



TOWARDS A DEVOLVED PROBATION SERVICE IN WALES

A collection of papers by the
Probation Development Group

Welsh Centre for Crime and Social Justice

December 2023



Title: Towards a devolved Probation Service in Wales: A collection of papers by the Probation Development Group

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For any queries and comments related to this publication or the work of the Probation Development Group, please contact us via probation@wccsj.ac.uk.

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About the Probation Development Group

The Probation Development Group (PDG) consists of academics from across Wales's Universities as well as probation practitioners and those with operational probation experience prior to their academic lives, under the auspices of the Welsh Centre for Crime and Social Justice.

The group aims to highlight evidence-based practice and gaps in current probation policy and practice with a focus of contributing to the development of a more integrated and aligned criminal and social justice system in Wales. The PDG is currently working to produce evidence for consideration in the development of a devolved probation service for Wales.

In addition to a core group of members, a growing number of associate members form an extensive network within Wales and beyond providing additional experience and advice.

For more information about the PDG, visit www.wccsj.ac.uk

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Towards a devolved Probation in Wales: Introductory Matters and Summary of Papers

December 2023

Ella Rabaiotti – Convenor of Probation Development Group

Introduction

People who work in probation in Wales are experts in change; they support change in people's lives, whilst operating under constantly shifting organisational structures. In the last decade or so, four probation trusts across South Wales, Gwent, Dyfed and Powys and North Wales merged into Wales Probation Trust. The newly established but well performing organisation was subsequently 'split' into the Wales Community Rehabilitation Company and National Probation Service in 2014 and despite efforts by its Welsh leaders to implement this 'irredeemably flawed' policy¹, the two parts were reunified in 2020. Therefore, it is with some trepidation that this publication provides evidence for moving towards yet another version of a Wales probation service.

However, the findings of the Thomas Commission emphasised that the current Welsh criminal justice system is not properly serving the people of Wales². Furthermore, re-nationalising is not sufficient alone to address the detrimental 'legacies of change' within probation (Tidmarsh, 2023)³. To respond to this, the Welsh Government has begun planning for the devolution of justice and encouraged the Probation Development Group (PDG) to support discussions around the development of a devolved probation service for Wales⁴.

Whilst PDG members recognise that more uncertainty over the future of probation is far from ideal, we do think there needs to be further change in probation in Wales beyond the blueprints and partnerships between devolved and non-devolved services to fundamentally address the disparities in Welsh criminal justice outcomes⁵. We support a devolved probation service that better serves the people of Wales and offer papers that might guide a renewal.

This publication consists of three papers prepared by the PDG which draw on a wide range of experience in research and practice in probation in Wales and beyond, including at practitioner and management levels. The papers share our thinking and draw on the evidence base for three crucial aspects for developing a devolved probation service in Wales, namely, Values and Principles, Effective Practice, and Governance and Partnerships. Common threads throughout the papers relate to the provision of an independent probation service centred on the relationship between the worker and the probationer, which takes a rights-based approach, using evidenced-based interventions, local resources and strong partnerships. Diversion of individuals from custody is central, recognising the important role of community and victim safety, as well as public protection.

¹ As described by the Probation Inspectorate

<https://www.justiceinspectorates.gov.uk/hmiprobation/media/press-releases/2019/03/reportofthechiefinspectorofprobation/>

² [Commission on Justice in Wales report | GOV.WALES](https://www.gov.wales/written-statement-preparing-devolution-justice)

³ A sentiment agreed by the Inspectorate <https://www.justiceinspectorates.gov.uk/hmiprobation/media/press-releases/2021/06/probation-unification-is-not-enough-by-itself-to-put-right-the-flaws-of-past-reform/>

⁴ See announcement <https://www.gov.wales/written-statement-preparing-devolution-justice>

⁵ Expertly outlined within Jones & Wyn Jones' 2022 book, The Welsh Criminal Justice System

The papers, the issues and potential solutions raised within them have been subject to much discussion within the Probation Development Group and wider, which has helped to shape these published versions. However, we expect these conversations to evolve and for further publications to follow. We would also like to involve more probation leaders and practitioners in our thinking and reaching some conclusions, but understand, to date, this has been difficult.

The PDG has identified a fourth area which needs particular attention and research – the high imprisonment rate in Wales. This is not addressed in detail in this publication, but we would like to highlight the latest [Prisons in Wales factfile](#) (Jones, 2023). Of note, the Welsh imprisonment rate continues to exceed any part of the UK, and worrying disparities exist around homelessness for ex-prisoners, higher recall rates than England and an overrepresentation of ethnically diverse groups on probation and in prison in Wales. It is these concerns that help drive us forward – towards a devolved probation service for Wales.

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Jones, R. (2023). *Prisons in Wales: 2022 factfile*. Wales Governance Centre, Cardiff University. https://www.cardiff.ac.uk/__data/assets/pdf_file/0012/2779833/Prisons-in-Wales-2022-Factfile.pdf

Summary of papers

1. Values and Principles

This first paper, prepared by Deering et al, provides a preferred definition of Probation work, as ‘a public sector task that aims to engage with those under its supervision in a humanistic and supportive manner with a view to encouraging behavioural change, whilst recognising structural and social disadvantage as important factors in offending that need to be addressed’ (Deering & Feilzer 2015, p.2). This is consistent with evidence which suggests probation workers remain committed to a professional value base which emphasises the importance of their relationship with individuals on probation, a belief in the individual’s ability to change, and the principles of rehabilitation (Williams 1995; Napo 2006; Deering 2010, 2011; Mawby & Worrall 2013; Deering & Feilzer 2015). The authors suggest that *all* Probation work - courts, interventions, and casework - should have as a starting principle a focus on diverting people from custody. Work with people on probation should be based on criminogenic and social needs, while recognising an individual’s responsibility for their offending behaviour, avoiding stigmatisation and imposition of services. The probation service should support an individual’s path of desistance and offer relevant support towards navigating barriers to desistance.

The paper commends the [Probation Institute’s \(2020\) set of core values and ethical principles](#) as a comprehensive building block for values and principles of a Welsh Probation Service. To develop a system which supports this, the authors set out a number of critical elements, including the position of the probation service as a public service independent of government, that works collaboratively with other criminal justice organisations and is a locally embedded service – further explored in paper 3. A devolved probation service would need to place central importance on desistance-based practice to assist in developing personal and social capital, which has clear links to probation culture and values. This includes promoting the necessary training, skills and processes to enable an effective

professional relationship between the probation worker and the person subject to probation – this is further explored in Paper 2.

Several potential challenges are identified to achieving values and principles. Work conditions and systems can impact on retaining positive and progressive values in probation, including high caseloads, reduction in autonomy and contact with supervisees, risk averse monitoring processes and the influence of the prison service culture. The tensions between the range of theories (including rehabilitation, desistance, retribution, and restorative justice) in use in probation practice, including its work in Courts and with key partners need to be fully considered. More broadly, criminal (and social) justice across England and Wales is under intense pressure and is being challenged to adjust to technological, environmental, and significant social changes. The authors conclude that achieving core values in a new Welsh probation service needs to be considered alongside other future criminal justice developments and identified challenges to policing and the courts, as well as other devolved services.

2. Effective Practice for a Devolved Probation service

This second paper, by Raynor & Deering, reviews recent developments in effective practice in probation services to identify promising methods, and some obstacles to their implementation. The authors suggest that probation works best when it is used to exercise a positive personal and prosocial influence on people under supervision, addressing problems linked to offending. They refer to research on the skills used in personal supervision, which shows that individual supervision is not just 'offender management' but is an intervention in its own right, and where the right skills and approaches are employed it significantly reduces reoffending (Bonta et al 2011; Raynor et al 2014; Chadwick et al 2015; Raynor and Vanstone 2018). International research also shows that most staff will improve their skills and effectiveness with appropriate training, reinforcement and regular skilled supervision. Overall, the literature on effective practice points to a mixture of well-designed programmed activities and responsive skilled personal supervision (Raynor 2020). In addition, people supervised by probation staff require help in accessing other services and the 'advocacy and brokerage' part of the probation officer's role is important.

The paper goes on to outline emerging developments which are likely to play an important role in the future of effective probation practice. In the authors' view, the most important of these are: desistance theory and its implications for organisational development and practice; the reconsideration of probation values at individual and organisational levels; and a consideration of the impact of possible (early life) trauma on the lives and behaviour of those subject to probation supervision. In order to put these values and principles into practice, they suggest the following as a possible way forward. In terms of supervision and interventions with supervisees, they reiterate the need to work in ways that align with the principles of the RNR and desistance approaches and the ways in which these can be seen as complementary, rather than as contradictory and mutually exclusive (Maruna & Mann 2019). In order to operationalise these theoretical approaches, staff would need training in relationship development and supervision skills. This would include the Core Correctional Practices (Dowden & Andrews 2004), interviewing and supervisory skills (Raynor et al 2014), Pro-Social Modelling (Trotter 1993) and Motivational Interviewing (Miller & Rollnick 2002).

The paper emphasises that practitioners must be properly trained, resourced, clinically supervised and trusted. Moreover, without compromising safety, offices could be made more open and welcoming, rather than akin to prison waiting rooms. To complement these changes, it is suggested that community facilities should be considered as a base for probation work. The last section of the paper considers the relationship between probation services and sentencers, and the role of probation services in public protection and its work with victims. Overall, there is a strong case for improving attention to skills, reasonable caseloads and interagency collaboration in any attempt to improve the effectiveness of probation services. The same is true of communication between the Service and the judiciary. Greater operational independence in a Wales Probation Service would allow it to set its own developmental priorities rather than depending on the issues identified by the Ministry of Justice in London.

Suggestions for future priorities identified by the Probation Development Group include:

- Greater investment in developing the individual supervision skills by probation staff
- Reductions in targets and micromanagement, allowing staff to exercise more discretion in the supervision of people on probation
- Working towards reasonable caseload sizes, with clarity about where supervision is most necessary and effective and where it could be light-touch or suspended to allow more time for people who need it
- Development of better communication and understanding between probation staff and sentencers about the need for more thorough pre-sentence reports
- Changes in the governance of probation services to ensure adequate representation of the judiciary and other partner agencies, in particular those run by local authorities, health services and the voluntary sector

These approaches would require some investment but should show some benefits relatively quickly. Devolution without significant investment would be likely to show only limited benefit. Consideration should also be given to reemphasising the importance of individual supervision and the relationship between people on probation and their supervising officers by legislation reinstating the Probation Order as a constructive non-custodial option.

