

## DISCUSSION PAPER

### Probation Trusts in Partnerships: The New Local Performance Context

In this paper the Probation Association sets out a compelling case for a radical change in the way performance targets are set for probation Boards and Trusts.

The inclusive and welcomed consultative process instigated by the National Offender Management Service (NOMS) for the proposed “modernising” of the Integrated Probation Performance Framework (IPPF) provides an ideal opportunity for the Association to contribute to this debate.

This paper has two purposes:

- It is being submitted to NOMS to inform the current consultation on the future shape of, and drivers for, the Integrated Probation Performance Framework (IPPF)
- It is also being circulated to our members and stakeholders to inform a wider debate about how local and national requirements can best be synthesised into a single structure for setting, monitoring and evaluating local probation performance

## Doings Things Right Or Doing The Right Things:

### *Time For The Lights To Change?*

The Association submitted evidence to the All Party Parliamentary Local Government Group which published its report *Primary Justice - an Inquiry into Justice in Communities* on 20 July, 2009 (available at [www.lgiu.org.uk](http://www.lgiu.org.uk)).

The contents of this Discussion Paper support the rationale for the model of "Primary Justice" as proposed in the report.

The existence of a "target culture" which focusses on Doings Things Right rather than Doing The Right Things (i.e. the proper quality of care of patients, the protection of children and the effective supervision of dangerous offenders) has been identified as a contributing factor in the recent high profile cases involving Mid Staffordshire NHS (A&E deaths), Haringey Council (Baby P) and London Probation (Sonnex murders).

A "green traffic light" in the current performance template does not necessarily indicate to the public, NOMS or Ministers that front line staff and managers are fully focussed on Doing The Right Things - i.e. identifying, assessing and managing high risk offenders and reducing reoffending. The Association suggests that these are The Right Things against which to evaluate probation performance.

The Association suggests that the IPPF is an overly-detailed regulatory burden which should be replaced by a framework that legitimises, evaluates and pro-actively supports the twin aims of reducing re-offending and protecting the public. Not to do so sends the wrong messages to stakeholders and diverts valuable staff time away from addressing The Right Things.

Changes to legal responsibilities from April 2010, and a new local performance framework for trusts, are imminent as a consequence of changes to be introduced in the Policing and Crime Bill and the introduction of a new, simplified local framework for public sector partnership planning and performance evaluation stemming from the 2007 Comprehensive Spending Review (CSR).

In keeping with the principle that “form follows function”, the Association believes that NOMS should adopt a “bottom up” approach to measuring probation performance. The suite of targets and measures in the next version of the IPPF should be reformulated to reflect trusts’ primary focus on delivery of local services to courts, victims and offenders and the increased accountability to local communities. This will require:

- Probation performance to henceforth include outcome criteria related to the primary business of public protection and reducing re-offending
- Acknowledgement that trusts in the future will not only account to Ministers but also to local partners and communities as new “Responsible Authorities”
- Alignment of probation performance within the range of National Indicators (NIs) introduced by the 2007 CSR binding on all public sector organisations
- A Count Once Use Numerous Times (COUNT) approach to uploading the critical few national and local performance monitoring requirements to the NOMS hub or any other reporting repository
- Trusts to be responsible for data collection of the minimum necessary number of input and process indicators which currently

feature in the IPPF, as routine management activity

- Substantial reduction of the overall burden of regulatory requirements stemming from both LAA/CDRP activities **and** any additional NOMS criteria from current unacceptable levels to avoid the possibility of “double jeopardy”
- Recognition that probation boards and trusts are already committed to, and being measured by local, multi-disciplinary, crime reduction initiatives
- Inclusion of performance targets negotiated within the LAA/CDRP framework in contract specifications between Directors of Offender Management (DOM) and Trusts

The cross-government commitment to impacting on the causes of crime, social exclusion and poverty is evidenced in the *National Reducing Reoffending Delivery Plan (NRRDP)* framework which features 7 Pathways:

- Accommodation
- Children and Families
- Skills and Employment
- Finance, Benefit and Debt
- Drugs and Alcohol
- Attitudes, Thinking and Behaviour
- Tackling Health Inequalities

Probation boards and trusts deliver outcomes across all 7 Pathways, usually in collaboration with statutory, private and voluntary organisations.

