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Rehabilitation revolution: Will probation pay the price?

Jonathan Ledger, Napo General Secretary

Abstract In this piece about the future role of the probation service the author follows the Churchillian adage of looking back in order to go forward. He considers the experience of the service under the Labour Government, in particular the impact of the National Offender Management Service (NOMS) ‘project’, before going on to examine the intentions – good and bad – of the Coalition Government. Inevitably, it is necessary to ponder the likely substantial cuts to the probation service in line with the broader cuts to the public sector promised in the budget announcements but the author concludes by focusing on the potential opportunity for the service if a more progressive sentencing policy is pursued.

Keywords probation cuts, revolution, coalition, NOMS, progressive rehabilitation

New Labour

It is a tragedy for many of us that Labour’s ‘tough on crime, tough on the causes of crime’ slogan was focused, in practice, so much on the former and all too little on the latter. Perhaps the nearest Labour got to a proper examination of the social and economic causes of criminal behaviour was the work of the Social Exclusion Unit but its ideas never appeared to be truly supported by Ministers and it was quickly forgotten.

The proliferation of newly created offences and endless criminal justice legislation was a feature of the Administration as it followed a populist agenda on criminal justice. It played on fears generated by terrorist attacks and the media’s obsession with violent crime as a pervasive ‘blame culture’ too often directed policy and practice in the criminal justice system. It is perhaps no wonder, then, that its policies resulted in such a disgraceful increase in the prison population during its 13 years in power, the greatest and most shameful failure of all during New Labour’s custodianship of crime and justice.
In the probation service the shift in focus desired by government was first signalled when the then Prisons and Probation Minister, Paul Boateng, announced in the late-1990s that the probation service should describe itself as a law enforcement agency. Subsequent legislation reinforced this as the original 1907 Probation Act commitment to ‘advise, assist and befriend’ was removed in favour of a punishment model characterized by closer monitoring and enforcement. Many respected academics and policy makers have written about the subsequent shift in the culture of the service as the mantra of ‘managerialism’ dominated the organization, and staff at all levels experienced a loss of autonomy.

Alongside constant reorganization the service concentrated on higher risk work and found itself at the mercy of media frenzies when the spotlight fell on individual tragedies such as the Hanson and White and Sonnex and Farmer cases. All too often it stood alone in the face of unpleasant and unfair attacks and was frequently ‘stabbed in the back’ by past Secretaries of State whose public and private comments suggested a profound ignorance of, and lack of respect for, the work the service undertook.

It cannot be denied that there was significant financial investment in the service. In July 2010 the Centre for Crime and Justice Studies published a report into prison and probation spending under Labour. It identified a 50 per cent real term increase in spending on probation from 2000–2008 and a 65 per cent growth in frontline staff in roughly the same period (Oldfield and Grimshaw, 2008). So far, so good. However, it also demonstrates that workloads in terms of those subject to probation supervision rose by 39 per cent in the 10 years up to 2009 and that in the past three years the number of frontline staff has actually dropped by 17 per cent – there are fewer probation officers now than there were in 2003. Richard Garside, the Centre’s Director, summed the situation up neatly in his press comment on the report describing Labour’s legacy in relation to the prison and probation services as ‘record expenditure, an overstretched workforce and an overburdened system’.

These figures are consistent with the experience of Napo members for whom unmanageable workloads have been a key issue for many years. Their frustration at the difficulties they have experienced in their work was borne out by the Ministry of Justice’s own recent figures in relation to the time spent by practitioners working directly with people on orders. It found that just 24 per cent of practitioners’ time was spent on face-to-face work with the remaining time spent keeping records, in meetings and in front of computers (Ramsbotham, 2010).

**NOMS**

But it was the Carter Report in 2003 and the creation of the National Offender Management Service the following year that has most impacted on the probation service. I have already referred to the obsession with reorganization and in 2001 a seismic change in probation took place as the National Probation Service was created and family court welfare was absorbed into the newly formed Cafcass (Children and Family Court Advisory and Support Service). This was, in general
terms, a change that was welcomed. The same cannot be said, of course, about NOMS.

With NOMS we took delivery of a new set of concepts such as ‘contestability’, offender management, and the ‘purchaser/provider’ split. In the years following NOMS’ creation I attended many meetings with officials, on behalf of Napo, when the ever-evolving ‘vision’ for the new organization was set out. These visions were, as often as not, illustrated with organizational diagrams known as organograms which, for those of us of a certain age and humour, sounded like something lifted straight from a Woody Allen film! In her Bill McWilliams’ memorial lecture my predecessor, Judy McKnight, estimated that we had experienced at least seven different organograms over a three year period none of which ever quite managed to provide any clarity or, indeed, satisfaction! (McKnight. 2009)

However, the decision to make NOMS an agency in 2008 has had more profound implications for the probation service. Napo has caused offence, it seems, in the NOMS hierarchy by describing the move to agency status as a prison ‘take-over’ but we believe that all the available evidence supports our argument that the takeover has been a hostile one. Probation’s status has always been subservient, in the eyes of politicians, to the prison service – most demonstrably by the fact that the national probation service had a Director whilst the prison service had a Director General. But setting the issue of titles aside, probation has been repeatedly overlooked as the agency has appointed senior officials and organized its working responsibilities.