3. Governance and Partnerships

The third and final paper from Borja et al, states the governance and structure of probation should support its key delivery functions, as well as reinforcing the importance of supervision of community sentences by reintroducing supervision elements of community orders. A 'new' function is also suggested to develop and improve probation's role at the remand stage of court proceedings with the aim of providing credible alternatives to custodial remand. The paper also considers structures and governance of probation with certain desired outcomes in mind. These include:

- Maximising appropriate diversion from criminal justice supported by other criminal justice agencies such as police, prosecution and the courts as appropriate
- Reducing levels of imprisonment and encourage the use of appropriate and proportionate community sanctions for all but the most serious offences
- Improving victim liaison, restorative approaches, and community safety

- Joining up community services to create trust in professional probation services
- Supporting vulnerable communities and individuals recognising they can be both victims as well as involved in offending
- Supporting processes of desistance for individuals on probation
- Reducing frequency and seriousness of offending and effectively and appropriately manage risk of harm
- Providing a rights-based, trauma informed and anti-oppressive service that is responsive to individual need including protected characteristics.

The authors propose ten essential principles for probation structure and governance:

1. Separate professional status for probation combined with a close working relationship with other criminal justice agencies
2. Effective and regular consultation and communication with sentencers/courts.
3. Alignment and cooperation with relevant local stakeholders to allow joined-up services (third and private sector organisations, police, health, prisons, youth justice, housing, employment, social services, substance misuse)
4. Probation officers as qualified professionals
5. Strong professional value system
6. Evidence based practice supported by strong links through policy-professional-academic partnerships
7. Consistent guidance and frameworks that allow for local discretion based on strong local relationships (including statutory, third, and private sector) including structures and relationships on fair and transparent commissioning of services
8. Stable funding allocation – statutory funding formula
9. Working in line with principles of effective trauma-informed practice and desistance principles and as a result reducing victimisation and harm and protecting communities
10. Offer effective Victim Liaison and Restorative Justice services

Considerations for a Devolved Welsh Probation Service

The paper was produced following a discussion of differing probation models and the need to align a devolved Welsh probation service with other elements of the criminal justice system and public service delivery to consider how principles can be translated into structures and governance. However, the authors raised several questions and dilemmas around the service design. This includes the level of localisation, the role of local authorities and local commissioning and the input of probation staff around a 'bottom-up' design. There is a recognition of change fatigue and the importance of probation staff, partners, and people on probation being involved in a redesign. The paper suggests that local commissioning practices need to take account of the needs of all stakeholders – public services, private and third sector needs – through appropriate, transparent, accessible, fair and sustainable commissioning. Furthermore, questions were raised around inspection and ombudsman arrangements, data monitoring and reporting systems, as well as an emphasis on the importance of youth to adult transitions. Whilst more thinking is required here, this latter point has also been considered within work towards devolving youth justice.

Finally, the paper acknowledges that certain decisions will need to be taken on the core probation structures required and one of the primary decisions would be the role of any new Probation Board as either a body of oversight, guidance and influence or as one that also

carried direct responsibility for the delivery of probation services. Any new system in Wales may have to work with a non-devolved judiciary and prison service and structural links to the organisations needs to be considered to allow effective communication, trust, and smooth transitions for those released from prison into the community. The figure below provides some suggestions for the components and elements of a new Welsh Probation system.



Concluding remarks

The latest model and structure of probation does not appear to be working. Drawing on over thirty inspections between June 2021 and July 2023, the outgoing Chief Inspector of Probation, Justin Russell concluded that ‘the Probation Service is struggling’ and supervision of people on probation is ‘not at the level it should be’. He suggests an independent review is necessary to consider moving Probation back to local control.⁶ Indeed, these evidenced-based papers provided by the Probation Development Group may contribute to reconsidering probation work in Wales but will also have relevance for England. Whilst these papers do not provide a blueprint for a Welsh Probation service, they offer evidence as to what has been shown to work in probation governance and practice, as well as highlighting advantages and disadvantages of certain delivery decisions. It is a task for policymakers to decide on the shape of a Welsh Probation Service in proper consultation with the various stakeholders of such as service but there is significant learning offered in our papers from research and experience on over a century of probation practice and governance developments. This set of papers merely offers support to enable the development of a Welsh Probation Service by making informed value and evidence-based choices to improve community safety and social justice for all communities in Wales.

⁶ [Chief Inspector calls for an independent review of the Probation Service, publishing his final annual report \(justiceinspectorates.gov.uk\)](https://www.justiceinspectorates.gov.uk)

Probation Development Group Paper 1

April 2023

Values and Principles

John Deering, Martina Feilzer, Su McConnel, & Ella Rabaiotti

Overview

This paper seeks to offer a definition of probation work and the core values and principles of a Welsh probation service aligned to social justice principles. This includes exploring 'traditional' probation and social work values, alongside current thinking (e.g., Probation Institute, 2020), as well as potential barriers to their implementation. In addition, the paper also briefly considers what a Welsh Probation Service might see as the range of tasks it should undertake.

Background

As part of the wider work of the Probation Development Group (PDG) a decision was taken to write a Position Paper considering possible values and principles for a future Welsh Probation Service. A discussion followed on the importance of the structural position of probation, as a public (not a civil) service, independent from prison as well as considering the barriers to developing and enacting values and principles. These include the current pressures on probation staff, the deskilling occurring through heavy reliance on assessment processes and systems, outsourcing direct work with supervisees, high caseloads, etc. Moreover, the emphasis on risk assessments and monitoring were highlighted and the deleterious effect this has on staff motivation and the values that they can express through their work.

This paper is based on discussions at two meetings and subsequent drafts, as well as drawing on work from aligned developing work streams of the PDG and previous academic research.

Defining Probation Work

Before reflecting on values and principles, it is worth defining what we think probation work is and who should do it. As a starting point;

'We would define the probation ideal as a public sector task that aims to engage with those under its supervision in a humanistic and supportive manner with a view to encouraging behavioural change, whilst recognising structural and social disadvantage as important factors in offending that need to be addressed' (Deering & Feilzer 2015: 2)

This definition emphasises probation's work with individuals and groups regarding behavioural change and their future desistance. This has been the case since the creation of probation in 1907 and, in our view, should remain its primary purpose. A second original purpose was the

giving of advice and assistance to the courts. This has become greatly diminished more recently but should be restored. However, over the past century and particularly in recent decades, the work of the service has expanded considerably, to include the assessment and management of risk, the protection of the public and the provision of certain services to victims of crime. These later tasks, whilst accepted as legitimate by the service have in our view, at times been prioritised by government to the point where perhaps they have undermined and eroded core values, in the way that they prioritise 'management and control' of individuals rather than rehabilitative work. The inter-relationship of tasks is a complex one, but in our view can contribute to the same overall objective of assisting individuals to live good, fulfilling and non-offending lives, which in turn makes a potentially significant contribution to protecting the public, via the reduction of crime. Moreover, there is a significant body of evidence that points to the potential effectiveness of a 'rehabilitative' form of supervision that moves well beyond the reductive trends of recent decades i.e., those limiting supervision to assessment, monitoring and enforcement. These have been considered further within the paper being prepared for the 'Effective Practice' workstream and some of the following has been drawn from that paper.

Reflecting on Values and Principles of Probation Work

From the Effective Practice draft paper (Raynor & Deering, 2023):

Research into practitioner values in recent decades has shown a continuing commitment to what might be regarded as 'traditional' values, linked to social work and which strongly emphasise the importance of the relationship, a belief in the individual's ability to change, faith in the probation service as capable of assisting such change and a commitment to a rehabilitative purpose for probation as fundamental, rather than notions of punishment and the 'simple' 'management of offenders' (Williams 1995; Napo 2006; Deering 2010, 2011; Mawby & Worrall 2013; Deering & Feilzer 2015).

Research evidence (above) suggests that throughout the many years of structural and organisational changes in the service, the main values of and motivations for individuals who join are fairly stable. However, these changes have also resulted in shifts in training and demography of the workforce which brings with it certain challenges. In particular, there has been a loss of experience, a change in the proportion of fully qualified probation officers, and the workforce has become younger and contains a greater proportion of female staff. Furthermore, the withdrawal of probation officers from communities and the deterioration of relationships with local partners and, critically, courts, has distanced the service from local decision making that could promote values of social justice and the belief in community sentencing. There are also concerns around probation's values and culture being driven by prison-style leadership.⁷

Probation values are often referenced but rarely clearly defined but there have been some attempts to identify them including work by the Confederation of European Probation (2010)⁸, which align with the Council of Europe Probation Rules. More recently, and from a UK perspective, the Probation Institute – as the centre of excellence for probation practice – has

⁷ <https://www.probation-institute.org/news/statement-the-future-of-the-probation-service>

⁸ <https://www.cep-probation.org/cep-probation-values-versus-recommendation-on-probation-of-the-council-of-europe/>

set out Core Values and Ethical Principles within their Code of Ethics 2020.⁹ This includes the following values:

1. Belief in the ability of people who have offended to change for the better and become responsible members of society
2. Belief in the inherent worth and dignity of the individual
3. Commitment to promoting social justice and social inclusion
4. Belief in the worth of supervision in the community as a sentence of the court, based on establishing positive relationships with service users, to promote their rehabilitation
5. Consideration given to the rights and needs of victims when planning how a service user's sentence will be managed
6. Commitment to supporting strong partnerships across the fields of learning, skills, practice and research
7. Recognition of the importance of training and learning for identified levels of competence and of continuing professional development
8. Commitment to the development and dissemination of knowledge, through research, to inform probation policy and practice
9. Commitment to acting with professional integrity

Proposed Values and Principles of a Welsh Probation Service

We consider the Probation Institute's set of values provide a comprehensive building block for values and principles of a Welsh Probation Service. Furthermore, there is merit in restating the founding principles of probation to 'Advise, Assist, Befriend', as well as integrating these with broader Welsh public sector values and principles of social justice. This includes a clear focus on trauma-informed, people-centred and evidence-based work contributing to a more socially just Wales that acknowledges the social context of crime, as well as seeking to reduce individual risk of crime and victimisation.

We consider *all* Probation work, in courts, interventions, casework, should have as a starting principle a focus on diverting people from custody. Therefore, the unique relationship between Probation and Courts should be rebuilt, as well as Probation's relationship with the community in order to draw from and develop local services that support social inclusion. Casework with supervisees should be based on criminogenic and social needs, while recognising an individual's responsibility for their offending behaviour, avoiding stigmatisation and imposition of services. The probation service should support an individual's path of desistance and offer relevant support towards navigating barriers to desistance.

The new National Probation Service has set out its own vision for the future in the *Target Operating Model (2021)* which resonates with the values expressed above. It signifies a potential change in values and ethics, via the use of less stigmatising and labelling language and the new aims for the Service of 'Assess, Protect and Change' via the use of 'good and trusting relationships' that have the aims of rehabilitation and desistance. The relationship between practitioner is seen as the 'principal means of supporting the journey to desistance' (HMPPS 2021: 62). There is to be a balance between referring for specialist services and the

⁹ <https://www.probation-institute.org/code-of-ethics/#:~:text=Code%20of%20Ethics.%20Membership%20is%20voluntary%20and%20open,of%20their%20membership%20and%20which%20underpin%20the%20profession.>

use of universal services to promote social capital and a re-emergence of one-to one supervision promoting ‘appropriate rehabilitative interventions and reinforcing progress and new ways of thinking and behaving to support behavioural change’ (HMPPS, 2021, p.88). Finally, as well as an expressed Mission of Probation to clearly state what service it provides, it is useful to be clear about what it will not do (e.g. act as a policing or prison service) in order to reinforce understanding of values and principles.

