

THOUGHT PIECE

'Thought Pieces' are papers which draw on the author's personal knowledge and experience to offer stimulating and thought provoking ideas relevant to the aims of the Journal. The ideas are located in an academic, research, and/or practice context and all papers are peer reviewed. Responses to them should be submitted to the Journal in the normal way.

A SOCIAL APPROACH TO THE PROCESS OF REHABILITATION

Tracey McMahon, author, currently serving a suspended sentence

My experiences within the Criminal Justice System have helped me to become a feature author on Criminal Law & Justice Weekly and a copywriter and translator currently working on the key areas in the Criminal Justice System regarding rehabilitation, employment and housing. I have previously had a suspended sentence supervision order and am currently subject to a second suspended sentence, this time without any orders attached. After a period of homelessness, I successfully picked up my business, approaching clients and being honest about my situation. After living on my mother's sofa for three months, I worked and was able to save up enough money for my own apartment. I am now in the process of registering a foundation to help those who slip through the net of the Criminal Justice System. There are gaping chasms in the CJS and there is not enough concentration on those who do make a success of their rehabilitation period. I am working and writing for the oldest law journal within the UK and have good support in the setting up of my foundation. With James Timpson of Timpson (a well-known employer who is actively involved with the employment of ex-offenders) as Patron, and UKCriminalLaw blog as ambassador to the foundation, I have made the most of my rehabilitation period and continue to do so.

This article raises my concerns around the Transforming Rehabilitation consultation paper proposed by the Ministry of Justice in January 2013. I aim to highlight concerns around the reforms detailed in the consultation paper. The government's approach to reducing the re-offending rates is commendable, however as will be shown, there are concerns around the approach from a social aspect. It is clear that the social problems associated with offending and re-offending behaviour need addressing and the consultation paper appears to miss the most vital areas such as employment, housing and addiction

problems. A more considered approach to the social problems caused by offending behaviour would cover the victim's well-being and address rehabilitation needs on a more sustainable level. If people are to be sentenced to custodial sentences, then as a society, we have a duty of care to ensure that offenders can re-enter society as rehabilitated individuals. For those who are released back into the community or serve a sentence in the community, the social aspect is very relevant. On completion of a sentence, re-entering communities is vital and if we ensure that communities welcome offenders back rather than be fearful, then society as a whole improves. I have been welcomed back into my community and experienced nothing other than support. Treating offenders as pariahs of society instils fear and worry within communities. The current consultation paper does nothing to address anything but a small area of the social issues associated with offending.

Overall Concerns

Rehabilitation has never existed in England and Wales. Rehabilitation should begin on the day of sentencing. The sentence is the punishment and within the punishment, rehabilitation can effectively run concurrently. Re-offending rates appear to be higher in those who are sentenced to shorter sentences either within the community or custodial sentences. In prison, due to resources being cut, there is little to show that any rehabilitation begins. Rehabilitation is a process, not an event and can only be achieved by the offender and supported by the Probation Service which is tasked with the management of offenders within the community. If rehabilitation is left until the end of the sentence, then for many, there is little incentive to rehabilitate. A more considered approach is required to assist repeat offenders into re-thinking their life. Simply locking them up for less than six months does not work and can never work. It is of little benefit for anyone and in my own sentencing, the sentencing judge made this very clear to me.

The concerns over Payment by Results are high. The current privatisation plans for Probation are a major concern for all I come across. The Probation Service is a national institution that has delivered results and achieved good outcomes in the management of offenders within the community. I include myself in this as I only came across dedicated probation officers who supported me wholly in my own rehabilitation. Moving offenders and repeat offenders from the current public-owned services to be managed by the private sector will in my view place the onus on offender managers to achieve payments by results as opposed to laying the responsibility of rehabilitation with the offender or re-offender. Rehabilitation and the process of leading a life without resorting to crime can only come from the person with the support of an offender manager they can approach, as I was able to. The incentive for me was my own wish to lead a decent and honest life. Discussing this with my offender manager was helpful, after we had explored why I was resorting to offending behaviour. It didn't take money or further punishment. Serving the sentence is my punishment; the rehabilitation process I am currently in is that of my own doing. I took a choice to not re-offend and my current sentence has no orders attached.

Substance Addiction

Substance addiction is one of the key areas of re-offending behaviours for many communities. There has never been more support for those who are addicted to illegal substances yet the re-offending rates are high in those who are repeatedly going through

the doors of Magistrates' Courts. Unless the root cause of the addiction is addressed as part of rehabilitation there is little cause for any offender with a substance addiction to abstain. The addressing of any addiction has to be paramount in order for an offender to abstain from a life of repeat offending behaviour to support continual addiction needs. During my time as a homeless person I came across those who perpetually re-offended in order to support their addiction needs. This enabled me to study from the ground-up what is obvious to me. The cycle is not broken and therefore repeat offending behaviour continues. A more considered approach to this is needed. Rather than punishing the addictive behaviour, support and encouragement can help to release the body and the mind from its addictive state.

Homelessness

It is no secret there is a housing crisis in the UK. Having experienced homelessness myself, albeit a short-lived period of around two weeks, I applied to 29 agencies that would not help me due to my not having a claim to any benefits. Sentencing offenders to short-term prison sentences contributes to homelessness in that it is impossible for an offender to maintain a home from prison. In only a matter of weeks, a person can lose a home and more support is needed in this area. In-reach services are required for those who are on shorter custodial sentences to maintain homes. There are clear chasms in the housing situation in this country. The private rental sector is a runaway train and with the asking of large deposits it is virtually impossible for those who leave prison to move from a hostel into a home of their own where responsibility with support to sustain a tenancy is given and problems can be addressed as they arise. I now successfully sustain my own home, pay my bills, earn an income and do not claim any benefits at all. I have achieved this in five months. The security of a home is paramount to assist the rehabilitation process. Giving sentencers more power to impose shorter sentences will only add to pressures that are immense for any offender hoping to rehabilitate.

Employment

Securing employment is a major problem for those with criminal convictions, and more so due to the tyrannical Disclosure & Barring Service (DBS) that is currently in place (McMahon, 2013). While I appreciate the need for screening, with over 9 million people in the UK with a criminal conviction, the current service is one that is preventative of gaining employment for those who have a conviction. I am self-employed with a registered sole trader business and am able to sustain my own employment within my remit. Unemployment rates are high within the offending community and this contributes to the cycle of re-offending behaviours. While there are companies who claim diversity in many areas, those with a criminal conviction who are obliged to disclose those convictions by law are in essence barred from employment - a further obstacle to rehabilitation. More has to be done on working on this area to enable re-entry into the employment world.

Conclusion

I appreciate that there need to be vast improvements in re-offending rates and helping offenders to rehabilitate; however, sentencing offenders to prison for a shorter term as a punishment is not the answer. There are far too many people in prison for non-violent minor crimes who have social problems as opposed to being a danger to the public.

Concentration on the needs as described above, are issues that are rarely mentioned in the consultation paper. Re-offending is a social and costly problem, therefore unless the social issues are addressed, more punishment will not work.

References

McMahon, T. (2013, October 12th). The Tyranny of the Disclosure and Barring Service.
Criminal Law & Justice Weekly, p. 672.