The previous Chief Executive of NOMS, Phil Wheatley, made little secret of his seeming contempt for the quality of management in the probation service. It was this attitude, perhaps, that informed the selection of the Directors of Offender Management last year as only one of the ten appointees had a probation background. In turn probation focused projects such as the recently developed Probation Qualifying Framework and community related subjects like offender management and substance misuse have been led and managed by former prison governors and others without experience of community supervision.

The impact of spending cuts has exacerbated this situation. The protection provided by the Civil Service Surplus Employees Scheme has meant that prison staff in NOMS, covered by the scheme, have been given jobs previously held by probation staff. The probation colleagues, being seconded to NOMS, are regarded as being, in effect, expendable as they can be returned to their originating probation area. No wonder that the number of probation background staff in NOMS is a disproportionate fraction of those from the prison service.

Consequently, the probation service has been without adequate representation or support at the centre. At a time when key decisions about the size and scale of cuts to NOMS are being made this is a major disadvantage. Having spoken ill of New Labour earlier, it is to the credit of its last Justice Secretary, Jack Straw, that he took seriously the concerns about the impact of cuts raised by the probation trade unions in our regular meetings with him. He took action to secure the employment of the most recent cohort of newly qualified probation officers and in a House of Commons statement in October 2009, when he announced a reduction in the cut
to the probation service budget for the current financial year, he specifically acknowledged our representations.

The absence of a probation ‘champion’ in NOMS is also evident when the service is under scrutiny or being criticized in the media. Too often it is Napo, and Harry Fletcher in particular, that is left to defend the service.

I have had a number of run-ins with senior NOMS officials complaining about our public statements but I have also received just as many private acknowledgements that we had performed a service that the Ministry of Justice had felt unable to undertake.

**Coalition**

So, what of the future? The Coalition Government is talking revolution and it is the nature of the revolution on offer that will help shape the future of the probation service. There is much, seemingly, to welcome. Crispin Blunt, the Prisons and Probation Minister, gave his first major speech in July 2010, by quoting his famous line about the treatment of crime and criminals being one of the unfailing tests of civilization. He marked the centenary of Churchill’s declaration. Whilst many have quoted this (though rather fewer have actually lived up to it), it is welcome that he is highlighting the significance of the statement.

Likewise Ken Clarke’s major speech about criminal justice reform at the end of June 2010, given to the Centre for Crime and Justice Studies (BBC, 2010) contained welcome and key messages as he condemned the growth in prison numbers and the ineffectiveness of short term prison sentences and highlighted the need for more community based sentences. Napo had issued a press release making similar points just a week before the speech. Mr Clarke’s credibility as a potential progressive prison reformer was enhanced by the return, if not from the dead then the political wilderness, of the hero of the ‘prison works’ philosophy, Michael Howard, and their public spat in many ways helped reinforce a view that this Government might be serious about positive change.

However, the Justice Secretary’s promotion of the use of the private sector in the provision of community sentences and the trumpeting of the ‘payment by results’ approach causes many of us in the public sector grave concern. I am puzzled by the definition of a payment by results system. The current social impact bond pilot in Peterborough providing post release supervision to prisoners serving less than 12 months, and hence not subject of statutory supervision, is employing the system for the private organizations and individuals who ‘invest’ in the project. My understanding is that recidivism rates will be applied to test effectiveness. Not only will it take some considerable time to measure the recidivism rates – two years is the most common timescale quoted – but also any experienced probation practitioner will tell you that recidivism is not in itself necessarily an accurate measure of change and improvement in an individual.
I suspect some of this idea is yet to be thought through properly. However, one other aspect of Mr Clarke’s speech could not have been unplanned. In a comprehensive address about criminal justice reform covering the need to reduce the prison population and increase the use of community sentences, many of us were gravely concerned about the absence of any reference to the probation service. I noticed that the draft structural reform plan issued by the Ministry of Justice in the summer did not reference the probation service either.

What are we to make of this when looking ahead? Reflecting a quote I heard in a speech recently that one should never waste a good recession, even if a progressive criminal justice agenda is ultimately driven by the need to cut costs, the evidence suggests that utilizing what is already in place is the route to making real savings. In the provision of alternatives to custody the probation service must surely be the lynchpin for change. It has an established infrastructure, trained and skilled staff and experience of extensive partnership work with voluntary organizations providing complementary services.

The launch of the ‘big society’ initiative by the Prime Minister reinforces the cynical view that the need to save money will lead to an ever increasing use of volunteers – not a problem unless it is to inappropriately replace trained staff – and perhaps we might see the education model employed as citizens are enabled to open up their own reporting centres for local miscreants!

We are keen to engage with ministers to discuss these issues. Whilst there are likely to be areas where we cannot agree, I know that the probation unions are willing to have a conversation, big or small! In opposition the Conservatives and Liberal Democrats were keen to meet with Napo regularly and received briefings on probation related issues. In Government there has been less enthusiasm and meetings are proving difficult to arrange. One way or another, I can promise you, we will ensure that our voice is heard.