Towards Values and Principles of a Welsh Probation Service

In order to develop a system of proposed values and principles for a Welsh probation service, we have considered a number of critical elements which overlap with other Probation Development Group workstreams.

Governance and partnerships:

- The position of the probation service as a public service independent of government (Westminster or Welsh Government)
- The position of the probation service as separate from, but working collaboratively, with other criminal justice organisations (i.e. separate from prison service). This includes a greater emphasis on the unique relationship between probation and the Courts, as well as a review of work with police in relation to certain cohorts (IOM & MAPPA)
- Being a locally embedded service, understanding the importance of stakeholder – police, judiciary, social services, education, housing and third sector and community - engagement. This includes its role in partnerships, such as safeguarding and community safety, and many others
- The seamless link or collaboration between youth justice services and probation, with a particular focus on ensuring an appropriate transition for 18–25-year-olds. A specially designed service for this age group could be a starting point for a new Welsh probation service.

Wales’ Imprisonment rate:

- Increasing our understanding around explanations for Wales’ high imprisonment rate for adults and aligned poor outcomes within Welsh Criminal Justice (building on work of Jones & Wyn Jones (2022)). This may assist in uncovering unknown barriers to implementing new values and principles.

Effective Practice:

This developing paper includes consideration of:

- Skills and processes necessary to an effective professional relationship between the probation worker and the person subject to probation
- Importance of desistance-based practice to assist in developing personal and social capital, which has clear links to probation culture and values.

Barriers to Implementing Values

We consider there are several potential barriers and challenges to implementing values:

- Despite the positive elements of the HMPPS *Target Operating Model* (2021) which emphasises the use of non-stigmatising language, there remain within practice, management and government, a number of conflicting messages about language and the purposes of the service and recent incidents of Serious Further Offences have led to further emphasis on risk management, monitoring and control.
- Following the reunification of probation into a single public sector organisation, the service is in a continuing and likely lengthy period of adjustment in terms of its governance, management and practices.
- Work conditions and systems can impact on retaining positive and progressive values in probation – high caseloads, reduction in autonomy and contact with supervisees, risk averse monitoring processes, conflation of prison and probation outlooks and values may be seen to be confusing. The recent “One HMPPS” structure document highlights the risk of a smaller Probation Service with its values and culture being subsumed by a much larger Prison Service. We suggest that a stand-alone probation service is better able to retain a distinct identity and value system.
- As mentioned, the current Probation Service *Target Operating Model* (HMPPS 2021) has intentions that appear to support much of our argument in this paper. However, it is not clear whether the HMPPS has fully engaged with the theoretical implications of both rehabilitation via a professional relationship and desistance upon practice in the real world. In addition, there is clear evidence of a range of different sentencing theories, e.g. rehabilitation, desistance, retribution and restorative justice, in use in probation practice and language and tensions between these need to be fully considered.
- Questions have been raised about the training received by new probation staff and whether the training would support the values and ethos set out above – a review of training to fit Welsh probation and its ethos may be needed.
- Finally, criminal justice across England and Wales is under intense pressure and is being challenged to adjust to technological, environmental, and significant social changes. This includes access to universal services, e.g., housing, mental health, welfare, legal aid. A Welsh probation service needs to be considered alongside other future criminal justice developments and identified challenges to policing and the courts, as well as other devolved services.

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Effective Practice for a Devolved Probation service

Peter Raynor & John Deering

What helps to reduce reoffending?

This short paper is based on discussions in the Probation Development Group, including experienced researchers and practitioners, with some input from the perspective of sentencers. It briefly reviews recent developments in effective practice in probation services to identify promising methods, and some obstacles to their implementation. After summarising what is known about effective practice the paper goes on to point to some encouraging new approaches and some ways in which staff might be developed and supported to improve their impact on future offending. The last section of the paper considers the relationship between probation services and sentencers, and the role of probation services in public protection. Finally, we suggest some ways in which governance of the service might change to strengthen relationships with the Courts and collaborating agencies.

Effective practice

Knowledge about effective practice in correctional services has been dominated since the 1990s by what is known as the 'risk need responsivity' approach or RNR, developed by Canadian forensic psychologists and supported by a large volume of international research. Briefly the 'risk' principle requires more input (more services, more intensity of supervision) to be used in supervising people with a higher risk of reoffending. The 'need' principle means that services should concentrate on meeting those needs which are criminogenic - that is, which contribute to further offending if left unmet. The 'responsivity' principle recommends the delivery of services in ways to which supervised people are likely to be receptive - that is, the tailoring of services to individual needs. In the UK these principles originally informed the development and adoption of cognitive-behavioural group programmes developed by psychologists, and for a while the adoption of a 'what works' approach was largely implemented through the development of programmes and arrangements to promote their quality through accreditation. This arguably one-sided approach was encouraged by the Carter report (Carter 2003) which saw the probation officer's role as 'offender management', meaning mainly assessment and allocation to 'interventions' provided by others, including the private and voluntary sectors. For Carter, interventions were what reduced reoffending. This contributed to developments which have been to some degree unhelpful: first, the tendency to reduce the probation officer's role to assessment, monitoring and surveillance; second, the passing round of people on probation to various supervisors and interventions with insufficient attention to social and personal needs and continuity of contact. Arguably these trends, combined with the location of probation services alongside prisons within the

National Offender Management Service and its successor HM Prisons and Probation Service, have tended to limit the discretion and professional autonomy of probation staff in favour of an approach to workforce management which emphasises compliance with procedures, performance indicators and targets. Current practice is organised around the Offender Assessment System (OASys) which is meant to inform a RNR approach, but in practice tends to focus more on risks than on needs or responsivity. Many staff now believe they spend too much time on their computers carrying out elaborate assessment with little time left to work with people under supervision.

It is important to recognise that programmes were essential to the redirection of probation services towards effective practice in the 1990s but have limitations as a basis for further development now. In the 1990s they showed the way to more effective methods but implementation was difficult and fell short of what was needed: in particular the need for individual supervision and support to get people through programmes was not fully understood and the programmes themselves were sometimes complex and costly to operate. A second tier of 'rehabilitation activity requirements' which did not require accreditation but only approval was developed, partly in order to facilitate private sector involvement, with rather poor results according to the Probation Inspectorate (HMIP 2017). Programmes in the community have tended to have low completion rates compared with those in prisons: in London the most recent completion rate for non-sex-offender programmes is reported to be as low as 18%. Low completion rates in community-based programmes can sometimes result from a lack of individual support, and sometimes from a poor match between what the programme teaches and the individual needs and responsivity of supervised people. Programmes, when well matched to participants needs and well delivered, have an important place but cannot be the whole offer of probation services.

In other countries it has been recognised that the main form of contact between probation staff and supervised people is one-to-one supervision, and research has been carried out on how this might benefit from appropriate application of RNR principles to individual contact. Research on the skills used in personal supervision now shows that individual supervision is not just 'offender management' but is an intervention in its own right, and where the right skills and approaches are employed it significantly reduces reoffending (Bonta et al 2011; Raynor et al 2014; Chadwick et al 2015; Raynor and Vanstone 2018). Supervision by highly skilled staff is often found to be associated with larger reductions in reconviction rates than are typically demonstrated in research on effective programmes. Such findings would have been no surprise in the days when probation was regarded as a social work service within the criminal justice system, working with individuals to address the personal and social problems and challenges which contributed to their offending. Similarly, a problem-solving approach to individual supervision would not be unusual in youth justice, or in the working methods of probation officers when they shared part or all of their training with social workers. In England politicians have preferred to reduce the apparent social work content and affiliation of probation work in order to promote a tougher image. This does not encourage or reflect the responsive individual approach which has shown the most promising results and has imposed the same approach on Wales (but not on Scotland, which has its own devolved criminal justice services). Probation works best when it is used to exercise a positive personal and prosocial influence on people under supervision, addressing problems linked to offending. The relevant skills have been summarised by the Probation Inspectorate as:

'Relationship skills: engaging service users in relationships which are respectful, caring, enthusiastic, collaborative, motivational and which value personal autonomy;

Structuring skills: facilitating changes in attitudes and behaviour through pro social modelling, effective reinforcement and disapproval, skill building, cognitive restructuring, problem solving, effective use of authority, and advocacy-brokerage' (HMIP 2020).

It is likely that there would be significant benefits in organising services so that the most effective forms of supervision could be more consistently delivered. This would require training and staff development to focus on appropriate skills, and supervision by senior probation officers who are themselves familiar with and experienced in a skills based approach. In addition, attention is needed to three further aspects of the service design: sensible caseloads, continuity of supervision, and the empowerment of qualified staff to exercise more discretion about how best to supervise individuals.

Regarding caseloads, the earliest research in England and Wales to show a connection between caseload size and outcomes was carried out in the 1960s (McWilliams 1966) and showed that caseloads over 50 were likely to be associated with higher failure rates. More recently research by the Probation Inspectorate and Manchester Metropolitan University has found that over-large caseloads clearly lead to poorer work. The Inspectorate's report recommends that caseloads should not exceed 50 (HMIP 2021). This figure will of course be affected by the nature of the caseload (high risk or not) and whether the supervising officers are also regularly involved in other work such as pre-sentence reports (PSRs): for example, if 40% of working time is taken up in report preparation then a caseload of 30 might be more reasonable than 50. It is also noteworthy that recent reports from the Inspectorate have generally found better work in the youth justice service than in probation services, and this could be partly a consequence of much lower caseloads in youth justice. This topic would merit further research, which may or may not be on the agenda for the Ministry of Justice in London.

Developments of this kind would involve a number of challenges, in addition to the need for some input of resources. International research shows that most staff will improve their skills and effectiveness with appropriate training, reinforcement and regular skilled supervision. However, skilled interviewing requires time (most of the higher scoring interviews in the Jersey Supervision Skills Study [Raynor et al 2014] were at least 30 minutes long, often more). Continuity of contact is also likely to be helpful; it is known that most people do not want to tell their story repeatedly to strangers, especially when it is embarrassing, highly personal or traumatic. In addition, significant improvement requires an interest in learning and a culture of professional curiosity.

Overall, the literature on effective practice now points to a mixture of well-designed programmed activities and responsive skilled personal supervision (Raynor 2020). In addition, people supervised by probation staff will often have needs for other services and for help in accessing them. These needs become greater when welfare services are reduced and harder to obtain. An influential report from the Social Exclusion Unit in 2002 concerning the reduction of reoffending by ex-prisoners identified a number of areas which needed to be addressed to reduce reoffending. These were: education and training, employment, substance misuse (drugs and alcohol), health (mental and physical), attitudes and self management, life skills, housing, benefits and debt, and family relations. Many of these are

not addressed by programmes but by contact with other services, and supervised people will often need assistance and encouragement to gain access to them. The 'advocacy and brokerage' component of effective supervision becomes more important when access to services is difficult. Some of these problem areas were also highlighted in a recent Scottish Government research review, with a particular emphasis on substance misuse within the offending population (Sapouna et al 2015).

