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Transforming Rehabilitation Consultation  
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19 February 2013

Dear Sir / Madam,

### **Transforming Rehabilitation Consultation**

This is the response of the Police and Crime Commissioner for Cleveland to the Consultation Paper 'Transforming Rehabilitation - A revolution in the way we manage offenders'.

In Cleveland we are on course again to see the lowest ever levels of crime and disorder. This is due in no small part to the excellent partnership working – a key element being the performance of Integrated Offender Management (IOM) arrangements led by Durham Tees Valley Probation Trust.

I support the Government's sustained aim of driving down the rate of reoffending and providing better value for the taxpayer, but I have serious concerns that the proposals set out in the Government paper will not deliver on the stated aims and may prove counter-productive. I believe that the proposals run the risk of replacing a system which is the envy of its equivalents in other developed nations with an untried and untested approach which involves taking major risks with public safety and is not based on robust evidence.

I agree that it is wasteful and wrong that many offenders released from short-term sentences get little or no support on release and I note that successive Governments have stepped back from the short-term resource

implications of extending support to all prisoners on release, despite the prospects of longer-term savings. IOM schemes provide continuity of support and interventions until and unless a significant change of behaviour is achieved. The IOM approach of continuity, as opposed to 'revolving doors', and lower caseloads entail higher short-term costs but is surely the place to start any such review.

Experience in other contexts on reliance on private sector finance and of Payment By Results (PBR) mechanisms gives us no confidence in these approaches. I believe that the Government's proposals involve taking major risks and that the Government is therefore morally obliged to publish its risk assessment for these proposals.

I am not averse in principle to working in partnership with the private sector, and to robust testing of efficiency and effectiveness, but our understanding of the Government's proposals is that they are based on the intention to debar Probation Trusts from the competition (although this is not made explicit in the Consultation Paper). Such an approach would eliminate the main safeguard against the uncontrolled operation of market forces, and appears to rest on an ideological conviction that 'private sector is best' regardless of the evidence base (including the failed experiment with a broadly similar approach in New Zealand).

I am not at all reassured by the claims that "our reforms will make use of local experience and will integrate with existing local structures" and that "we will not disrupt local multi-agency working arrangements, including Multi Agency Public Protection Arrangements MAPPA and IOM arrangements, as well as relationships with Youth Offending Teams"; because such detail as is provided appears to contradict these claims. A network of 16 national contract packages, including one which would cover the whole of the Northumberland, Durham and Cleveland Police areas, will not relate effectively to IOM and Youth Offending Team (YOT) arrangements which are organised on much smaller geographies, nor to arrangements by Police & Crime Commissioners.

I have even greater concerns about the interface with other important arrangements e.g. Local Safeguarding Children Boards, Supporting Vulnerable Adults arrangements and Multi Agency Risk Assessment Conferences (MARACs) for domestic violence, given that they do not even merit a mention in the Consultation Paper. The new contract packages will not be 'aligned' to PCC and local authority boundaries, but will aggregate them into much larger areas.

The experiences of the Government's contracts with A4E for return to work services and G4S for Olympic and Paralympic security are not reassuring. Our own local experience of the UK Border Agencies' recommissioning of support for asylum seekers in a similar pattern of contracts covering large parts of the country also fails to inspire confidence.

Our experiences suggest that private providers will make fulsome claims in advance of contract award about how they will engage with local partnerships and that it will prove difficult to get them to make good on these.

The statistics set out on page 7 of the Government Paper support our point of view, i.e. there is a 57.6% reoffending rate for prisoners sentenced to under 12 months, most of whom receive no support from Probation Trusts, but only a 35.9% rate for those sentenced to 12 months or more, who are supported by Probation: surely this is an argument for more of the successful factor i.e. Probation input, not less of it. Furthermore, there is no attempt at a serious comparative survey of how the performance of our current arrangements relate to those of other comparable nations.

The reference on page 9 to a prospective 37% reduction in the cost of Community Payback services in London is an untried remedy – judgements about value for money cannot be made until performance has been seen. A more responsible approach would be to test out the proposals via selective pilot schemes which could be properly evaluated, as opposed to a 'big bang' approach.

