

Best Value in Probation – Consultation Paper [CP 06/08]

List of questions for response

We would welcome responses to the following questions set out in this consultation paper. Please e-mail your completed form to: bestvalueconsultation@justice.gsi.gov.uk, fax it to 020 7035 4844 (f.a.o. Jon Neville) or post it to Jon Neville, Commercial and Competitions Unit (CCU), National Offender Management Service, Ministry of Justice, 3rd Floor Fry, 2 Marsham Street, London, SW1P 4DF. Thank you.

Please feel free to expand the comment boxes.

Question 1. Do you agree that, **at first**, the National Offender Management Service, for the Ministry of Justice, should select the services to be reviewed by probation areas over three years? Yes/No: **No**

Comments: **Best Value should be wholly owned by areas from the outset. The BV programme should be developed in relation to trusts since boards will no longer exist within less than two years. If NOMS wishes to help boards develop vfm then this should be managed through a separate programme, to a shorter timescale, and focused on helping them to improve in order to attain trust status.**

Question 2. If you agree with question 1, how many services do you think should be reviewed in each year of the programme?

Comments:

Question 3. If you agree with question 1, do you agree that the services to be reviewed should be selected on the basis of: [tick those with which you agree]

- i. The strategic importance of the service?
- ii. The potential to increase the effectiveness of the service?
- iii. The potential to increase the efficiency of the service?

- iv. The capacity of boards and trusts to review the service?
- v. The benefits of the review outweighing its costs?
- vi. And do you think that there are any other criteria which should be considered?

Comments: Trusts should themselves select what should be reviewed on the basis of local priorities and circumstances. The items listed above are some of the obvious points trusts may want to consider in deciding what to review. Point v is the one no trust should ignore since it would be perverse to proceed with a review if it was known in advance that the process would cost more than it could achieve.

Question 4. If you agree with question 1, which services do you think should be reviewed in the first year and which should be reviewed in the second year?

Comments:

Question 5. Do you agree that NOMS, with the Ministry of Justice, should make available national service specifications on performance, economy, efficiency and effectiveness for the services to be reviewed? Yes/No: Yes

Comments: High level (only) specifications should be available for all services delivered by probation areas, driven by principles of quality, vfm and, critically, stakeholder criteria. They would set out minimum standards and would inform the negotiating process between the Secretary of State and each local trust to agree the contract. Such specifications would provide a baseline standard: obviously trusts might want to aspire to exceed these levels and this would inform the negotiations around contract. Specifications should exist whether or not there is a BV regime, but obviously they would also inform that process.

However, it must be said that we are collectively a very long way away from being having a reliable suite of specifications. Any development process must involve probation areas to ensure they are appropriate.

Question 6. Do you agree with the aspiration to move over time to a more decentralised model, with regions agreeing with probation areas the services to be reviewed in the region, taking account of national guidance on how to make the selections? Yes/No: Yes

Comments: There should be no centralised model at all. While there would have been an argument for a centralised model under the National Probation Service / board structure, the Offender Management Act 2007, and the creation of trusts, has introduced a very different operating environment. Critically, local trusts are semi-autonomous entities whose relationship with the centre is contractual. It should be for individual trusts to develop their own BV regimes voluntarily as part of their internal strategic and operational management processes, in the context of the requirements of the contract. Trusts will be highly incentivised to undertake BV exercises to maximise their negotiating edge.

It would be sensible to have co-ordination and information sharing but these processes should be owned by the trusts and delivered eg by the Probation Association, as the national provider organisation, and not by NOMS who are the commissioners.

Question 7. If you agree with question 6, what do you think would be the appropriate point at which to move to a more decentralised model?

Comments: From day one.