In addition to approaches strongly supported by existing research, there are a number of new developments which are promising and should be noted as probable areas for future attention.

Emerging practices for an effective Probation Service

Having reviewed practices which already have strong empirical support, this section outlines emerging developments which are likely to play an important role in the future of effective probation practice. In our view, the most important of these are: desistance theory and its implications for organisational development and practice; the reconsideration of probation values at individual and organisational levels; and a consideration of the impact of possible (early life) trauma on the lives and behaviour of those subject to probation supervision.

Whilst desistance theory has concentrated on why people give up offending, rather than what practice needs to do to facilitate that process, there are a number of likely implications for probation practice and management based upon desistance principles. Desistance theories imply that practice needs to focus on the future, on positives in individuals' lives and on trying to remove barriers to desistance. This involves enhancing their personal and social capital by (re)connecting individuals to generic services, promoting a pro-social personal narrative and cognitive restructuring, via motivational work, empathic support, referral and advocacy (Deering and Evans 2021). It further suggests that central to any effective practice is the creation and maintenance of a good professional relationship between a supervisee and, ideally a consistent single practitioner. The professional relationship is defined as a process based on those skills and practices outlined above (e.g., Dowden and Andrews 2004; Raynor et al 2014) and its absence is likely to undermine any attempts at a positive, desistance-based practice.

These necessary elements of a desistance-influenced practice have clear links to probation culture and values. Research into practitioner values in recent decades has shown a continuing commitment to what might be regarded as 'traditional' values, linked to social work and which strongly emphasise the importance of the relationship, a belief in the individual's ability to change, faith in the probation service as capable of assisting such change and a commitment to a rehabilitative purpose for probation as fundamental, rather than notions of punishment and the 'simple' 'management of offenders' (Williams 1995; Napo 2006; Deering 2010, 2011; Mawby & Worrall 2013; Deering & Feilzer 2015).

Following the reunification of probation into a single public sector organisation, the service is in a continuing and likely lengthy period of adjustment in terms of its governance, management and practices. The '*Target Operating Model*' (HMPPS 2021) outlines intentions for the service relevant to this discussion as they relate to desistance, values and a trauma-informed approach to supervision. For example, whilst not referring to values directly, the Model emphasises the need to use different language, moving from recent decades of a

'labelling language', for example by removing the use of 'offender' so that 'probation practitioners' will now work with 'supervised individuals' and 'good and trusting relationships' should be the basis of supporting individual desistance (HMPPS 2021: 62). Moreover, mention is also made of the use of practical skills that are to be employed, within the Risks/Needs/Responsivity model (Bonta & Andrews 2017), including core correctional skills (Dowden and Andrews 2004), pro-social modelling (Trotter 1996) and motivational approaches within an empathic, optimistic relationship (HMPPS 2021: Annex A).

However, whilst what might be called 'desistance language' is employed widely within the document, the Model is to some degree limited to mentioning desistance as a goal, rather than as an approach underpinned by theoretical ideas about why people stop offending and its implications for practice. Whilst the Model does cover one of the principles of desistance-based practice – the vital role of the relationship – it does not engage to any extent with the cultural shift necessary to promote forward-thinking, positive interventions and less emphasis on backward-looking risk-dominated practice. Quite clearly risk assessment and management remains central to probation, but how can the service move from a position in which risk has predominated to the exclusion of broader approaches, to one that properly addresses risk whilst moving to a more rehabilitative model underpinned by a positive, forward-thinking practice?

In an attempt to address this issue, and based on a clear acknowledgement of what we know to be potentially effective, we would propose a programme of development for probation within Wales of identifying and building a set of principles and values on which to create a modified culture based in what has previously been called the 'probation ideal':

..... a public sector task that aimed to engage with those under its supervision in a humanistic and supportive manner with a view to encouraging behavioural change whilst recognising structural and social disadvantage as a factor in offending...

Deering & Feilzer (2015: 2)

Putting effective methods and principles into practice

In order to pursue this ideal, we would suggest the following as a possible way forward. In terms of supervision and interventions with supervisees, we would reiterate the need to work in ways that align with the principles of the RNR and desistance approaches and the ways in which these can be seen as complementary, rather than as contradictory and mutually exclusive (Maruna & Mann 2019). In order to operationalise these theoretical approaches staff would need training in relationship development and supervision skills. This would include the Core Correctional Practices (Dowden & Andrews 2004), interviewing and supervisory skills (Raynor et al 2014), Pro-Social Modelling (Trotter 1993) and Motivational Interviewing (Miller & Rollnick 2002).

Importantly this would need to include the acknowledgement of the centrality of a good professional relationship to potential success in probation and that in the absence of such a relationship, most if not all potential positive impacts of other interventions would not be realised (Rex 1999, Farrall 2002, Dowden & Andrews 2004):

'..... [relationship factors are] arguably the most important [factor]. Essentially, this approach argues that the interpersonal influence exerted by the correctional staff

member is maximized under conditions characterized by open, warm, and enthusiastic communication. An equally important consideration is the development of mutual respect and liking between the offender and correctional staff member.'

(Dowden & Andrews 2004:205)

In terms of interventions, we would suggest investigating the possibility of 'lighter-touch' assessments which are, as far as possible, genuinely co-produced with service users. These should cover areas of an individual's life in terms of both RNR and desistance related factors, to include the consideration of the possible impact of any early-life trauma, thus considering both risk and past behaviour but also strengths, positives and the future. Crucial to the development of these tools would be the developing assessments that acknowledge and cater for diversity and minority groups. Fundamentally, assessments should focus equally on the personal/psychological and social/sociological causes of offending and routes to desistance.

Following on from assessment, interventions need to be based on continuing dynamic assessment and involve targeting the correct intervention for any individual; thus, there should be less emphasis on targets set in terms of group numbers or commencement dates for interventions. Supervision should aim to achieve a balance between referring to specialist and universal services to promote social capital and individual supervision promoting 'appropriate rehabilitative interventions and reinforcing progress and new ways of thinking and behaving to support behavioural change' (HMPPS 2021: 88).

Also crucial to the potential for success is the motivation of the individual to address issues at a particular time and so the principles of the 'Cycle of Change' (Prochaska & Di Clemente 1983) and the practices of motivational interviewing (Miller & Rollnick 2002) are central and in cases where trauma might be influential, would be likely to be particularly important. Moreover, the use of 'deep' supervision (Dominey 2020) using community resources, including the possibility of problem-solving courts will also potentially maximise effectiveness. Clearly the need for risk of harm assessments and risk management will remain but otherwise a more desistance-based approach to engaging with supervisees is to be preferred. In this way the supervision process could employ a joint assessment and identification of a pro-social future, barriers to desistance etc., promoting human capital, employing assistance and advocacy to increase social capital.

All of this may require legislation to resurrect legally 'proper' supervision within the Community Order. The Offender Rehabilitation Act (2014) removed both the Supervision and Activity Requirements, replacing them with the Rehabilitation Activity Requirement (RAR), which expressed supervision only as a 'maximum number of days' allowable for rehabilitative interventions. Since this change, HMIP have found very little proper use of RARs and levels of supervision in general to be poor (Robinson & Dominey 2019). Robinson & Dominey argue that 'proper' supervision needs to be reintroduced via a revived Supervision Requirement, an argument that we would support. In our view supervision should be returned at least to a state similar to that which existed before the 2014 Act to enable the use of group and individual interventions, both of which we know to be potentially effective. Moreover, meta-analysis of skills-based research (Chadwick et al 2015) shows that more skilled supervision is more effective and can have a positive impact upon outcomes independent of the form of intervention. This conclusion helps to link probation supervision to

desistance theories, and supports similar findings in other studies (e.g. Dowden & Andrews 2004; Shapland et al, 2012).

We would argue that, after the failure of privatisation, there is a need to re-assert the notion of public service and probation as a moral enterprise and vocation (Priestley & Vanstone 2019). A probation service for Wales could be based on its traditions of help and assistance, and the values of the organisation and those of practitioners need to be more aligned than has perhaps been the case in recent decades (Deering & Feilzer 2015). It also needs a commitment to continuing research and evaluation and the development of new ideas and approaches to supervision.

Practitioners must be properly trained, resourced, clinically supervised and trusted. Moreover, without compromising safety, offices could be made more open and welcoming, rather than akin to prison waiting rooms. To complement these changes the use of community facilities as a base for probation work should be considered.

Sentencers and probation

The use of community sentences in Wales has been roughly halved since 2010 (Jones and Jones 2022). A report on community sentences by Crest Advisory identified, among other problems, a lack of confidence on the part of magistrates and judges that the requirements of community sentences would actually be complied with and completed (Du Mont and Redgrave 2017). We have been able to interview an experienced sentencer and barrister who identified some issues which would benefit from a more thorough exploration, and discussions with other experienced sentencers are planned. In summary, it appears that sentencers tend to feel that they are not in close contact with probation services as they used to be, and that they have little opportunity to discuss what probation is offering. Other points made by sentencers include: limitations on their own discretion due to Sentencing Council guidelines; an emphasis on speedy decisions which limits the time available for pre-sentence report writers to be in contact with defendants; concern about public and media reaction if sentences are perceived as lenient, which is often the perception of community sentences; report writers who are often not experienced and fully trained probation officers as they would have been in the past; little continuity of supervision (report writers usually do not go on to supervise the people about whom they report) and virtually no information about the progress of people on community sentences. Current experience is contrasted with past arrangements which gave courts access to experienced court liaison officers and regular contact with probation managers. We were told that probation has been “taken away” from the courts. The judiciary, like most of the public sector, is under pressure and coping with backlogs, but the emerging message is that involvement with and knowledge of probation could be improved, with consequent improvements in confidence.

This situation is in marked contrast to past arrangements for the governance of probation services, which included magistrates and judges in the Probation Committees which oversaw the policy and delivery of probation services in their area (this was usually a county very roughly equivalent to a modern Probation Delivery Unit). Knowledge and a sense of ownership was strengthened by involvement in governance. Until the 1970s committees of magistrates, known as Case Committees, also received reports on the progress of probationers direct from the supervising officers. In the current century management of

probation has been taken over by central government and now sits within the Ministry of Justice, alongside the much larger Prison Service and now joined together with it in HM Prison and Probation Service. Whatever the supposed merits of this arrangement, derived largely from the report on offender management by Patrick Carter (Carter 2003) whose main experience and expertise was in business, centralised management within the Civil Service reduces the influence of courts and of other services needed by people on probation, including the local authorities which manage many of these services.