The RRAP framework provides a coherent, authoritative and holistic professional framework capable of adoption at a local level and replication at regional and national reporting levels.

## Overview

For 102 years, locally based probation staff have served courts, victims and offenders, often in partnership with local statutory and voluntary agencies. Whilst administered within a national framework initially by the Home Office, now the Ministry of Justice, the working context for probation boards and trusts is, and always will be, local.

The emphasis on measuring public sector “performance” within national “league tables” is a relatively recent development and, to date, probation areas have not been formally required to account locally for services provided. The sole acknowledgement to the “local” nature of probation was in the Home Office/Local Authority 80/20 funding arrangements which applied until 2001 with the Local Authority represented on probation committees (the predecessors of boards and trusts) to “approve” the spend.

There was no expectation that probation service and Local Authority planning should be integrated, nor that there should be any more formal accountability to local taxpayers.

The developmental, planning and implementation processes of both the National Probation Service (NPS) and the Crime Reduction Strategy (CRS) in the Home Office overlapped from 1998 onwards. Unfortunately opportunities were not taken to connect and reconcile what were congruent and parallel legislative responsibilities and professional remits and activities locally and regionally. From 2001, National Probation Annual Plans contained few, if any, incentives for boards to foster closer working relationships with CDRPs.

The probation service performance framework has been developed incrementally since the creation of the NPS in 2001 to measure area performance against centrally designed targets and National Standards. The orientation of the IPPF and its predecessor the Weighted Scorecard, has been top-down, input and process focused with few criteria seeking to evaluate performance against “reducing reoffending” outcomes or “public protection” or within a local partnership context.

Currently no data related to probation performance within CDRPs/LAAs are published nationally. As probation activities become more embedded within local CDRP/LAA frameworks, the issue of how to record and present probation performance (which spans both Home Office and Ministry of Justice responsibilities) becomes pressing.

## National Frameworks for Local Criminal Justice

The Government’s document Working Together to Cut Crime and Deliver Justice – a Strategic Plan for 2008-11 sets out the aims, objectives and performance criteria for the Criminal Justice System (CJS).

“Crime” PSAs:  
PSA 23 *Make Communities Safer* (Home Office)  
PSA 24 *Deliver a more Effective, Transparent and Responsive Criminal Justice System for Victims and the Public* (Ministry of Justice)  
PSA 25 *Reduce the Harm caused by Alcohol and Drugs* (Home Office)

Delivery is the responsibility of the National Criminal Justice Board (NCJB), supported by CJS officials and the 42 Local Criminal Justice Boards (LCJBs) of which probation chief officers and chief executives are core members. LCJBs work across the CJS agencies and partnerships to develop local delivery strategies. LCJBs are responsible for the delivery of Public Service Agreement 24 (see box left).

“National” also needs to be interpreted into a Welsh context. PSA targets, where they relate to devolved matters such as education, health, housing, do not apply in Wales. The Beecham Report *Beyond Boundaries* proposed a citizen-centered model of public service delivery with Local Public Service Boards and Partnership Action Contracts (similar in function to LSPs and LAAs in England) .In its design of the IPPF, NOMS should ensure that the relevance of Welsh Assembly Government social policy strategies and the strong emphasis on local authority partnership expectations are taken into account to underwrite the integration of probation activities with devolved social policy responsibilities.

## Public Service Agreements, National Indicators and Local Area Agreements (LAAs)

The 30 PSAs stemming from the 2007 CRS reflect government priorities for 2008-11 for each Department and Ministry. Progress in addressing priorities within PSAs is measured by a suite of 199 NIs, the only mechanism for evaluating CDRP/LAA performance. Each PSA has a “lead” Ministry or Department.

“Crime” PSAs, 23, 24 and 25, relevant to the probation service, are “owned” by both the Home Office and the Ministry of Justice.

