

THOUGHT PIECE

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TRANSFORMING REHABILITATION AND THE CREEPING MARKETISATION OF BRITISH PUBLIC SERVICES

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The Government's plan for '*Transforming Rehabilitation*' (Ministry of Justice, 2013a) sets out the ways in which central Government intends to send criminal justice contracts out to tender and reduce the number of offenders being directly supervised by probation services within the public sector. Justice Secretary Chris Grayling points to systemic failings and excessive bureaucracy within the current probation structure, and includes the lack of community supervision post-release for those who serve prison sentences of less than 12 months, as reasons for this shift from public to private sector provision.

The need to transform

The consultation document makes reference to 2011 figures, showing that those released from prison sentences of less than 12 month have a reconviction rate of 58% (Ministry of Justice, 2013b), and that this rate slowly increases as former prisoners try to adapt to life outside the prison walls. Grayling may have a case for transforming the management of offenders post-conviction. However, it is noted that reconviction rates for other kinds of penalty, such as community sentences managed predominantly by probation workers within the current structure, are not listed.

Although comparing the relative successes and limitations of sentence types was perhaps not within the remit of the *Transforming Rehabilitation* consultation paper, any policy proposal discussing the future, and merit, of the established probation arrangements should include an analysis of its current performance. According to the Ministry of Justice's statistics for 2010-2011, community sentences outperform short-term prison sentences (i.e. less than 12 months) in terms of re-offending rates by around 22% (Ministry of Justice, 2013b). Additionally, an analysis conducted by the Howard League for Penal Reform (2005) identified the cost of a 12-month community order as about 10%

that of a custodial sentence of the same length. If community orders are both more effective in reducing future offending, and economically more efficient, it raises the question why Grayling is not championing the extension of existing probation arrangements and calling for low-level offenders to be given sentences to serve within the community, as opposed to custody, with cost-savings being redirected to support the recruitment of additional probation staff.

The national media, particularly the tabloid press, can be a source of misinformation in relation to public confidence in, and understanding of, the content and effectiveness of community sentences. The public lack awareness of the stringent conditions, such as unpaid work, compulsory drug and alcohol treatment, and programmes designed to address pro-criminal attitudes to which those under the supervision of probation officers are subject. When coupled with press rhetoric of 'soft justice' and 'walking free from court', it is no surprise that the public lack respect for the notion of community sentences as opposed to the more punitive and retributive option of life inside prison. It should be the role of the Justice Secretary to address such misrepresentations – not to indulge them.

Creeping marketisation within the public sector

The consultation paper argues that probation services for the management of low-to-medium risk offenders should be tendered out to private and voluntary companies in order to achieve greater flexibility of practice and meet the needs of their clients. A key target in the consultation is reducing bureaucracy; however this should not be at the expense of front line practice. This appears to be the direction in which all public services are currently heading, with policy proposals commonly discussed within economic terms, as opposed to the impacts that they will have on the social and moral fabric of the country (Maruna and Armstrong, 2013).

Efficiency is a central tenant of the *Transforming Rehabilitation* consultation, best conceptualised as budget cuts, designed to reduce the quality of the service to a minimum standard in order to rationalise the creeping marketisation of our public sector institutions. By offering probation contracts to private and voluntary companies, the Government expects to get 'more for its money', at least in the short term.

The consultation document cites one project in London that has saved the Ministry of Justice £25m. It is important to ensure value for money within the public sector, and right to minimise waste in Government departments. However, with reported re-offending rates described previously, the Government needs to do more to rationalise the position that the reformation of probation services is the solution to more efficient criminal justice.

The high rate of reconviction following release from prison suggests these institutions would be a more obvious target for reform than probation, which by comparison has been performing very well. By using prisons more sparingly for low-level offenders the savings could be re-invested in areas of high deprivation (in the form of education and social housing) in order to potentially bring down incidents of first-time offending and longer-term reductions in the costs associated with criminality. Additionally, this extra funding could lead to the implementation of a key Government plan – to employ ex-offenders as

mentors to those released from prison. Adequate funding for this plan will be pivotal in maintaining good staff morale and ensuring proper training is provided to new recruits.