A fuller discussion of probation governance is covered by another paper prepared by members of the Probation Development Group. However it is clear that judicial involvement and oversight is greater in jurisdictions where the probation service is seen as part of the court system rather than part of the penal system. The Channel Island of Jersey is a well-documented example (see for example, Heath et al 2002). In addition, drug courts and problem-solving courts provide examples of judicial involvement in the oversight of community penalties, and if implemented successfully this is welcomed by both sentencers and people under supervision (see, for example, McIvor 2010). The Thomas Commission recommended that an intensive programme of alternatives to custody in Wales should include judicial oversight (Commission on Justice in Wales 2019). Criminal justice requires collaboration between the executive and the judiciary in the management and development of sentences, and current arrangements in England and Wales appear unbalanced with the executive in control and a diminished role for the judiciary. This arrangement is arguably disadvantageous to both.

Pre-sentence reports

Under current arrangements communication between sentencers and probation staff mainly takes the form of pre-sentence reports (PSRs) on individuals before the court. The PSR and its predecessor the Social Inquiry Report have been the subject of a large amount of discussion and some empirical research in England and Wales, and the topic is too broad and complex to cover in detail here; however, some points are clear. There has been limited research on the impact of reports since the 'quality and effectiveness' study in the 1990s (Gelsthorpe and Raynor 1995), but a very useful study of how they are now prepared and delivered has been undertaken by Gwen Robinson (Robinson 2022). In addition a recent study by the Probation Inspectorate showed clearly that oral reports and rapid delivery reports were inferior in quality to what are now described as standard delivery reports, which are used in only a minority of cases (HMIP 2020). Issues of concern from these studies include the emphasis on speed of delivery, requiring reports to be prepared within a few hours with limited time to interview the defendant or to discuss possible sentencing options. It is generally agreed that one function of reports is to assess risk, but another important role is to assess the feasibility and suitability of possible sentences and particularly community sentences, in cases where these might be appropriate. Current practice relies heavily on risk assessment, provided largely by a computer-based algorithm, and guidance on proposals or recommendations is offered by another online resource known as the Effective Proposals Framework. Recent and current trends in the use of community sentences do not provide strong support for this direction of travel. As well as an assessment of risk, reports need to answer other questions: for example what changes would be necessary in a defendant's life to make desistance from crime more feasible and more likely; what resources would be

needed and available to support such changes, and how far is the defendant ready and willing to cooperate. Risk assessment needs to be complemented by assessment of needs, resources and motivation, and these require time and skilled interviewing to ascertain. Emphasis on speed works against the provision of high quality information in difficult cases. Again, judicial involvement and input would help to inform probation services about the court's information needs and to identify types of case in which full pre-sentence investigation is a priority in a context of limited time and resources. It is noteworthy that a group of officials within the Ministry of Justice is currently working with academic partners to consider how the current approach to risk assessment might be modified in the direction of more emphasis on needs and strengths.

It has been suggested to us that some desirable improvements in communication between sentencers and probation could be easier to achieve in Wales where courts are smaller than in big English cities, and both formal and informal communication should therefore be easier. Other approaches to the problems outlined above would need well evaluated pilot projects, which arguably could be established in a more agile and locally responsive manner in a devolved jurisdiction without the need to secure support from the Ministry of Justice where priorities and perceptions might be different. However it is also likely that a devolved Welsh Probation Service, however managed, would wish to retain links with a number of Ministry of Justice resources, particularly those related to training, inspection and research. Any future settlement would need to get this right, but the commitment to devolution of probation services offers the opportunity to refresh arrangements to address the problems of communication outlined above.

Protecting and responding to the public

In addition to the activities reviewed above which primarily concern the reduction of re-offending, probation services have important functions which focus on public protection, including work with victims of crime. These are included here because they are important and established features of probation practice, but they have not been subject to the same kinds of research about their impact as the measures discussed in the earlier part of the paper.

First, there are several approaches to multi-agency collaboration in the management of people who are judged to present either a particularly high risk of further offending or a risk of causing serious harm if they do offend. Prolific offenders are increasingly managed through collaborative arrangements known as Integrated Offender Management or IOM, in which the main partners are probation and police, and other service providers are often included. Joint plans are agreed for the supervision of individuals, information is shared and typically contact with supervised people is more frequent than would normally happen. Research on the outcomes of IOM has been difficult, because local practices vary and different groups of offenders are included in different places (Wong 2013; Hadfield et al. 2021; Feilzer 2023). The most useful current guidance concerning good practice can be found in the 'Effective Practice Guide' published by HM Inspectorate of Probation (HMIP 2020a) based on a joint thematic inspection published earlier in 2020. The joint report found some causes for concern, arguing that IOM had 'lost its way' and appeared less effective and less well targeted than in earlier inspections, but commended practice in Wales, where leadership and governance were judged to be better than in England.

For offenders judged to be dangerous and presenting a significant risk of violent or sexual offending, the preferred form of multi-agency collaboration is MAPPA (Multi-Agency Public Protection Arrangements) which again focus on joint assessment, joint planning and intensive supervision through frequent contact and information sharing. The most serious offenders subject to MAPPA are regularly reviewed in joint meetings involving probation, police and where relevant, prison services. A recent thematic inspection (HMIP 2022) again found many local variations in practice, but found that people registered in levels 2 and 3 (the highest risk cases, amounting together to less than 2% of the total MAPPA caseload of over 86,000) were well managed, but practice with level 1 cases, which do not require review in formal interagency meetings, was less consistent and sometimes poor. Published guidance on risk of serious harm (HMPPS 2020) emphasizes the 'Four Pillars' approach originally developed by Hazel Kemshall. (The 'four pillars' which should support the management of higher risk offenders are Supervision; Monitoring and Control; Interventions and Treatment, and Victim Safety.) The experience of relatively good multi-agency collaboration in Wales which is found in IOM and Youth Justice should also provide a good basis for continuing MAPPA practice in a devolved probation service. In addition, a small number of people convicted of terrorist offences or suspected of potential terrorist activity are supervised through special multi-agency arrangements involving the Probation Service's National Security Division, the Prison Service and counter-terrorism police (HMIP 2023).

The multi-agency practices reviewed above are strongly focused on public protection, but the most direct contact between probation services and members of the public who are not subject to supervision or reports comes about through work with victims of crime.

Probation work with victims

When considering research and evaluation of effectiveness in practice, the Probation Service's work with victims, whilst clearly important of itself, has remained somewhat peripheral and not subject to much investigation. The service became responsible for some contact work with victims, mainly in the provision of some factual detail about sentences for some more serious offences as part of the first Victims' Charter, launched in 1990. Initially, this related to families of murder victims when the perpetrator was approaching release. A revised Charter in 1996 and the Crime and Court Services Act (2000) extended contact to victims of sexual or violent offences where the perpetrator received more than 12 months' custody (HMIP 2021) and placed this contact on a legislative basis. However, little evaluative work has been done, except for a few Probation Inspectorate Reports and a Review conducted by the Victim Commissioner (2016). The latter study did not relate exclusively to the probation service's work, but concluded that many victims were dissatisfied by the provision of information and recommended that this should be timely and accurate and delivered by a single trained professional to improve quality and avoid duplication (Wedlock & Tapley, 2016).

HMIP's inspections have concluded overall that there are several reasons why victims have not engaged with services, including those provided by probation. These include: a lack of knowledge about services; not wanting or feeling the need; a lack of access to services; a fear of re-victimisation (HMIP 2021). An inspection report (HMIP 2013-14) carried out in response to complaints, found a general level of satisfaction but noted that victims did not always feel that the scheme was clearly explained and did not feel informed enough to

decide whether to take part. In 2018, HMIP examined contact between the service and victims in the case of John Worboys (HMIP 2018). Whilst the report concluded that the service had carried out its statutory duties, it regarded that some communications had been poorly drafted, were rather lengthy and confusing and communication overall was hindered by changes of probation personnel (HMIP 2018). Finally, in 2019, inspections of probation areas concluded that services to victims were generally good, with initial contacts encouraging further contact. There was evidence of good professional relationships being the foundation for good communication and examples of this helping victims make contributions to licence conditions.

Conclusion: steps towards an effective devolved Probation Service

Overall, there is a strong case for improving attention to skills, reasonable caseloads and interagency collaboration in any attempt to improve the effectiveness of probation services. The same is true of communication between the Service and the judiciary. Greater operational independence in a Wales Probation Service would allow it to set its own developmental priorities rather than depending on the issues identified by the Ministry of Justice in London. Suggestions for future priorities identified by the Probation Development Group include:

- Greater investment in the development of individual supervision skills by probation staff.
- Reductions in targets and micromanagement, allowing staff to exercise more discretion in the supervision of people on probation.
- Working towards reasonable caseload sizes, with clarity about where supervision is most necessary and effective and where it could be light-touch or suspended to allow more time for people who need it.
- Development of better communication and understanding between probation staff and sentencers about the need for more thorough pre-sentence reports.
- Changes in the governance of probation services to ensure adequate representation of the judiciary and other partner agencies, in particular those run by local authorities, health services and the voluntary sector.
- These approaches would require some investment but should show some benefits relatively quickly. Devolution without significant investment would be likely to show only limited benefit.
- Consideration should also be given to reemphasising the importance of individual supervision and the relationship between people on probation and their supervising officers by legislation to reinstate the Probation Order as a constructive non-custodial option.

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Probation Development Group Paper 3

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Governance and Partnerships

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Introduction

In this paper, we will set out some principles which, in our view, should underpin the structure, governance and arrangements for partnership working in a devolved probation service for Wales. In section 1, we start by relating the principles back to the functions of probation which have been discussed at lengths in other working papers – see Values and Principles and Effective Practice – as well as the desired outcomes of a devolved system. We then set out the essential principles of probation governance in Wales and in section 2, provide a short explanation of how these were derived. We suggest some considerations and key questions for a Welsh Probation Service and some Options for Probation structures.

In section 2, we provide a very brief overview of the history of probation governance and current governance arrangements. This is followed with the introduction of a number of different models of probation structure and governance and draw on their respective advantages and identified challenges to discuss some key dilemmas in probation and where it should be situated. We believe that this will help inform discussions around the benefits of certain probation structures and forms of governance as well as the pitfalls to avoid.

Section 1 - Summary of main points

The structure and governance of probation should support the functions that it is meant to deliver and thus we have very briefly set out these functions here to provide appropriate context. In addition, we consider room for additional functions, see the last bullet points.

- Aim for appropriate diversion from criminal justice system.
- Offering credible and effective alternatives to imprisonment, in particular, short-term prison sentences.
- Aiming to reduce reoffending and manage risk of harm through effective practice (link to other working paper – person centred/trauma informed).
- Supervision of community sentences (this would require a reintroduction of the supervision element to community orders).
- Supervision of parole-released individuals as well as those requiring supervision after automatic release from custody.
- Provide services to courts – PSRs.
- Managing transition of young people in youth justice to probation.
- Managing transition from prison to community.
- Provide victim liaison services.
- Develop and improve probation's role at the remand stage of court proceedings with the aim of providing credible alternatives to custodial remand. ['new' function]

Additionally, we have approached the task of considering structures and governance with certain desired outcomes in mind and again felt it was necessary to be explicit here:

- Maximise appropriate diversion from criminal justice supported by other criminal justice agencies such as police, prosecution and the courts as appropriate.
- Reduce levels of imprisonment and encourage the use of appropriate and proportionate community sanctions for all but the most serious offences.
- Improve victim liaison, restorative approaches, and community safety.
- Joining up services in the community to create trust in professional probation services.
- Support vulnerable communities and individuals recognising they can be both victims as well as involved in offending.
- Support processes of desistance for individuals on probation.
- Reduce frequency and seriousness of offending and effectively and appropriately manage risk of harm.
- Provide a rights-based, trauma informed and anti-oppressive service that is responsive to individual need including protected characteristics.