Cuts

Of course, a sizeable shadow in the form of the threatened public service cuts hangs over our collective hopes for progressive reform. I won’t rehearse here the detail of the 2010/11 NOMS cuts except to highlight the additional £20 million budget cut to the probation service on top of the existing £24 million cut in the current year. You will appreciate, from my earlier remarks, the disappointment experienced following the success we had achieved in persuading Jack Straw to halve the £50 million cut originally planned under Labour.

In the longer term we are still awaiting the detailed breakdown of the Spending Review in October 2010 before we can be clear about the impact of the cuts over the next three to four years. The threatened figure may not be as high as the 20–40 per cent range we feared, but the threat of meltdown for both the probation service and the criminal justice system as a whole remains.

We receive a series of mixed messages from Government. On the one hand there are announcements about the loss up to one million jobs in the public sector whilst on the other commitments are given to protecting front line services. I suspect
it would be revealing if a minister could define their meaning of the front line. As is obvious to most, removing the jobs done by those who support the front line, directly or indirectly, weakens the ability of those delivering services to do their job.

I have already discussed the rationale for saving money in criminal justice by maintaining the probation service but the time is coming when key decisions about resources must be made that will impact on Probation Trusts’ ability to employ staff. The threat of compulsory redundancy has, for the most part, been kept at arms length up to now but a cut in budgets that results in notices to staff will have, in my opinion, a number of potential consequences.

Loss of staff, and indeed the failure to recruit new staff to replace those who are leaving, will increase the already heavy burden posed by excessive workloads. It will also mean that decisions will have to be taken at a local level about what work should be prioritized and courts will have to be informed that the service is effectively ‘full’. This is likely to result in high risk work attracting what resources are available and more people receiving short prison sentences due to a lack of community alternatives (and even if the Government sustains its revolutionary zeal in pursuit of new providers this is unlikely to be in place at a measurable level for some time). The changing nature of risk – as illustrated by the Raoul Moat case in Northumbria – demonstrates the additional danger that could be caused by the absence of suitably trained staff to make the ongoing assessments required. The newly implemented Probation Qualifying Framework, designed to enable the continual professional development of staff as Probation Service Officers and Probation Officers, could fall into disuse due to lack of financing jeopardizing workforce planning for generations to come.

What I have described is essentially a ‘meltdown’ scenario. I would have to add to the list the risk of industrial unrest as we will not sit back and allow members’ jobs to be cut and the service threatened without fighting back. However, at this time we are focusing on hard campaigning designed to make the case for the proper resourcing of the service.

But we are also putting forward the case for a complete rethink on the use and purpose of NOMS. Added to the points I made earlier about probation’s experience of NOMS, the move in April to Trust status for the 35 probation areas has exposed already existing fault lines around the boundaries of responsibility between Trusts and NOMS and DOMS (Directors of Offender Management). Given the focus on localism espoused by the Conservatives in particular and the review of ‘quangos’ and other Government agencies, it is pertinent to ask whether NOMS has a place in a reformed criminal justice system?

Napo’s policy position is clear. At our AGM in October 2009 a motion was on the order paper calling for the abolition of NOMS. As the mover of the motion walked towards the podium and before he had even had time to make his proposing speech the 600 members in attendance raised their cards as one in support! As I watched this take place it occurred to me that the failure of the NOMS project could not have been better illustrated. Whilst there may be a rationale for an umbrella NOMS type organization to oversee the two services, we are arguing that both the prison and probation services would be best served by reinstating their own departments, working closely together but independent of each other.
Probation’s future

Notwithstanding the uncertainty and fears about the future of the probation service it is my view that we have reason to be hopeful and can make a positive argument for the strengthening of the service. I would cite the following factors:

- There appears to be a genuine political commitment to sentencing reform based on recognition of the failure of prison sentences to change offending behaviour and the more pragmatic motivation of cutting costs by using community based sentences.
- The Government’s ideas for a ‘revolution’ in community sentences appear unformed and will take some time to implement even if it overcomes likely opposition.
- The probation service has an established infrastructure with trained and highly skilled staff. It has unparalleled experience of working successfully with people who commit offences, established ties with local communities, policy commitments to representing and promoting diversity, and a history of adaptation and innovation which enables it to respond to change positively and imaginatively.
- The probation service also has a strong commitment to partnership with other agencies that share its aims and values. By retaining what is nowadays described as the commissioning role it can effectively broaden the range of services available to those whom it supervises whilst ensuring that the essential and cost-effective work of the service is maintained.

We are living a in a time of coalitions. I think that this is a time for a closer coalition of those who believe in a progressive approach to crime and punishment. We can make the argument for reducing the use of incarceration by promoting the pivotal role of a properly resourced probation service in providing community supervision and interventions. We should make our case based on an approach that emphasizes shared values and beliefs, co-operation rather than competition, altruism rather than profiteering and trust rather than suspicion.

On this basis I believe that the future for the probation service can be bright and I can envisage the organization remaining firmly at the heart of rehabilitation, changing lives and protecting communities.

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References


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