Question 8. Do you agree that NOMS regions should:

- i. Co-ordinate the reviews carried out by probation areas in their region, ensuring that they happened at similar times? Yes/No: No
- ii. Negotiate and agree with probation areas any necessary variations to national service specifications? Yes/No: No

Comments: i. BV reviews should be undertaken by trusts according to their own assessment of what needs to be reviewed, this decision itself informed by their internal business development plans. It should not be assumed that it would always be best to compare outcomes within a region. Over recent years there have been various attempts to create "families" of areas for comparative purposes. HM Inspectorate developed a model based on area size and population density, and the first NPD Weighted Scorecard was derived in principle from the police Most Similar Areas formula. Both HMIP and NPD subsequently changed their comparison methodologies and it is probably fair to say there is no perfect comparison system. Certainly while there are advantages to intra-regional comparisons there are also good reasons for wanting to co-ordinate reviews within other "families" of areas. Trusts should be encouraged to explore approaches amongst themselves: the

Probation Association is well placed to provide a central information and brokerage system to help trusts to manage this methodology. This could include consideration of organisations outside the probation service.

ii. There are arguments for and against. However, it is recommended that the national specifications remain constant, reflecting the Secretary of State's standards, and that enhancements are negotiated locally as part of the contract negotiation process, to suit local needs and ability. Specifications can be changed in a managed way over time in response to new information about trust activity and performance.

Question 9. Do you agree with our proposals for the way in which probation areas should conduct the first step (initial data collection) of the Best Value reviews? [See pages 23-24 of the consultation document.] Yes/No: **No**

Comments: There is a dearth of definitive information about activity, cost, etc., within the national service. This is a free-standing issue which must be addressed separately from the development of a BV regime. We are some considerable way away from having reliable information and the time and effort to achieve a satisfactory position should not be underestimated. There is a good deal of experience within the Home Office and MoJ in relation to simialr work in eg the police and this should be drawn on.

Historically the collection and use of data has been characterised by a range of problems relating to accuracy and application, actual and perceived. One has only to have lived through the life-span of the Weighted Scorecard and now the IPPF to know that this is an area fraught with the potential for disagreement and challenge. There is no reason to suppose things would be different in a BV regime - the past is the best indicator of the future!

However, absence of national data in the short term should not stop local areas from developing their own in-house data sets and using these to develop efficiencies against their own benchmarks. There is also scope for areas with similar characteristics working collaboratively in this respect.

Question 10. Do you agree that probation areas should make the initial data from their Best Value reviews available to NOMS and that it should be collated and made available to all probation areas to enable comparison? Yes/No: **No**

Comments: In a trust environment the relationship between lead provider and NOMS

(representing the Secretary of State) is contractual. Unless the contract requires it, information should remain with the trust and not be passed to others, including the commissioner. There are issues of commercial sensitivity. However, a data sharing service would be enormously helpful to all trusts in developing local benchmarking and sharing of good practice, where they wanted to be able to do this. The Probation Association is well placed as an "honest broker" / neutral body to manage any data sharing system. One could be developed with built in protection for information that needed to be managed with any degree of sensitivity. Using PA would place control of data appropriately with a provider "owned" body and not inappropriately with the commissioner. There would be scope for an SLA between PA and NOMS governing the sharing of anonymised or aggregated information if required.

Question 11. Do you agree with the proposals for the way in which probation areas should challenge their delivery of the service? [See page 25 of the consultation document.]

Yes/No: **Yes**

Comments: This section sets out a rational "recommend good practice" approach. However trusts themselves must manage this process.

Question 12. Do you agree with the proposals for performance improvement plans? [See page 26 of the consultation document.] Yes/No: **Yes**

Comments: See answer to Q11.

Question 13. Do you agree that regional directors should evaluate the draft performance improvement plans, in line with centrally set evaluation criteria? Yes/No: **No**

Comments: It is for trusts themselves to manage their own performance improvement in line with their semi-independent identity, in the context of what the contract requires. However, this is not to ignore the need for a relationship of mutual trust and co-operation between commissioner and lead provider. It is healthy for the D/ROM and lead provider to engage in a continuous dialogue around performance and contract delivery. The critical issue is to restate this relationship in line with the new contractual environment and away from line management mode. Irrespective of BV this needs urgent consideration.

