

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.

TRANSFORMING REHABILITATION: EVIDENCE, VALUES AND IDEOLOGY

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I'm writing this at Heathrow, on my way home from the first World Probation Congress in London on 8-10 October 2013. For me, it was a bittersweet event. Sweet to learn about and to celebrate what probation is and can be – at its best; bitter to be doing that at the very moment that the UK Government dismantles a world-leading, globally-renowned, award-winning public service with such a proud history.

On the first day of the conference - but at a separate event organised by User Voice - I was asked what my fears are about Transforming Rehabilitation (TR), specifically from a research-informed or evidence-based perspective. In one sense, that's a difficult question to answer. Since Transforming Rehabilitation is really about disestablishing probation, it is quite hard to advance a strictly 'evidence-based' response. It is impossible to experiment (in the strict sense) with criminal justice institutional arrangements, so there is no 'evidence-based' organisational structure for probation. That said, there are many arguments that can be made about which structures might best facilitate or impede desistance. And that's where my fears arise.

Firstly, TR seems to me to be based on several fundamental misconceptions about risk. Many informed commentators have noted the dangers of creating an organisational structure that reifies risk classifications; that assumes people can be easily or sensibly classified for any period of time as high, medium or low risk. They have also pointed out - repeatedly - that most 'serious further offences' by people under supervision are carried out by those classified as low or medium risk - not necessarily because the assessment and classification was wrong, but often because risk is dynamic and situational; it is *always* changing.

My concern with risk is a slightly different one. Ever since NOMS has elected to pursue a policy that resources should follow risk, it has slipped into the assumption that people who present a high risk of *harm* require the most intensive supervision. In one sense they do – public safety demands that they be closely monitored. But the ‘risk principle’ in the ‘what works’ research said something quite different; i.e. that people who presented a high risk of *reoffending* - whatever the likely gravity of their crimes - required (and benefited most from) intensive interventions. The reason was obvious. People who offend persistently tend to have very complex personal and social problems and it takes considerable time and skill to address those problems in a way that reduces risk. Yet TR seems to me to be built on the assumption that people who represent a low or medium risk of *harm* (but who often represent a high risk of *reoffending*) don’t need skilled and intensive support – that their supervision can be safely delegated to less experienced, less skilled and less qualified supervisors or supporters. While desistance research certainly does suggest a potentially important role for peer mentors, other volunteers, friends and family in supporting change, it also makes abundantly clear that for people who have offended *persistently* (but not necessarily *seriously*) desistance is a complex and uncertain process - a long and winding road that requires skilled navigation. TR diminishes the likelihood of skilled navigation (for reasons I’ll elaborate further below) at the same time as making the route between services more complex and elaborate.

My second major fear also flows directly from research evidence. Skilled navigators can’t enable and support change by themselves. First and foremost they need to be able to engage with the people doing the changing. That sounds simple, but it is no small task to develop relationships of trust with people whose relationships with others – often especially with authority figures – have often been, at worst, abusive and traumatic and, at best, inconsistent and difficult. In those circumstances, the process of building trust is hard enough for those with shared experience or with professional skills. It is made easier where legitimacy is conferred or more often earned by demonstrating the sorts of human values so important to probation practice (and to user voice organisations). My fear is that marketisation may be poisonous in this inter-personal process. A pecuniary contract preoccupied with achieving targets that generate financial rewards is not a recipe for trust and engagement; it is a recipe for service users *feeling* and *being* objectified as a potential income source – or, worse, as a waste of time and effort.

My third fear is also related to the logic of the market, but in a different way. I alluded above to TR’s creation of a more complex set of arrangements for service provision and delivery. This refers not just to the potential movements of service users between the rump National Probation Service (as and when fluctuating risk requires it) and the contractors/consortia but also to the complexities of the partnerships involved in delivery within and across regions – and of their relationships with related services (in health, education, employment, housing, etc.). In short, this seems like a recipe for disruption and fragmentation, when desistance research points to the necessity of coordination, consistency and continuity in supporting change.

To make matters worse, competition creates new problems of intellectual property and commercial interest that risk the creation of a whole new set of silos; not this time the familiar silos of public sector bodies failing to cooperate (a perennial problem, I admit, but

not one solved in any way by TR), but rather the silos of commercial competitors looking for an edge. That raises questions about the future of research-informed and evidence-based practice. First and foremost, private companies want to increase profits and shareholder returns and to grow their market share. If, as some of them argue, it is innovation and quality (and not just efficiency/cost reduction) that will drive profitability, then innovation and quality will be highly prized, and carefully guarded. Market logic demands that they will not be disposed to sharing their best ideas. An optimistic (or naïve) fan of the free market might say that this means that all will be driven to improve in a frenzied quest for quality and competitive advantage, but that means that they all have to waste time and (public) money individually inventing innovations instead of cooperating. Or maybe the qualitatively best contractor ends up as a monopoly provider, in which case market logic itself suggests that the end of competition will ensure that complacency sets in and quality atrophies.

An alternative and more likely outcome is that as soon as private contractors realise that there are no easy fixes or cheap ways of securing PbR outcomes (except perhaps by resort to the familiar problem of ‘gaming’), companies or consortia will have to make their money in the more familiar fashion - by recruiting inexperienced and unskilled staff and by overburdening them so as to drive down costs (compare the recent inspection report on HMP Oakwood). In this approach, they make money not on unpredictable outcomes but on reliable volume of business; which leads of course to an even swifter abandonment of quality. It also creates an incentive to ‘grow the market’; that is, to lobby for increases in the numbers of people subject to supervision, just as some private prison providers in the USA encouraged mass incarceration.

However, my ultimate fear is even more fundamental. I fear that privatisation and marketisation will corrupt criminal justice. I don’t mean corruption in the obvious sense of people criminally carving up a quasi-market through bribes or other more subtle inducements or frauds (though that is an inevitable and serious risk in any and every market). Rather, my fear is that by *transforming rehabilitation* from being a moral good into a market good, something central to justice will be lost. Doing justice is not a task that we should contract out because it is a civic duty that citizens owe to one another. When we seek to sell off our mutual obligations to one another, we weaken the moral bonds between us, because we treat as merely instrumental things that are in fact constitutive of ‘the good society’. Rehabilitation is one such good; it is a duty that citizens owe to one another. Those that offend owe it to those they have offended. Those that punish also owe it to those that they have punished. Is it really desirable that we seek to meet these obligations merely by paying others to do it for us? My view is that rehabilitation is best thought of as being everyone’s concern and no-one’s business. Transforming Rehabilitation risks turning it into some people’s business and no-one’s concern.