Proposed essential principles for probation structure and governance:

1. Separate professional status for probation combined with a close working relationship with other criminal justice agencies.
2. Effective and regular consultation and communication with sentencers/courts.
3. Alignment and cooperation with relevant local stakeholders to allow joined-up services (third and private sector organisation, police, health, prisons, youth justice, housing, employment, social services, substance misuse).
4. Probation officers as qualified professionals.
5. Strong professional value system.
6. Evidence based practice supported by strong links through policy-professional-academic partnerships.
7. Consistent guidance and frameworks that allow for local discretion based on strong local relationships (including statutory, third, and private sector) including structures and relationships on fair and transparent commissioning of services.
8. Stable funding allocation – statutory funding formula.
9. Working in line with principles of effective trauma-informed practice and desistance principles and as a result reducing victimisation and harm and protecting communities.
10. Offer effective Victim Liaison and Restorative Justice services.

Considerations for a Devolved Welsh Probation Service

The discussion of these differing probation models and the need to align a devolved Welsh probation service with other elements of the criminal justice system and public service delivery sheds some light on the extent to which the principles we set out can be translated into structures and governance and leaves us with a number of questions and dilemmas:

- How far should the design of a new probation service be a process driven top-downwards from the ministerial level and how far should it be influenced from the bottom-up by local practitioners and stakeholders?
- Any highly localised model will raise questions of consistency of approaches across Wales and increases the potential for justice by geography, thus a monitoring/regulatory or inspection system needs to ensure consistency of certain key principles.
- Should a new inspection system be set up – the system in England be opted into – or should this be added to the Ombudsman system? Whichever system is considered, the underpinning philosophy should be that of a critical friend aiming to support probation staff and one that recognises the values and principles of probation and is not solely focused on a target culture.
- The transition between youth justice and the adult system is a key consideration and provides an opportunity to recognise relative maturity as well as chronological age and to ensure that transition processes are sensitive to this. Considering a reflection of the provision of youth services to the age of 25 (provision for care leavers, etc.).
- Does a new service and delivery system require new data monitoring systems that can be integrated across different public and third sector services? In Northern Ireland, for example, the Causeway system provides an information sharing hub allowing appropriate automatic data transfer between criminal justice organisations. In Jersey an integrated case management and data reporting system was developed to cover most of the post charge criminal justice system with role-based access control built in.
- If probation delivery was to be placed under local authority structures, the need to share in limited resources for different services would lead to difficult decisions and battles around whose area of need is the most important. Local commissioning practices need to take account of the needs of all stakeholders – public services, private and third sector needs – through appropriate, transparent, accessible, fair and sustainable commissioning.
- Probation staff have been through several significant and highly disruptive structural changes over the past decade, and this needs to be recognised in plans for a devolved Welsh service. There will be a certain change fatigue amongst probation staff.
- Any reconfiguration of Welsh Probation structures should therefore involve clear consultation with probation staff but also others affected by the proposed changes, such as people on probation and other agencies involved in delivering services in the community, in particular, the third sector.

Options for Probation structures

Certain decisions will need to be taken on the core probation structures required and one of the primary decisions would be the role of any new Probation Board as either a body of oversight, guidance and influence or as one that also carried direct responsibility for the delivery of probation services. The following are suggestions for components/elements of a Welsh probation system.

- Welsh Government ministerial responsibilities would need to reflect newly devolved powers and we suggest that responsibility for probation should be held in one ministerial department, e.g. within Social Justice.
- A Probation Board (equivalent to Youth Justice Board Cymru/PBNI/CJS) could be established to offer all-Wales oversight, policy, and governance.
- Probation Advisory Group (statutory, private and third sector involved in community safety, community, sentencers, academic, and people on probation representation) supporting the Probation Board, to ensure feedback on strategy, delivery, and ethics and provide oversight as a critical friend.
- Probation Development Board – practice development panel focusing on evidence-based practice and bringing together academic, professional, policy and people on probation – similar to Hwb Doeth.
- Local Management/Liaison Boards and Advisory groups.
- Inspection system – both Scotland and N.I. have inspection bodies which reflect the wider criminal justice and social work systems respectively.
- The qualifications, training and value base expected of practitioners. England and Wales are the exception in the British Isles of having moved away from a Social Work base in probation practice and the current Professional Qualification in Probation training may need to be reconsidered.

Any new system in Wales may have to work with a non-devolved judiciary and prison service and structural links to the organisations needs to be considered to allow effective communication, trust, and smooth transitions for those released from prison into the community.

Section 2 - Background and Consideration of Existing Models

History of Probation Governance

Probation was founded in 1907 as a local and community-based approach, with its officers providing services to the local courts, paid for by local authorities. Local probation committees were set up which involved local magistrates and areas were coterminous with local petty session/court areas. As early as the 1920s a National Probation Advisory Committee was established which was renamed a number of times over the next decades. The focus on local court-linked probation lasted almost a century albeit with some tension as the Home Office attempted to exert greater centralised control. Three main interest groups dominated this set-up - sentencer/courts, local authorities and the Home Office and there were concerns about inconsistency in service delivery, governance oversight through differently organised local probation committees, etc. (Morgan 2007).

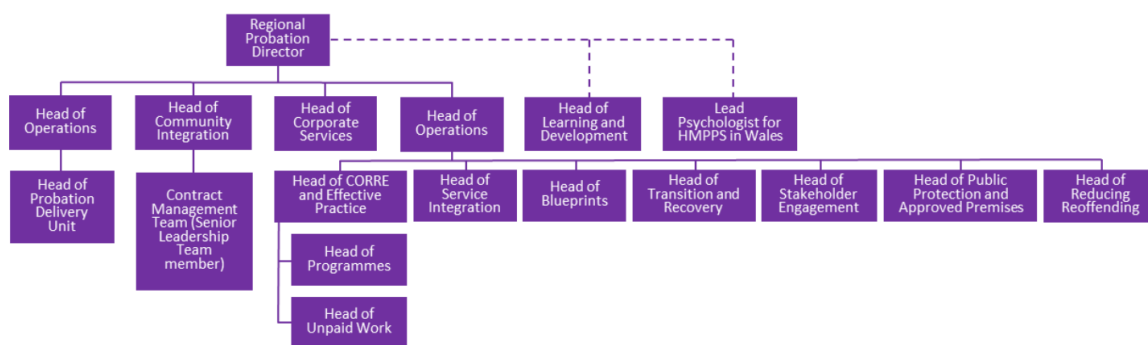
In 2001, a national probation service for England and Wales was established, as a public service with probation officers employed by local probation boards. The new 42 probation areas were coterminous with courts, CPS, and police areas and probation boards included members from the Magistracy and the local authorities. The NPSEW only lasted until 2004, when the National Offender Management Service was created followed by the establishment of 35 public sector Probation Trusts in 2008 who directly employed probation staff (Morgan 2007). Probation trusts were designed as semi-autonomous public bodies contracted and

accountable to a regional director of offender management. The logic of their establishment was to return probation trusts to more local control but also to open probation service delivery to competition from private and voluntary sector organisations (Crawforth 2011). Probation trusts were generally seen to be operating well prior to their abolition as part of Transforming Rehabilitation (Tidmarsh 2023).

The latest step in probation’s recent more turbulent history was the 2014 split of probation trusts into commissioned Community Rehabilitation Companies dominated by private sector organisation and a National Probation Service located in the civil service. Governance and oversight of the marketized CRCs and NPS lay with HMPPS but in 2020 after an exodus of experienced probation staff, a decline in performance and a loss of sentencers’ confidence in the quality of probation services and interventions provided, the split of probation services was reversed and the service renationalised. The ‘irredeemably flawed’ (HMIC 2019) model of post-TR probation has led to a fragmented landscape of relationships between probation and its core stakeholder, further centralisation of probation and a loss of connection with local communities – in part due to closures of probation offices in small towns and rural areas – and courts. These fragmented relationships will need to be rebuilt in a devolved Welsh probation service.

As of 2021, a re-unified probation service is part of HM Prison and Probation Service (HMPPS), an executive agency of the Ministry of Justice. The probation service is divided into 11 regions in England and one in Wales and employs around 28,000 staff. Regional services are overseen by regional directors and operational delivery is managed through Probation Delivery Units, 6 in Wales. Wales has its own senior leadership structure in response to current devolution arrangements, see below (Bird & Ward, 2021, p.17).

In Wales, the RPD is supported by a different senior leadership structure, as follows:



Source: Bird & Ward 2021, p.17

Principles of probation structure and governance

Below, we explain our reasoning for the inclusion of the principles for probation structure and governance, set out in Section 1. We are happy to expand on these further should that be necessary and helpful.

1. **Separate professional status for probation** combined with a close working relationship with other criminal justice agencies

Recent history of probation is littered with changes to its structure and position as an independent professional service and it has become clear that the latest changes of designating probation officers as civil servants in a combined HMPPS has had a detrimental impact on probation officers' status, their ability to be involved in evidence-based practice, and to advocate for people on probation. A separate status for probation and its independence from other criminal justice agencies is important and the continuation with an integrated service with the prison service or an integration with other agencies such as prisons, police or PCCs would undermine the self-legitimacy and recognition that the service requires to effectively work with, and advocate for, people on probation.

2. **Effective and regular consultation and communication with sentencers/courts**

One of the effects of recent changes to probation through the split of the probation service under the Transforming Rehabilitation reforms and the subsequent reunification, has been a loss of trust in community sanctions by sentencers. Rebuilding this trust and ensuring any probation service is positioned to enable ongoing and effective communication with sentencers, provide appropriate, high quality, and well documented court services, and community sanctions/community supervision, is vital in ensuring good and appropriate use of community sanctions thus addressing current pressures on prisons and in particular, reducing the use of ineffective short prison sentences. A formal role for sentencers/courts in the governance structure for probation should be considered.

3. **Alignment and cooperation with relevant local stakeholders** to allow joined-up services (third and private sector organisation, police, health, prisons, youth justice, housing, employment, social services, substance misuse)

Probation services support people on probation whilst serving community sentences, they supervise people after release from prison on license conditions, or those who have been released on parole. Supporting individuals effectively means linking up and commissioning services from other specialist organisations – private or third sector - and that relationship is crucial to offer holistic support to individuals who may have support needs across different services such as housing, substance misuse, and mental health. Probation services could become an independent part of community settings where different support services are co-located to provide one-stop-shops for service users and reduce the stigma of accessing and attending probation. In addition, particular groups of people on probation, such as young people who transition from the support of youth justice services to probation supervision need particular attention and a consideration of a dedicated and age-appropriate transition process. Others, need culturally appropriate services sensitive to the needs of different groups of people on probation (e.g. women, veterans,...).