No timescale is given for the publication of the summary of responses to last year's consultation 'Punishment and Reform: Effective Probation Services'. It does not suggest that consultation is being taken seriously when new proposals are rushed out before the results from the previous round have been fairly and properly considered in a transparent and accountable way.

I believe that the design of effective PBR mechanisms which avoid 'perverse incentives' and cannot be 'gamed' by providers is very difficult, and that the process should not proceed until such details have been drafted and subjected to the scrutiny of consultation. The comment on pages 17 and 18 about this being 'work in progress' underlines our point, as does the current crisis in the DWP's Work Programme arrangements.

I note the statement at page 17 that "Public Sector organisations – for example, the police – may be able to engage directly in and be rewarded for the delivery of additional services", but I need to see the definitive position and the supporting detail on this: frankly, 'may' is not good enough as a basis for consultation on such a serious issue, and suggests a rushed approach in which the proposal has not been previously considered. The £500k of support to prepare the VCS nationally is derisory and is clearly a 'plucked from the air' figure with no basis in evidence or research.

The potential for 16 contract package areas will not optimise the links to key services which are planned and commissioned at local level, including housing, drug and alcohol services, the 'Troubled Families' programme, MARAC etc.

If the proposals go ahead as detailed, PCCs must have the opportunity to feed in views on the claims made by prospective providers about how they propose to sustain and develop local networks and partnerships and in particular existing IOM arrangements". I would want the Ministry of Justice to give a commitment to have due regard to the views of Community Safety Partnerships, YOT Management Boards, LSCBs etc on the issue, rather than simply taking into account the claims made by prospective providers.

I would also like to see a commitment to the continued publication of data on comparative performance at local authority level. This is a minimum requirement to help to secure the continued engagement of all local partners. It would enable aggregation at PCC level.

## **Further Comments are:**

### **1. Loss of accountability for protecting the public**

- The proposal is to transfer the 'management' and 'supervision', to the private sector, of cases which would include child protection cases (as well as domestic abuse, mental health and substance misuse). Whilst I support the relevant involvement of organisations from other sectors in the supervision of offenders, I believe their management should remain with an appropriately competent public sector probation worker.
- Significant numbers of offenders currently managed by the Probation Trust, already engage with service providers from other sectors. They do so, however, with the benefit of ongoing risk assessment by and contact with a probation worker. These proposals remove that safety net and are profoundly worrying.
- I have concerns that accountability to shareholders in the newly proposed structure will compromise accountability to the courts and indirectly the communities I represent. The document appears confused about accountability and responsibility in the management and supervision of offenders. That can only be remedied by the retention of all offender management responsibility with public sector probation.
- Under the proposals a range of serious offenders would be subject to management and supervision by private or voluntary sector organisations without any public sector involvement, ongoing assessment or oversight. Given the record of some private sector providers in the criminal justice field this is a serious concern.
- The attempt to divide the supervision and management of low and medium offenders to be transferred to voluntary private sectors and high risk to be retained by the probation service fails to recognise that in the real world offenders often move from one category to another. The ability to manage that process when responsibilities are fragmented would inevitably increase the risk of delays, miscommunication and mistakes, with potential serious implications for public safety
- In order to protect the public, promote public confidence in probation, and hold outsourced providers to account, it is essential that any

private or voluntary organisation involved in the provision of probation work is subject to freedom of information legislation.

## **2. These proposals threaten local collaboration and partnerships**

- These proposals would be delivered through national commissioning. This runs counter to devolution in other parts of Government and is a threat to local partnerships. The proposals are silent on the 'fit' between current and possible duties in this context, not least in respect of safeguarding.
- As privatisation fragments probation, effective systems of communication and information sharing will be vital to success. The National Offender Management Service has a particularly poor history of commissioning IT services. The C-Nomis system, designed to facilitate the 'end-to-end offender management' aims of NOMS, was delayed by several years, hugely over budget, and finally implemented only in prisons, rather than prisons and probation as originally intended. A report by the National Audit Office found that the project suffered from poor planning, insufficient oversight, weak contractual arrangements with partners, and an underestimation of the complexity and technical understanding required to deliver the system (National Audit Office, 2009).

