



Reducing Re-offending:

Creating the right framework

Victoria Barbary

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Prepared by NLGN
First floor, New City Court, 20 St. Thomas Street, London SE1 9RS
Tel 020 7357 0051 . Email info@nlgn.org.uk . www.nlgn.org.uk

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Introduction

A key failing of the criminal justice system is that a majority of offenders in Britain will go on to commit another crime. Almost half of all offences are committed by people who have already been through the system.¹ Of those prisoners released from custody in 2004, 65 per cent re-offended.² The financial costs to society are also high. A report by the Social Exclusion Unit in 2002 estimated that re-offending by ex-prisoners costs £11 billion a year.³

The Government have signalled their intention to address this problem. In 2004, the National Offender Management Service (NOMS) was created to bring together the prison and probation services. It was given responsibility for reducing re-offending, and set a target of reducing the rate by 5 per cent in 2008 and 10 per cent by 2010.

Further to the creation of NOMS, the Offender Management Bill forms a key part of the Government's strategy to reach this goal. The central aim of the Bill is to reduce re-offending by improving how offenders are managed and

supervised. It details new arrangements for the provision of probation services. The Bill, which was published on 22 November 2006, recently passed its third reading in the House of Commons with a majority of 25 votes. This narrow majority reflects some fundamental opposition to aspects of the Bill, in particular, the aim of ending the public sector monopoly on probation services.

This paper examines whether the proposals contained in the Offender Management Bill will enable the Government's system for managing offenders to effectively reduce re-offending. It assesses the proposals contained in the legislation, and as the Bill's reforms are bound up with the development of NOMS, the service's delivery structure will also be examined.

After outlining the Government's policy priorities on re-offending, this paper explores whether their reforms will deliver against these priorities. Has the Government devised a system capable of delivering on their targets?

The argument put forward here is that the Government has missed an opportunity because their reforms are too centralist.

There is a better framework for delivery to reduce re-offending. The solutions to break the cycle of re-offending are at a local level. In line with the approach of Local Area Agreements (LAAs), giving local partnerships a strengthened role in reducing re-offending would be more effective at delivering on the Government's priorities.

1 Home Office (2006), A Five Year Strategy for Protecting the Public and Reducing Re-offending, London: Stationery Office

2 Home Office (2007), Re-offending of adults: Results from the 2004 cohort, <http://www.homeoffice.gov.uk/rds/pdfs07/hosb0607.pdf>

3 Social Exclusion Unit (2002), Reducing Re-offending by Ex-prisoners, <http://archive.cabinetoffice.gov.uk/seu/page95ba.html?id=263>

Government priorities to reduce re-offending

The most coherent strategy produced by the Government to reduce re-offending was the Home Office document of February 2006. A Five Year Strategy for Protecting the Public and Reducing Reoffending.

Their approach was influenced by a Social Exclusion Unit report of 2002 Reducing Re-offending by ex-prisoners. This latter report highlighted the failure of prison to rehabilitate offenders. Inmates often face complex and inter-related problems, including drug and alcohol addiction, mental health and learning difficulties, unemployment and homelessness. The reduction of re-offending, it implied, was not only an issue for the criminal justice system, but also for social policy. The research demonstrated that employment reduces the risk of re-offending by between a third and a half and that stable housing reduces re-offending by more than 20 per cent.⁴

The report identified the most important factors as: accommodation and support; education, training and employment; health and alcohol; drugs / young offender's substance misuse; finance benefit and debt; children and families of offenders; changing attitudes, thinking and behaviour. A recent report from the Prime Minister's Strategy Unit, Building on Progress: Security, Crime and Justice has reinforced the argument that

rehabilitation, resettlement, education and employment schemes for the offender, both during and after prison sentences, are vital to reducing re-offending.⁵

Re-offending is, therefore, a cross-cutting local issue that requires a multi-agency response. Support for offenders in these areas will address many of the underlying factors that make them likely to re-offend. Ultimately, it will allow ex-offenders to change their behaviour and enable their reintegration into the community.

The Home Office's Five Year Strategy accepted this contention, arguing that addressing the inter-related problems of offenders is central to breaking the cycle of crime. The document went on to define the national policy priorities that would reduce re-offending:

- end-to-end offender management which ensures that criminal justice system and social policy support are sufficiently joined-up;
- raising the standards of all service providers in the system; and
- effective and appropriate sentencing, including the extended use of tougher community sentences.

Designing a system that delivers against these priorities will be effective at reducing

⁴ Social Exclusion Unit (2002), Reducing Re-offending by Ex-prisoners, <http://archive.cabinetoffice.gov.uk/seu/page95ba.html?id=263>

⁵ Prime Minister's Strategy Unit (2007), Building on Progress: Security, Crime and Justice, http://www.cabinetoffice.gov.uk/strategy/downloads/files/policy_review.pdf

re-offending rates. The Offender Management Bill contains a number of reforms which aim to do this:

- introduce greater contestability by allowing the private and voluntary sector to provide probation services;
- give the Secretary of State the statutory duty to make arrangements with others to provide probation services. This would be done through the National and Regional Offender Managers; and
- allow for 42 Local Probation Boards, which currently have a statutory duty to provide probation services, to be abolished and for the creation of new Probation Trusts. Probation Trusts would be one of a number of possible providers of those services under contract to the Secretary of State.

