

## **COMMUNITY JUSTICE FILES 26**

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### **The future role of the Probation Service**

On 13 October 2011, the Government published its response to the Justice Committee inquiry into the role of the Probation Service. Accepting the need for probation professionals to have greater professional discretion, it recognised the complexity of the work of the probation service, 'most notably the difficult balance to be struck in making community sentences truly challenging, while ensuring that offenders are enabled and motivated to meet that challenge'. It also accepted the need for greater resources to be focused on front line services, while simultaneously eradicating any back room inefficiencies. However, the Government was less willing to accommodate two specific conclusions drawn by the Committee.

First, the recommendation that the Ministry of Justice develop a measure to compare re-offending outcomes following prison and community sentences was questioned. Rather, a lack of consensus generally on what evidence base should be drawn upon to ensure a robust evaluation of the outcomes of prison and community sentences suggests a much wider discussion should take place.

Second, the recommendation that all sentences, whether to be served in custody or in the community, should be commissioned at local level, was considered impractical. Given that the demand for custodial places is prone to surge at different times and in different places, the National Offender Management Service is better equipped to meet the challenge.

The Government concludes its summary response by emphasising the need to meet the challenges of the future by 'looking at a range of options for service improvements and different models for delivering offender services within the community'. Specific measures to bring this about include 'increasing competition, taking forward payment-by-results, and changes to wider structures and accountability at local level, as well as with the Government's priority to open up public services to a range of providers, including mutuals'. Notwithstanding the specific responses to the Justice Committee report outlined above, such general intentions have provoked concern recently that measures designed to increase competition between the public, private and voluntary sectors could lead to the fragmentation of core probation services. For example on 14 November 2011, the Probation Chiefs' Association stated that:

*The Justice Committee was positive about probation in its review published in July. Our service has just become the first public sector organisation to win the British Quality Foundation's top business award. The latest reducing reoffending figures are showing positive trends. We saw no need for a probation review. We believe that the core of probation work - advice to courts and the management of offenders - should be undertaken within the public sector. It is vital that this work be kept together to ensure informed advice to courts and avoid fragmentation of supervision, which would increase the risk of public protection failures and undermine the prospects of rehabilitation.*

*The Government Response to the Justice Committee's Report: The role of the Probation Service* can be found at:

<http://www.justice.gov.uk/downloads/publications/corporate-reports/MoJ/government-reponse-role-of-probation-service.pdf>

### **The Legal Aid, Sentencing and Punishment of Offenders Bill**

On 20 December 2011 the Legal Aid, Sentencing and Punishment of Offenders Bill was debated for a first day in committee. Primarily concerned with legal aid and litigation funding, the bill also proposes important reforms to the sentencing and punishment system. Intended in part to reduce prison numbers and support the introduction of effective rehabilitation, as outlined in the Green Paper *Breaking the Cycle*, the bill includes:

- the abolition of the indeterminate sentence of imprisonment for public protection (IPP),
- extending the criteria for suspended sentence orders,
- the removal of barriers to the use of the Mental Health Treatment Requirement, and
- restrictions on the use of remand.

Broadly, these provisions have been welcomed for recognising the need for more effective ways of dealing with offenders. However, other provisions have been criticised for lacking coherence and failing to deliver a more progressive approach to sentencing. For example, the Criminal Justice Alliance has raised concerns about the negative impact of the following:

- the extension of mandatory sentencing;
- the introduction of mandatory custodial sentences for 16 and 17 year olds convicted of certain knife crime offences.

- extending curfew hours for those serving a community sentence to a new maximum of 16 hours per day;
- the imposition of conditional cautions by the police without referral to the Crown Prosecution Service.

On the amendment to introduce a new mandatory life sentence for a second very serious violent or sexual offence, and a mandatory minimum sentence of four months' imprisonment for 16 and 17 year olds convicted of certain knife offences, Gemma Lousley, Policy and Campaigns Officer for the Criminal Justice Alliance, has recently argued in an article for the Huffington Post (3 November 2011) that mandatory sentences contradict effectiveness and proportionality, two foundational principles highlighted in *Breaking the Cycle*:

*As concluded by the last major government-sponsored review of sentencing, the Halliday Report, there is no empirical evidence for the effectiveness of deterrent sentencing. As longer-than-normal sentences that aim to deter potential criminals through their very severity, they also very clearly disrupt proportionality. Mandatory sentences also undermine proportionality by fixing a blanket penalty for certain offences, rather than allowing sentencers to take into account the specific circumstances of an offence and impose an appropriate sentence on the basis of this.*

The consequence of all of this for the future prison population remains uncertain. While recently published prison population projections for 2011-17 predict that the prison population will remain relatively stable at between 83,100 and 94,800, it is accepted that the projections take no account of any impacts resulting from the implementation of the Legal Aid, Sentencing and Punishment of Offenders Bill.