## **3. Risks of serious disruption to services during the transition period**

- In Durham Tees Valley Probation Trust, the overall calculation regarding the implementation of these proposals would mean the organisation would retain direct management responsibility for 5% of Community Orders and 13% of Post Release Licences. This is profoundly worrying.
- The Government is proposing to change both structures and delivery mechanisms, at the same time and within challenging time frames. The threat to present performance arising from the inevitable uncertainty of such profound change is real. Blurred lines of responsibility and accountability, a characteristic of these proposals, only add to my concerns in this context.

## **4. Uncertainty over the future regulation of professional standards**

- It is not clear how current and future professional standards and service quality will be regulated. Any risk of de-skilling, over time could have profound implications for managing and supervising safeguarding cases.
- Furthermore, the sub-prime contracting model will impair the ability of the public probation service to monitor and assess risk levels effectively

and to remain accountable for public protection. The current proposals are likely to create long and complex chains of subcontractors which will result in the fragmentation of responsibility and accountability. The public probation service will need to work closely with all the organisations in the supply chain which will be highly bureaucratic and labour intensive.

## **5. Inclusion of those released from short term prison sentences in management and supervision**

- I welcome this. It recognises that the needs and risks associated with the group contribute disproportionately to reoffending rates. Working with offenders in the context of safeguarding will be strengthened by their being 'on scope'
- No financial analysis is set out to accompany this development.

## **6. Cost Implications**

- It is concerning that there will be no investment in the implementation of the proposed reforms. Indeed, it is the intention of the Ministry of Justice to implement these reforms and extend provision of probation services whilst simultaneously reducing the justice budget by around £2 billion. It is naïve to propose such radical reforms to a vital public service without ensuring the budget needed to implement them is available.
- In addition, any reduction in reoffending will only result in the savings needed to fund the proposed reforms if coupled with policy decisions to close prisons, cancel prison building programmes, and stop the continuous escalation of custodial sentence lengths. Crime levels in England and Wales have been in decline for several years. Figures from the Office of National Statistics (ONS) show that crime has halved since 1995 (ONS, 2013). Yet since 1993 the prison population has increased by 92 per cent (Ministry of Justice, 2013c), with the criminal justice budget rising alongside it.

### **In relation to specific questions:**

C1 No, 16 is not the right number. Contract package areas should be no less than current Probation Trusts and should include performance reporting at local authority level (as at present)

C2/C3 The Government should provide detailed proposals for consultation before proceeding.

C7 Lead providers should be obliged to provide their supply chain information, including all their delivery partners and detailing what they are responsible for providing and to what geographical areas and/or client groups, and what

arrangements the lead providers have in place to ensure satisfactory performance.

C8 There should be financial penalties for supply chain mismanagement as for all other forms of mismanagement.

C9 By packaging contracts as outlined in response to C1 above.

C11 This may not be possible.

C12 The remaining public service probation services should be organised at the most local level viable, and certainly no less locally than the proposed 16 contract packages.

C13 Impose an obligation on the providers to attend all multi-agency arrangements currently attended by Probation Trusts whenever invited to do so.

C14 By taking account of response C1 above.

C15/16 The Government should publish detailed proposals for consultation before proceeding.

What seems to be lacking from your analysis is any clear risk assessment. If there is not one then you should not proceed – if there is one then please publish it. Neither is there regard for the new landscape of Police and Crime Commissioners. Why is there no consideration of devolving responsibility to PCCs who may then commission trusts or other providers? This would fit with the localism and commissioning agendas and would help join up services to make communities safer.

Where is the detailed financial appraisal? It does seem that this matter is being managed with ill considered haste when the risks are not known but are undoubtedly very high. I trust that these comments will prove helpful, and please do not hesitate to contact me if you require any clarification.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Barry Coppinger', written in a cursive style.

Barry Coppinger  
Police and Crime Commissioner for Cleveland