Question 14. Do you agree with the proposals for incorporating equality and diversity issues

into the framework? [See page 29 of the consultation document.] Yes/No: **Yes**

Comments: **It is critical that national specifications incorporate equality and diversity requirements and the items set out on page 29 represent good practice which one would hope trusts would want to adopt. However, as with other issues considered here, one has to remember that the trust is a semi-autonomous body whose focus is the delivery of the contract. It must be free to develop its BV work in a way which best meets its own business development. Item iii would lend itself to co-ordination by the Probation Association as the trusts' membership organisation.**

Question 15. In general, do you agree that this framework is the right way to implement Best Value? Yes/No: **No**

Comments: **Best Value is, in principle, a good concept. It provides a framework for systematically assessing and improving the work of a probation trust. However, the approach set out here assumes boards and trusts are identical entities and treats them both as though they are both in a line management-type relationship with NOMS. Boards will soon no longer exist, and the approach must therefore be one that fits a contract-based environment in which semi-independent bodies manage their own business in line with contractual requirements and their own local business plans. Ownership of BV must rest with providers, and any co-ordination and development should be led by them, where necessary through a national provider organisation.**

We need, as a priority, to consider how to articulate what the relationship between D/ROM and provider should look like in the new environment. Inter alia this will support delivery of an effective BV regime.

Question 16. Do you have any further or general comments on our proposals?

Comments: **The documentation appears to assume that probation areas do not undertake this type of self-assessment now, and/or are unmotivated to do so unless compelled by a centrally directed programme. This does not fit the facts: probation areas have been undertaking reviews in various forms, independently and in regional groupings, for some time and are motivated by the annual 3% efficiency target, and professional aspiration, to**

improve vfm. The introduction of contracts is a spur to develop expertise and practice in this respect.

If the aim is truly to improve efficiency and effectiveness (vfm) then it is essential that trusts are given maximum freedoms / minimum constraints to develop their business. It is perverse to have operating constraints on trusts whilst simultaneously pressing them to cut costs and improve outcomes.

A potential weakness with the approach as set out is that it focuses on discrete elements of each area's business. Elements of area operations are interdependent and account needs to be taken of this.

Unit costs are to some extent determined by the total budget allocated. Until either the budget allocation formula is rationalised or trusts are paid on a tariff basis there will be the risk of high cost areas being unfairly criticised for apparently uncompetitive vfm.

The proposals seem to assume that trusts have contracts only with NOMS. Given the emphasis on localism, eg see the ongoing work by the Department of C&LG around LAAs and related issues, one would expect to see trusts contracting with others to provide services outside the NOMS contract. These also ought to be BV'd.

The information in the impact assessment raises many questions about costs and benefits. The Local Government experience as set out there is not entirely encouraging and there is little or no persuasive argument about why the process developed for probation is likely to deliver better results. The section on costs for local areas underplays the cost of information collection, and the involvement of staff being reviewed, as opposed to undertaking the review work. The setting up of BV within areas is also likely to be costly in terms of training and recruitment of BV staff and these costs will be incurred well before any savings are realised.

Unfortunately the consultation document is framed in a way which propels the respondent to concur with the assertions being made. It is quite difficult to give replies which are constructive but do not fit with the broad thrust of the the document. It is possible to support a BV-type approach without supporting some or all of the propositions set out here. Thus, having set out the weaknesses in the proposal it is right to end by repeating that the BV principle is basically a sound one. We would encourage a rethink based on a trust-owned process co-ordinated through the Probation Association, drawing on the work by NOMS, to develop a fit-for-purpose approach.

About you

Please use this section to tell us about yourself

Full name	Christine Lawrie
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	Chief Executive Probation Association
Date	21 st June 2008
Company name/organisation (if applicable):	Probation Association
Address	83 Victoria Street London
Postcode	SW1H 0HW
If you would like us to acknowledge receipt of your response, please tick this box	<input checked="" type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

The 42 boards and trusts that are the employers of probation staff in England & Wales.