4. **Probation officers as qualified professionals**

Probation officers should be regarded as professionals rather than civil servants with a resultant impact on recruitment and training processes, as well as professional values, ethics and competences. Importantly, it provides the freedom to engage in evidence-based practice and critical appraisal of probation practice and processes.

This professional status should act as a safeguard against the influence on practice of political short-termism, a culture of respect for a professional staff group aiming to improve on retention of newly trained and appointed colleagues, returning probation to a lifelong career of choice. In addition, a review and recalibration of current training provision would be required.

5. Strong professional value system

Numerous studies have looked at the values of those entering probation and whether values expressed by probation staff have been affected by the various changes to probation over the last decades. Traditionally based in social work – and as outlined below, this is still the case in many jurisdictions – probation places value on relationships, supports a rights-based approach, and trusts in individual ability to change. Probation values have proven remarkably resilient, surprisingly so given the fundamental shift in working practices, structures, and responsibilities (Williams 1995; Napo 2006; Deering 2010, 2011; Mawby & Worrall 2013; Deering & Feilzer 2015). The European Probation Rules are a strong basis for such a value system and should be considered as a basis for a Welsh probation service (for further discussion of this please refer to the Values and Principles paper).

- 6. Consistent guidance and frameworks that allow for local discretion** based on strong local relationships (including statutory, third, and private sector) including structures and relationships on fair and transparent commissioning of services. Within that, consideration should be given to the empowerment of local probation teams to respond to local community safety needs clearly guided by legislative and normative frameworks (e.g. CJA2003 – proportionality...). This should involve a regulatory or inspection framework which assesses delivery of probation services against the national guidance and framework provided which will ensure equality of service provision.

- 7. Evidence based practice** supported by strong links through policy-professional-academic partnerships

Evidence-based practice should be core to probation practices to ensure that any interventions, supervision arrangements, etc. are appropriately questioned as to their effectiveness in supporting the desistance pathways of people on probation. The unintended potential negative impact of some community sentences needs to be recognised and thus, all support, sanctions, and other rehabilitation services need to be tested and critically evaluated. Embedding evidence-based practice, an appetite for innovation, professional curiosity and reflexivity may require a review and recalibration of current training provision (for further discussion of this please refer to the Effective Practice paper).

8. Stable funding allocation – statutory funding formula

The provision of well-staffed professional probation services depends on clarity of funding in the medium and longer term. Commissioning services from other organisations in a transparent, accessible, fair and sustainable manner also requires the ability to plan ahead with sufficient resources and established and agreed procurement processes. Resources need to be ringfenced for probation services and protected from the clamour for prioritisation for other public services.

9. **Working in line with principles of effective trauma-informed practice** and desistance principles and as a result reducing victimisation and harm and protecting communities.

There have been significant advances in our understanding of the extent of trauma and disadvantage experienced by people on probation and the need for service provision to be sensitive and informed about the impact of trauma. Additionally, the advances in desistance theory and its interaction and overlap with rehabilitative services have led to calls for integration of principles of desistance into probation practice. There is further work to be done on how this works practically.

10. Offer effective Victim Liaison and Restorative Justice services

The probation service plays an important role in ensuring victims of crime are recognised as stakeholders in the justice system including the process of supporting people on probation to reduce their offending behaviour. This includes a responsibility to liaise with victims of crime and offer restorative justice services where appropriate and agreed to.

Probation structures and governance – existing models

In this section we outline some of the key aspects of other models of probation structures and governance arrangements that we have reviewed to better understand some of the benefits and challenges experienced. Which models could be emulated in a devolved probation service depends on priorities and practicalities, as well as the level of ambition for Welsh devolution.

One model that would be easily within reach as it has been introduced very recently in Manchester under current England and Wales legal frameworks is the Greater Manchester Probation Service. This service operates under the oversight of a Regional Probation Director underpinned by a model of unified public services that are coterminous with other public service providers. The model was formed in 2021 and is in its early implementation, it satisfies a number of principles set out above, for example, it brings together local services based in community hubs and focused on local decision making and need. However, it falls somewhat short of some of the core principles set out above such as an independent professional service with its own set budget.¹⁰

The Scottish model of probation, a full description of Criminal Justice Social Work Services can be found here: <https://www.cep-probation.org/wp-content/uploads/2020/11/Scotland-chapter-final-version.pdf>

The Social Work (Scotland) Act 1968 is the primary legislation for the provision of all Social Work Services including those of Probation to be the responsibility of Local Authorities. Thus, Criminal Justice Social Work is aligned with the delivery of other local authority services. However, there is central oversight through Community Justice Scotland (CJS) to the Cabinet Secretary (Minister) for Justice. CJS is a non-departmental government body with a Board

¹⁰ For more detail see <https://www.justiceinspectors.gov.uk/hmiprobation/inspections/gm-rpd-letter/> and <https://www.greatermanchester-ca.gov.uk/media/3747/mou-moj-gmca-justice-devolution.pdf>

and staff team. Criminal Justice Social Workers have the same duty as all other Social Workers under the 1968 Act to promote the welfare of service users. The funding methodology is complex and involves Central as well as Local Authority funding. This results in a variation in the services delivered across Scotland.

The alignment and inclusion of criminal justice social work within wider local authority social work offers advantages in terms of coordinating services and local accountability. It carries a risk that in prioritisation exercises criminal justice may be disadvantaged against child protection or care of the elderly. This risk is partly offset by ringfenced central funding and the role of Community Justice Scotland. Similarly, to Northern Ireland, there is no direct involvement of the Judiciary in Governance. This model would also appear to be adaptable to Wales – a question is whether the inevitable differences in service provision between areas would be criticised as lack of consistency or as an expression of local priorities.

The Jersey Probation and After Care Service is best described as the Courts' Social Work Service (Please see <https://www.cep-probation.org/wp-content/uploads/2018/10/probation-in-europeChapter-Jersey-final.pdf>). It provides both criminal justice and family private and public court services as well as diversion from prosecution and prison through and after care. It is governed through the courts system and a Probation Board is responsible for annual business plans, budgets, etc. Monthly meetings are held between judiciary and senior probation officers – probation officers are delegates of the court with a quasi-civil servant status. All probation officers are qualified social workers or qualified probation officers and undergo regular training on pro-social modelling and problem solving. As JPACS is “owned” by the Court system it enjoys the confidence and trust of the Judicial system and this has allowed more flexible policies around compliance and conditions in Probation Orders for example than is found in England and Wales. The Probation Board acts much as a school Board of Governors and the CPO has considerable freedom to act and innovate. It is compliant with the European Probation Rules in most respects: <https://www.cep-probation.org/knowledgebases/council-of-europe-rules-recommendations/>

The model works well for a small jurisdiction. There is ample evidence of effectiveness in reducing the number of short prison sentences; good use of community penalties and diversion; and the implementation of effective practice principles. The model may be hard to replicate in a larger jurisdiction and particularly for Wales if the Judiciary was not also devolved. However, it does illustrate the value of a known and trusted probation presence in Magistrates and Crown Courts, and the importance of involving sentencers in a meaningful way in the governance of Probation. In particular, it can help free resources by ensuring appropriate diversion and effective use of community penalties.

The Northern Ireland model - a full description of Probation Board of Northern Ireland can be found here: <https://www.cep-probation.org/wp-content/uploads/2018/10/Probation-in-Europe-2013-Chapter-Northern-Ireland.pdf>. Due to the Good Friday agreement 1998 probation practice and policy is assessed for compliance with the European Probation Rules. PBNI is a non-governmental public body like the Youth Justice Board. The Minister of Justice appoints a Chair, Deputy Chair and not more than 18 members of the Board, to represent a wide spectrum of community life. Board members are appointed for a maximum of two, three-year terms. The Board meets 11 times each year. The current Board does not include any active

or former members of the Judiciary. PBNi publishes a newsletter "Probation Works" twice yearly aimed at sentencers and the legal sector. The Board is accountable to the Minister of Justice. It is responsible for appointing and employing staff, administering the budget set by the Northern Ireland Executive and delivering Probation and After Care services within parameters set by the Departments of Finance and Justice. PBNi is responsible for Probation Services in Youth and Adult courts as well as custody and post release. PBNi also has a statutory role in assisting the Director of Public Prosecutions in deciding whether an individual can be diverted from prosecution. A particular feature of Probation Services in Northern Ireland is partnership with the voluntary sector which goes further into the crime prevention area than comparable Probation Services. For example, funding may be provided to community activities such as football clubs or riding for the disabled in deprived neighbourhoods, recognising the link between social and criminal justice.

Probation Officers are qualified Social Workers with additional post qualification training. PBNi is subject to inspection by the Criminal Justice Inspectorate and periodically seeks feedback from service users and the wider community. As an arm's length body PBNi enjoys considerable operational discretion within the overall legislative framework whilst remaining a public body. The Board reflects the wider community within Northern Ireland although it does not include a Judicial voice. PBNi services are embedded in the communities they serve. The PBNi model could be replicated in Wales perhaps with the addition of a statutory requirement to take account of the views of Judicial bodies (e.g. Magistrates' Association).

Adapted Youth Justice and the Welsh Blueprints

In July this year the Wales Youth Justice Academic Advisory Group (WJAAG) presented papers to Welsh Government (WG) on options for the devolution of Youth Justice. WJAAG Paper 2 (Next Steps) contains a section which sets out some options on governance and accountability. One of the fundamental questions in any move towards devolution is whether probation services in Wales should be:

- 1) delivered by a central national agency such as a Probation Board (perhaps sub-divided into Regional Boards); or
- 2) delivered by local authorities subject to the monitoring and influence of a central agency such as a Probation Board.

The second option is currently adopted in England and Wales for youth justice with local authorities having the duty to deliver youth offending services but subject to the monitoring and influence of the Youth Justice Board (YJB). The WYJAAG papers to the Welsh Government leaned towards a refinement of this model with the Youth Justice Board being replaced by a national Welsh Youth Justice Board with its powers enhanced but delivery remaining with local authorities. The argument for refining the system of local authority delivery and central monitoring and influence was that if local authorities deliver all the related services that would be needed to promote those positive outcomes (social services, youth services, education, health), it would not make sense for youth justice services to be located elsewhere and constituted differently. Arguably this reasoning could, and perhaps should, be applied to

probation. Such local authority alignment raises queries about priorities for resourcing and divergence of practices and creates some tensions with some principles set out above.¹¹

The discussion of alignment with youth justice practices including structural alignment resonates with recognition of the Welsh Government's stated vision for criminal justice services in Wales. The WG's vision for youth justice and female offenders in Wales has been set out in two blueprints which were developed in partnership with the Ministry of Justice and other parties including HMPPS. The [Youth Justice Blueprint for Wales](#), the implementation of which is overseen by the Wales Youth Justice Advisory Panel (jointly chaired by Welsh Government and Youth Justice Board). The [Female Offending Blueprint for Wales](#) the implementation of which is overseen by the All Wales Criminal Justice Board (which brings together HMPPS, Her Majesty's Courts and Tribunal Service (HMCTS), Youth Justice Board, Police Services in Wales, Chief Constables in Wales, Police and Crime Commissioners in Wales, Crown Prosecution Service, Public Health Wales, Welsh Government, Welsh Local Government Association, Voluntary Sector bodies and Victims Commissioner).