However, instead of this drive to improve the life prospects of current offenders, and reduce the numbers of future ones, Grayling has announced plans to build larger prisons, housing up to 2,000 adult offenders. Given that prisons are now part of the creeping marketisation of our public services, and considering the poor reports that existing privately-run prisons have received from Her Majesty's Inspectorate of Prisons, this concept of increasing expensive and ineffective prison places – referred to as the 'incarceration binge' (Hoelter, 2013) – is of concern.

It is feared that such an emphasis on marketisation and open competition will lead to a 'race to the bottom', where private companies try to undercut each other in order to win lucrative Government contracts. This may work in areas like construction, but in criminal justice the results of such a trend are potentially catastrophic, in terms of unemployment (e.g. probation staff seen as surplus to requirements), the long-term prospects of ex-offenders (who will receive sub-standard support in their path to desistance from crime), and the wider society (who will have to bear the price – both socially and economically – for increased re-offending).

Additionally, it seems likely that the 'big three' – Serco, G4S and Sodexo – will win the majority of contracts due to their current involvement in the prison system and significant up-front economic capital. This would be unfortunate and go against the Government's philosophy of free-market capitalism, promoting the power of big business (as opposed to skillful expertise) in such a crucial area.

Payment-by-results and the notion of 'complete desistance'

The consultation promises that contracts will only be awarded on the basis of payment-by-results, with organisations needing to effectively tackle causes of offending, namely accommodation, employment and education deficits, antisocial attitudes, and mental illness in order to be paid by the Government for their services. The Government appears unaware of its own role in reducing crime; crime fluctuates and responds to wider social factors, such as the availability of affordable housing, the state of the economy, and perceptions of social injustice (Giorgiou, 2011; Males and Brown, 2010; Nikulina, Widom and Czaja, 2011, Tapia, 2010). With 69% of prisoners having been out of work prior to going into prison, and 13% never having worked (Hopkins, 2012), talking up the chances of this group gaining employment, particularly with the added stigma of a criminal record, seems absurd. Taken in combination with the Government's current negative rhetoric about those receiving benefits through the welfare system, this suggests a group of people who will be increasingly marginalized upon completion of their formal criminal sanctions.

If released prisoners are to receive assistance and preferential treatment in gaining employment, there is also the risk of this being unpopular with the wider public. When wages are being frozen (tantamount to a real-terms pay cut) and a substantial proportion of working aged adults are either un- or under-employed, there is likely to be a fierce

public backlash against such activity, resulting in further negative stereotyping of ex-offenders.

Responses to the previous consultation on this issue raised concerns by professionals about how the Government would define a 'result' within the payment-by-results framework. The reference in the consultation to 'complete desistance' is troubling in that it suggests a lack of knowledge of the desistance process. Desistance from crime is not a single event, and cannot be conceptualised as such (Laub and Sampson, 2001; Maruna, 2000). It is a process, worked through by the ex-offender in collaboration with others during which they become a fully restored and contributing member of society. However, this can only happen if they are given opportunities, through the gaining of employment and the acquisition of suitable housing, for instance. Researchers working on the *Discovering Desistance* project set out what they call "The Road from Crime" (see <http://www.iriss.org.uk/resources/the-road-from-crime>). Often, an ex-offender will relapse and commit a crime, in much the same way a recovering alcoholic may relapse in order to cope with their life circumstances. Within the context of the *Transforming Rehabilitation* drive, what are the implications for service providers, and indeed individuals receiving their support, if such a relapse happens? These questions need to be answered by Grayling if he wishes to reclaim any measure of credibility within criminological circles.

Conclusions

Whilst it is positive that the Ministry of Justice is looking at criminal justice reform, it has yet to convince many people that this is the right way to go about it. It seems harsh to single-out probation services, the employees of which have worked tirelessly to produce results that, comparative to short-term custodial sentences, are actually very good. As outlined above, prison reform and the reinvestment of Government savings into demoralised and troubled communities is what is really needed. This approach would reduce rates of re-offending, improve local communities, and build on the existing strengths within the probation service. It is feared that the Government's mind is already made up, and that we face a long, drawn-out ideological battle to rebuild an effective and efficient criminal justice system.

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