But how far do these reforms and the NOMS delivery structure meet the Government's policy priorities?

Creating a Local Framework of Delivery: Greater contestability

The Bill is designed to increase the involvement of the private and voluntary sectors in probation work. The Government believes that by so doing they can contract with a range of partners and 'harness the dynamism and talents of a diverse range of best-in-class public, private and not for profit providers, each with their own set of

special skills and expertise.'⁶ Competition, it is argued, will raise standards in probation services and get the best services possible to manage offenders.

This desire to create a 'vibrant mixed economy' has been the source of objection to the Bill. The public versus private debates are well-rehearsed and there is no need to revisit them here.

The involvement of a greater diversity of providers has the potential to raise the capacity and efficacy of probation services and will thus help to improve offender management.

Attracting and selecting appropriate providers to raise standards, however, ultimately depends on effective and intelligent commissioning. The complex and strategic nature of the procurement process requires that outcomes are clearly specified by the commissioner. Unless the objectives are sufficiently stipulated then competition will not necessarily produce results. Effective commissioning arrangements will result in a system where outcomes are plainly defined and providers can be held to account against these specified needs. The Bill does not make sufficient arrangements for these conditions.

6 Home Office (2006), A Five Year Strategy for Protecting the Public and Reducing Re-offending, London: The Stationery Office

Commissioning Arrangements: Effectively targeting local needs

The Bill proposes giving the Secretary of State the statutory duty to make arrangements with other actors to provide probation services.

This would be done through the National and Regional Offender Managers (ROMS). The 10 ROMS will be responsible for commissioning services across the custody and community divide. This responsibility has been removed from the local probation boards. A named offender manager will also be assigned to an offender at the beginning of their sentence to supervise their rehabilitation.

These changes seek to break down some of the divides between correctional services and community interventions. It offers the potential for seamless delivery for offenders, joining up support in prisons with social services support upon release.

ROMS will also commission services for those offenders on community sentences. The Government recognises that prison can sometimes exacerbate an offender's problems; consequently, in some cases, a prison sentence could increase the likelihood of re-offending.

A lengthy, well planned and properly supervised community sentence can provide a better chance of offenders' rehabilitation. Their use may well be extended if both judges' and the public's confidence in their value was bolstered by an improved commissioning framework. This will depend on the skills of ROMS who would be able to tailor high-quality

provision to meet local needs through the probation and community support services.

However, the regional commissioning arrangements are disconnected from other local services. ROMS will be required to map offender management and community intervention needs in their region and commission services accordingly. Beyond cost reasons, there is no clear rationale for why this responsibility has been placed at a regional level.

The proposals have drawn criticism from backbench Labour MPs, the Local Government Association and the National Association of Probation Officers, amongst others. They have argued that ROMS would be unable to identify local needs sufficiently from a regional level. The Government have attempted to address this by placing a duty on ROMS to consult with local government, health and other agencies. John Reid also stated in a House of Commons debate that he 'will consider ways of ensuring that the regional commissioner relates to the local area agreement'.⁷

This does not, however, fully integrate ROMS into local-level decision-making processes. Effective procurement is dependent on thorough and accurate knowledge of local needs and services, as it enables commissioners to specify outcomes clearly and to select the best provider for the service. Multi-sector alliances involving the private and voluntary sectors can be useful as regional

7 House of Commons Hansard Debate 28 Feb 2007

tools, but lack the political leadership that makes them locally responsive.⁸ In contrast, local authorities have a detailed understanding of local conditions that may not be available to private and third-sector organisations. By ensuring some degree of local government involvement in commissioning rehabilitation services, solutions could be tailored more effectively to local conditions.

Local Probation Boards, who currently have responsibility for provision of probation services (but who are to be replaced by Probation Trusts), bring more local knowledge to bear on their role. Although the 42 Local Probation Boards are arguably still too far away from the local level, members of the Board are required to have a connection with the locality. This relationship ensures that they understand crime and offenders in the area.

By its own admission 'commissioning is in its infancy in NOMS.'⁹ Its emerging structure saw the establishment of ROMS after 2004, but they have yet to prove their commissioning credentials. ROMS are still further removed from local delivery than the old Probation Boards; consequently, their commissioning work risks being insensitive to local needs and cutting across the procurement of related services.

These concerns, however, will not be

⁸ Examples of these include the 'path2work' programme in the East of England, jointly provided by Serco, Turning Point and Rainer, and the 'progress-2work' contract run by Working Links in north Wales.

⁹ National Offender Management Service (2007) *National Commissioning Plan 2007/2008: Commissioning Framework*

addressed by the duty to consult local partners and promises that the Government will consider how ROMs relate to LAAs.

As identified earlier, the organisations involved in tackling re-offending, housing departments, drug action teams and health services, are all based locally. Local authorities have well-established commissioning skills, particularly in social services. ROMs would benefit from this expertise and experience.