The visions set out in these blueprints share common themes and align closely with recent Welsh government legislation (including Well-being of Future Generations (Wales) Act 2015 and Violence Against Women, Domestic Abuse, Sexual Violence (Wales) Act 2015). Key themes are included below and can be linked easily to some of the principles for structure and governance set out above.

- A criminal justice system that treats individuals with fairness and respect (gender informed and child first practices) and recognises and responds to indicators of complex need.
- A national trauma-informed approach to delivering services to individuals who have offended, or who are at risk of, offending. This approach being applied throughout the various stages of the justice system, from prevention and early intervention to resettlement from custody.
- A focus on diversion and prevention and the development of locally led community-based alternatives to custody and remand.
- Secure provision that is both close to children's home, trauma informed and draws on "best practice in multi-agency working to develop a centre of excellence with delivery of mental health, health care education and training".
- Improving transitions from child to adult criminal justice and other services including mental health and substance misuse services.
- Strengthened integrated partnership approach to the delivery of services (especially resettlement services) with robust monitoring and oversight.

Links with other service providers: partnership and commissioning

In any future devolution of justice in Wales including probation, consideration should be given to the impact of devolution on the people who access the justice system and the voluntary or third sector organisations that support them. The third sector in Wales are valued partners in the delivery of probation services and offer key provision when it comes to services delivered in the community. The sector has been consistently underfunded and proper consideration

¹¹ A full paper expanding on these issues written by Stewart Field is available on request.

will need to be given to how community services are delivered in a new devolved probation system. It is essential that when considering any future models of probation in Wales that third sector organisations working in the criminal justice system are properly engaged and treated as an equal partner in the design and delivery of those probation services.

Probation has always had close working relationships with agencies which provide specialised services that are equipped to meet the needs of people under its supervision – notably in the areas of substance misuse, housing, employment, mental health and managing money. These agencies, which are often referred to as ‘partners’, may be in the public, private or third sector. In some cases, they are already funded from other (including charitable) sources to deliver services to vulnerable people and may consequently be open to referrals from offender managers without payment. However, referrals are often made under the auspices of financial contracts with Probation, who determine what is to be delivered and how, in which case a more accurate term than ‘partners’ may be ‘sub-contractors’. During the 1990s, local probation committees were directed to allocate at least seven per cent of their total budget to funding the delivery of such services. In many cases, this involved fairly informal and loosely monitored arrangements.

After the centralisation of Probation in the early 2000s, formal competitive tendering became the norm, with services increasingly contracted across much wider areas by specialist procurement teams. This greatly reduced the overall number of sub-contractors, offender managers being obliged to refer people only to a limited list of suppliers, often relatively large organisations with branches in several areas. Under the Transforming Rehabilitation arrangements between 2014 and 2021, the mainly private Community Rehabilitation Companies (CRCs) which won area contracts to run probation for medium and low risk offenders, included in their original bids partnerships with specified ‘second and third tier’ service providers, many of them third sector organisations. The intention was to subcontract these agencies to provide particular (in some cases innovative) kinds of intervention, although in practice they were not used to the extent initially expected, partly because lead companies claimed that they had not received sufficient funding from government to fulfil their plans.

Since re-unification, with probation now a part of the civil service, probation regions are responsible for contracting specialised services (through the ‘Probation Dynamic Framework’). As before, there is little room in the current arrangements for encouraging engagement with small local providers. For a more detailed and critical discussion of the effects of this large-scale procurement approach, see Clinks 2022.

The devolution of Probation to Wales would require careful thought about how a variety of services for people under supervision might best be accessed and funded. One of the key issues to be considered is at what level commissioning should take place. While contracting services across wide areas (e.g. by central commissioning on an all-Wales basis, or on a regional basis within Wales) has the advantages of making the procurement, administration and monitoring of contracts easier, it also has the potential disadvantages of:

- (a) making some contracts so large that they become undeliverable;
- (b) further weakening links between Probation and other agencies at the local level;

(c) making it difficult to involve smaller third sector agencies, some of which not only have close knowledge of and connections with local communities and resources, but also often offer imaginative and innovative interventions and/or are skilled at engaging initially unreceptive people.

Multi-agency partnerships

In addition to referring individuals on probation to other agencies for specialised services, probation managers and staff work collaboratively with many other agencies in a variety of multi-agency partnerships. Membership of some of these is statutory, in others it is voluntary. The closeness of the collaboration also varies from situations where co-located staff work day-to-day on cases together (as do probation and police officers in some IOM¹² teams) to arrangements whereby agencies continue to work separately but meet periodically to exchange information and agree what each partner will do next (as in MAPPA¹³). Two other important partnerships unique to Wales are Dyfodol (which involves Probation, G4S/Parc prison and a number of substance misuse agencies and aims to ensure timely and consistent 'through the gate' treatment for prisoners with substance misuse problems) and WISDOM¹⁴ (a police-probation-prison-mental health services partnership situated within IOM and managing high risk offenders).

Wales has a strong tradition of partnership working, and there is evidence from a variety of evaluations, inspection reports, etc. that that all of the above examples are both active and effective. Although the part-privatisation of Probation under TR had a negative effect on its level of engagement in partnership meetings and activities, the re-unification has restored much of its previous willingness to play an active role.

It should be noted, however, that some issues arise which can negatively affect the effectiveness of these multi-agency partnerships. First, some of the main partnerships in which Probation plays a key role – especially IOM, MAPPA and WISDOM – are dominated by criminal justice agencies. Ways need to be found of encouraging greater interest and more consistent engagement from other major service agencies. It is also widely agreed that agencies from the third sector could make valuable contributions, but their involvement continues to be marginal in many cases. Part of the problem may be that it is not always clear which particular voluntary agency to invite and there is no obvious representative body to contact. Whatever the reason, we suggest that it is important when considering any further models of probation in Wales that third sector organisations working in the criminal justice system are not only consulted and engaged in the design of those probation services, but ways are found of enabling them to play a substantial part as partners in service delivery.

A second issue to consider is the extent to which a devolved Probation Service should be mandated to play a part in particular multi-agency partnerships, and to what extent the manner of its involvement should be stipulated (perhaps most importantly, whether secondment of staff to and/or co-location with any other agencies should be required).

¹² Integrated Offender Management.

¹³ Multi-Agency Public Protection Arrangements.

¹⁴ Wales Integrated Serious and Dangerous Offender Management.

Finally, consideration of accountability is important, especially regarding partnerships that are working with or ‘managing’ high risk offenders. Current review systems for serious case reviews, serious further offence reviews, domestic homicide reviews, child safeguarding reviews should be reviewed for suitability and appropriateness to assess what mechanisms should be used to investigate what happened when something goes seriously wrong and identify ways of preventing it happening again.

Considerations for a Devolved Welsh Probation Service

The discussion of these differing probation models and the need to align a devolved Welsh probation service with other elements of the criminal justice system and public service delivery sheds some light on the extent to which the principles we set out can be translated into structures and governance and leaves us with a number of dilemmas and considerations:

- How far should the design of a new probation service be a process driven top-downwards from the ministerial level and how far should it be influenced from the bottom-up by local practitioners and stakeholders?
- Any highly localised model will raise questions of consistency of approaches across Wales and increases the potential for justice by geography, thus a monitoring/regulatory or inspection system needs to ensure consistency of certain key principles.
- Should a new inspection system be set up – the system in England be opted into – or should this be added to the Ombudsman system? Whichever system is considered, the underpinning philosophy should be that of a critical friend aiming to support probation staff and one that recognises the values and principles of probation and is not solely focused on a target culture.
- The transition between youth justice and the adult system is a key consideration and provides an opportunity to recognise relative maturity as well as chronological age and to ensure that transition processes are sensitive to this. Considering a reflection of the provision of youth services to the age of 25 (provision for care leavers, etc.).
- Does a new service and delivery system require new data monitoring systems that can be integrated across different public and third sector services? In Northern Ireland, for example, the Causeway system provides an information sharing hub allowing appropriate automatic data transfer between criminal justice organisations. In Jersey an integrated case management and data reporting system was developed to cover most of the post charge criminal justice system with role-based access control built in.
- If probation delivery was to be placed under local authority structures, the need to share in limited resources for different services would lead to difficult decisions and battles around whose area of need is the most important. Local commissioning practices need to take account of the needs of all stakeholders – public services, private and third sector needs – through appropriate, transparent, accessible, fair and sustainable commissioning.
- Probation staff have been through several significant and highly disruptive structural changes over the past decade and this needs to be recognised in plans for a devolved Welsh service. There will be a certain change fatigue amongst probation staff.

- Any reconfiguration of Welsh Probation structures should therefore involve clear consultation with probation staff but also others affected by the proposed changes, such as people on probation and other agencies involved in delivering services in the community, in particular the third sector.

Options for Probation structures

Certain decisions will need to be taken on the core probation structures required and one of the primary decisions would be the role of any new Probation Board as either a body of oversight, guidance and influence or as one that also carried direct responsibility for the delivery of probation services. The following are suggestions for components/elements of a Welsh probation system.

- Welsh Government ministerial responsibilities would need to reflect newly devolved powers and we suggest that responsibility for probation should be held in one ministerial department, e.g. within Social Justice.
- A Probation Board (equivalent to Youth Justice Board Cymru/PBNI/CJS) could be established to offer all-Wales oversight, policy, and governance.
- Probation Advisory Group (statutory, private and third sector involved in community safety, community, sentencers, academic, and people on probation representation) supporting the Probation Board, to ensure feedback on strategy, delivery, and ethics and provide oversight as a critical friend.
- Probation Development Board – practice development panel focusing on evidence-based practice and bringing together academic, professional, policy and people on probation – similar to Hwb Doeth.
- Local Management/Liaison Boards and Advisory groups.
- Inspection system – both Scotland and N.I. have inspection bodies which reflect the wider criminal justice and social work systems respectively.
- The qualifications, training and value base expected of practitioners. England and Wales are the exception in the British Isles of having moved away from a Social Work base in probation practice and the current Professional Qualification in Probation training may need to be reconsidered.

Any new system in Wales may have to work with a non-devolved judiciary and prison service and structural links to the organisations needs to be considered to allow effective communication, trust, and smooth transitions for those released from prison into the community. We feel that these key elements would be most conducive to sound probation governance in a Welsh context which would enable probation staff to fulfil probation functions and achieve some of the desired outcomes set out above.

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