaviour. Such an approach would require thorough assessment at the pre-sentence stage, something which now only appears to happen in a limited number of cases ... [I]naccuracies in information conveyed by courts to the probation service or the electronic monitoring provider ... are sufficiently serious to undermine the efficient management of cases.

The results of this inspection call into question the government proposals on two grounds. First, on the expectation of comprehensive assessment of all offenders before sentence: this inspection found that more than 70% of community orders with electronic monitoring had been made without a pre-sentence or other report or proper assessment of home circumstances. Second, on proposals to change the management of cases: the report highlights problems in communication between the various organisations involved in managing EM.

It's Complicated: The Management of Electronically Monitored Curfews can be found at: <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmiprobation/joint-thematic/electronic-monitoring-report-2012.pdf>.

Putting Victims First: More Effective Responses to Anti-Social Behaviour

This White Paper, recently published by the Home Office, presents government plans for responding to anti-social behaviour, which it states 'still ruins too many lives and still damages too many communities. It is time to start putting victims first and it is time to put a stop to anti-social behaviour.' The strategy is described as three-fold:

- First, supporting local agencies to focus their response to anti-social behaviour on the needs of victims by helping agencies to identify and support high risk victims; giving frontline professionals more freedom; and improving understanding of the experiences of victims.
- Second, supporting people and communities in establishing what is and isn't acceptable locally and in holding agencies to account by: (i) introducing the Community Trigger, which will give victims and communities the right to require action to be taken where a persistent problem has not been addressed; and (ii) introducing Community Harm Statements that make it easier to demonstrate the harm caused by anti-social behaviour.
- Third, introducing new powers that enhance agencies' ability to deal with anti-social behaviour in public places, including a civil injunction that

agencies can use before an individual causes serious harm; a new court order that requires anti-social individuals to 'stop their behaviour and address its underlying causes'; simpler powers to deal with 'quality of life' crime and to close premises that are a magnet for trouble; and speeding up the eviction of anti-social tenants.

There is also a stated intention to 'focus on long term solutions to anti-social behaviour by addressing the issues that drive much of it in the first place – binge drinking, drug use, mental health issues, troubled family backgrounds and irresponsible dog ownership'.

Putting Victims First: More Effective Responses to Anti-Social Behaviour can be found at: <http://www.official-documents.gov.uk/document/cm83/8367/8367.asp>

Economic and Social Research Council Reports

The ESRC (Economic and Social Research Council) has recently published a couple of reports that may be of interest to readers:

Me and my befriender: exploring adult/child befriending relationships This study explored the views and experiences of a range of children involved with befriending projects in Scotland and England. The briefing describes the value of befriending relationships for children, particularly those living in difficult circumstances, and highlights the need for more male befrienders to work with both boys and girls. See: <http://www.crfr.ac.uk/reports/crfr%20briefing%2060%20web.pdf>

Understanding Society: Findings 2012 This report has been published from a major longitudinal survey study of the socio-economic circumstances in 40,000 UK households. Beginning in 2009, the study consists of year-by-year interviews about participants' working and personal lives. Topics include health, experiences of crime, personal finances, bringing up children, involvement in local community, working lives, and views and outlook, including about the political system. This recent report includes sections about staying out late and risky behaviours among 10-15 year olds, and young people's experience of the employment market. See: <http://research.understandingsociety.org.uk/files/research/findings/Understanding-Society-Findings-2012.pdf>

Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act

The content of this Bill, which has now received royal assent, was discussed in Community Justice Files in our previous issue (Volume 9, Issue 3). See: <http://www.justice.gov.uk/legislation/bills-and-acts/acts/legal-aid-and-sentencing-act>

Open Justice: new website

This new government site is described as 'bringing together some of the key facts and real stories about different aspects of criminal justice; including sentencing and sentences, restorative justice, prison and probation'. Designed as a means of communicating with

the general public and receiving their feedback, the site is a useful location for current statistics about courts, sentencing and re-offending. See:

<http://open.justice.gov.uk/home/>

Statistics about Race and the Criminal Justice System

The requirement to publish statistics about race in the criminal justice system was introduced in section 95 of the Criminal Justice Act 1991. Since then, they have been regularly produced as full statistical reports. The latest report for 2010 is now available. The report shows that Black, Asian and mixed ethnic groups continue to be over-represented as offenders in all stages of the criminal justice process, and also as victims. At the same time, the number of racially motivated incidents recorded by the police has fallen and the number of staff from BME backgrounds in criminal justice agencies remains low. See:

<http://www.justice.gov.uk/statistics/criminal-justice/race>

and [http://www.justice.gov.uk/downloads/statistics/mojstats/stats-race-cjs-2010.pdf/](http://www.justice.gov.uk/downloads/statistics/mojstats/stats-race-cjs-2010.pdf)

FORTHCOMING EVENTS

Innovation in Probation Practice: past present and future

Napo Centenary Conference. 15-17 July 2012, York.

<http://www.napo.org.uk/resources/events/event.cfm/eventid/56>

Reframing Punishment: Opportunities and Problems

3rd-5 September 2012, Mansfield College, Oxford.

<http://www.inter-disciplinary.net/probing-the-boundaries/persons/reframing-punishment/details/>

Criminology in the 21st Century: A necessary balance between freedom and security.

European Criminology Conference. 12-15 September 2012, Bilbao, Spain.

<http://eurocrim2012.com/>

Seminar Probation in, with and through the community

17-19 October 2012, Belfast, Northern Ireland.

<http://www.cep-probation.org/news/254/664/seminar-probation-in-with-and-through-the-community-uk>

Annual Youth Justice Convention 2012

22-23 November 2012, Birmingham.

<http://www.neilstewartassociates.com/li306/>