A more effective arrangement would involve regional and local joint commissioning. This would be informed by expertise and knowledge gained from the local authority and local service providers. It would also be in line with the partnership approach of LAAs and LSPs.

Joint commissioning at the local level would reduce the risk of duplication and enable commissioning to be more sensitive to local needs.

Probation Trusts: Maintaining local accountability

The 42 local Probation Boards that currently exist will be turned into NHS-style Probation Trusts, which will provide probation services. However, if a Trust fails to respond quickly enough to the new environment and loses too much business to support its overheads then it will cease to exist.

Probation Trusts are to be "new, smaller, more business-focused bodies", whose members

will be appointed by the Secretary of State. This replaces the current arrangements, where the board membership balanced appointed members with sentencing expertise, local councillors, and community representatives. There will no longer be a statutory requirement that members be linked to the local area, and, as a result, local accountability is lost.

A late concession to the Bill has attempted to address these issues by recommending that a locally-elected councillor should sit on each Trust. This might improve co-operation with local authorities; it does not ensure that they are an integral part of the commissioning process.

Giving an elected councillor a place on the Probation Trust does not, however, ensure accountability. Instead, a provider should be held responsible for the defined outcomes that they are expected to meet. While local Probation Boards did not represent an ideal solution, the decision to abolish them has resulted in a more centralised system. The current proposals draw accountability upwards to national government, through the National and Regional Offender Management Services. No effective argument has been made for this centralisation of responsibility.

Re-offending is an issue that affects the local population. The vast majority of crimes are committed in the offender's local area. Police recorded crime data in Sheffield showed that a third of crime trips are less than one mile; over 50 per cent consist of less than two miles and only 11 per cent involve travel greater than 10 miles. As crime is primarily local problem, the

solutions to re-offending should also lie locally.

Solutions to tackling re-offending and reintegrating offenders into the community can be resource intensive and must, therefore, have the public's confidence and consent. Local authorities have a unique understanding of, and sensitivity to, community needs and attitudes through their responsibility for engaging public opinion. They are thus best placed to create a consensus on policy, and explain where public money is being spent and why.

Restorative justice – bringing 'victims, offenders and communities together in response to a particular crime' – is an example of effective, but resource intensive and controversial policy.¹⁰ One example has been the notion that offenders should face up to their actions and make amends to their local community for their crimes by undertaking community service. This has been tried by Crime and Disorder Reduction Partnerships (CDRPs), which have ensured that responsible authorities, such as the police and local councils, interact with other local agencies and organisations to develop and implement strategies to tackle crime. Pilot studies have indicated that reparations, made as a part of a community-based sentence, are effective in motivating offenders to turn away from a life of crime.¹¹

For such local solutions to be sustainable,

10 Home Office website, Restorative Justice: <http://www.homeoffice.gov.uk/crime-victims/victims/restorative-justice/>

11 This has been piloted by Barnet Borough Council, which is establishing an extended community sentence reparation scheme through its LAA.

sentencing policy must be explained to communities to gain public consent. There are differing priorities and sensitivities between areas that must be understood if the public are to be convinced. With their links to local communities, understanding of their local area and their wider-engagement responsibility, local authorities can best perform this role. They must engage in a dialogue with the community where they are able to explain and justify the punishments handed out to offenders and the steps that offenders have had to take to make amends.

All these factors suggest that local government should be given a stronger role in reducing re-offending. It offers transparent and accountable leadership. Rather than looking upwards to national government, offender management should be more locally accountable.

This is best achieved through LAAs, which provide a structure for multi-agency working, where targets for re-offending can be shared between local agencies.

ROMS should be integrated into LAAs to set targets for re-offending with their local partners. This would make local authorities and their partners responsible for taking action on re-offending. A duty on Probation Trusts to co-operate with the local authority would help to ensure that offender management was embedded in the strategic planning of all local services.

Conclusion

This paper has outlined the Government's proposals for Offender Management. While the proposals are a step in the right direction, they will not fully exploit the expertise available at local authority level and thus will deliver less of the Government's national priorities than is possible.

If the Government wishes to increase the involvement of the private and voluntary sectors in probation work, then this must be supported by effective commissioning arrangements and clear lines of local accountability. In their present form, the Government's proposals do not fulfil these conditions as they draw accountability towards centralised national and regional structures.

A better framework for delivery would involve strengthening the role of local actors in reducing re-offending.

The Government can deliver its national goals more effectively by further reform:

1. ROMS offender management goals should be integrated within the LAA for each locality and agreed by the LSP;
2. Arrangements for the management of commissioning should permit ROMS to adopt joint commissioning approaches with tougher public-, private- and third-sector stakeholders on the LSP;
3. Final approval of commissioning strategy should lie with the same body that finalises the LAA;

4. Central government should make a commitment that, in all normal circumstances, it will use the Secretary of State's authority to vary national targets, contained in the Local Government and Public Involvement in Health Bill, so that they support LAAs
5. Central government's relaxation of national targets should be dependent on evidence accompanying LAA plans that new approaches to offender management have involved community engagement and have gained support from local people;
6. The Secretary of State should make funds available for at least ten time-limited pilot experiments with new methods of offender management and rehabilitation.