The Criminal Justice Alliance briefing for the committee stage of the Legal Aid, Sentencing and Punishment of Offenders Bill can be found at:

[http://www.criminaljusticealliance.org/docs/CJALASPO\\_LordsCommitteStage20-12-11FINAL.pdf](http://www.criminaljusticealliance.org/docs/CJALASPO_LordsCommitteStage20-12-11FINAL.pdf)

The Ministry of Justice 'Prison population projections 2011-2017' (published 27 October 2011) can be found at:

<http://www.justice.gov.uk/downloads/publications/statistics-and-data/mojstats/prison-pop-projections-2011-17.pdf>

### **Ministry of Justice publishes quarterly bulletin on proven re-offending statistics**

Following a consultation in 2010 on improvements to the transparency and accessibility of Ministry of Justice information, a new quarterly bulletin on the measurement of proven re-offending has been published. Based on a new single framework, the bulletin provides re-offending figures for offenders who were released from custody; received a non-

custodial conviction at court; received a caution, reprimand, warning; or tested positive for opiates or cocaine during the period between January and December 2009. Prior to this there were six different measures of proven re-offending: national adult proven re-offending, local adult proven re-offending, national youth proven re-offending, local youth proven re-offending, Prolific and other Priority Offending (PPO); and drug-misusing proven offending. The new single framework is designed to form a clear picture of proven re-offending at national and local levels; and to compare adult and youth results. It also enables comparisons by gender, ethnicity, criminal history, offence type, serious proven re-offending, prolific and priority offenders and drug misusing offenders; as well as sentence length, individual prison, probation trust and youth offending team. The report shows that between January and December 2009, the overall one year proven re-offending rate for adults was 26.3% and for young people 32.8%.

The Ministry of Justice *Proven Re-offending Statistics Quarterly Bulletin, January to December 2001, England and Wales* can be found at:

<http://www.justice.gov.uk/downloads/publications/statistics-and-data/reoffending/proven-reoffending-jan-dec09.pdf>

### **First reports on August riots published**

The Home Office has published a report of recorded crimes including arrests following the riots in August. The report shows that acquisitive crime accounted for 50% of all recorded crimes and that 89% of all arrestees were male, 46% were aged 18-24, and 26% were aged 10-17. The full report can be found at:

<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/overview-disorder-aug2011/overview-disorder-aug2011?view=Binary>

The Ministry of Justice has published statistics on those brought before the courts following the riots. This shows that 35% of adults were claiming an out of work benefit at the time of the disorder, compared to 12% of the working age population in England; 42% of young people were in receipt of free school meals, compared to 16% of all pupils in maintained secondary schools; and 66% of young people were classified as having some form of special educational need, compared to 21% of all pupils in maintained secondary schools. The full report can be found at:

<http://www.justice.gov.uk/downloads/publications/statistics-and-data/mojstats/august-public-disorder-stats-bulletin-241011.pdf>

The Cabinet Office has published a report by the National Centre for Social Research which addresses the involvement of young people in the riots. The report identifies three common motivations: excitement, opportunity and conflict with the police. The report considers the findings in relation to wider situational, personal, family, community and social factors. The full report can be found at:

<http://www.cabinetoffice.gov.uk/news/independent-riot-motivation-findings-published>

The Independent Riots Communities and Victims Panel have published its interim report which identifies a perceived lack of confidence in and antipathy towards the police as a

primary cause of the riots. It also considers the extent to which people were encouraged to act collectively in response to televised images and social media. Overall, it concludes there is a definitive link between rioting and social deprivation. The full report can be found at:

<http://www.5daysinaugust.co.uk/PDF/downloads/Interim-Report-UK-Riots.pdf>