## Public Service Agreements and National Indicators Spanned By Probation

PSA 23 Make Communities Safer (Home Office lead) has four Priority Actions which include most of the range of services provided locally by boards and trusts:

- Reduce the most serious violence (including domestic violence) - MAPPA/PPO arrangements relate.
- Reduce serious acquisitive crime – a focus on the most harmful offenders - drug and alcohol reduction programmes/services commissioned or provided direct by probation trusts will make a major contribution
- Tackling crime, disorder and anti-social behaviour and increasing public confidence – the probation contribution will be through purposeful supervision and behaviour modification through the wide range of offending behaviour programmes available locally
- Reducing reoffending through the improved management of offenders
- Probation boards and trusts have led the major investment by probation and prison staff over the past 5 years in developing the concept of Offender Management into seamless working arrangements which both ensure offenders are managed effectively through criminal justice processes but also maximise access to the range of services delivered locally within the cross government National Reducing Reoffending Delivery Plan framework

PSA 23 is measured by:

- NI 16 Serious Acquisitive Crime Rate
- NI 18 Adult Reoffending Rates for those under Probation Supervision
- NI 19 Proven Rate of Reoffending by Young Offenders (relevant to probation staff seconded to YOTs)
- NI 26 Specialist support to Victims of a Serious Sexual Offence
- NI 30 Reoffending Rate of Priority and Prolific Offenders (PPOs)
- NI 32 Repeat Incidents of Domestic Violence
- NI 34 Domestic Violence – Murder

PSA 25 (Home Office lead) Reduce Harm Caused by Drugs and Alcohol is measured by:

- NI 38 Drug Related offending rate
- NI 40 Drug Users in Effective Treatment

PSA 16, Increase proportion of socially excluded adults in settled accommodation, employment, training and education ( Cabinet Office lead) is measured by:

- NI 143 Offenders under probation supervision living in settled and suitable accommodation at the end of their order or licence
- NI 144 Offenders under probation supervision in employment at the end of their order or licence

PSA 13, Improve Children and Young Peoples Safety, (Safeguarding Children responsibilities, Dept of Children, Schools and Families lead) is measured by:

- NI 70 Hospital admissions caused by unintentional and deliberate injuries to children and young people

PSA 2 Improve the skills of the population (Dept of Business, Innovation and Skills lead is measured by:

- NI 163 Working age population qualified to at least Level 2 or higher PSA 2

PSA 8 Maximize employment opportunity for all (Dept of Work and Pensions lead) is measured by:

- NI 151 Overall employment rate
- NI 152 Working age people on out of work benefits

PSA 18 Promote better health and well being for all is measured by:

- NI 136 People supported to live independently through social services (all ages)

Many probation activities are reflected in PSA 23 and 25 and in “social policy” PSAs such as PSA 16 (socially excluded adults) and PSA 8 (maximise employment opportunity for all.) There are currently no NIs for the high level PSA 24 “owned” by the Ministry of Justice.

The activities of probation, more than any other criminal justice organisation, span a wide range of social policy priorities within the 7 pathways in the National Reducing Reoffending Delivery Plan framework and contribute, to a lesser or greater degree, to at least 7 PSAs and over 40 NIs, some of which are included above.

As a new “Responsible Authority” under the Crime and Disorder Act from April 2010, probation performance in future will be measured by progress against outcome NIs along with all other LAA/CDRP partners. PA is concerned that insufficient emphasis is placed in the 2009 to 2011 NOMS Business Plan related to aligning of probation performance targets as currently exemplified in the IPPF to the new, outcome-oriented performance framework within LAA/CDRP frameworks which most Boards/Trusts are already heavily engaged in and have prioritised within Area Business Plans.

## Local Area Agreements

LAAs are local plans for delivering better outcomes for local communities. Since June 2008 they have been the principal means by which the PSAs are delivered. Local Strategic Partnerships (LSPs), of which Chief Officers and Chief Executives of probation are members (in most areas), must agree up to 35 targets for their area as part of their LAA.

The targets are derived from the list of 199 NIs in the National Indicator Set (NIS). The NIS draws together all the Government targets that may be used in local plans. NIs are focussed on outcomes and are the *ONLY* measures which Government will approve for LAAs.

Agreements between Government departments, the Audit Commission, the Improvement and Development Agency and the Local Government Association have developed the Data Interchange Hub, currently being piloted, to assess the business process and technical requirements of the new indicators. Supporting the principle of COUNT (Collect Once Use Numerous Times), the Hub is intended to reduce the data collection burden on local authorities and partners. The latest information about national indicators can be accessed at [www.communities.gov.uk/hub](http://www.communities.gov.uk/hub) – it currently reports probation performance data from both the Home Office in relation to NI 30 (Re-offending rate of prolific and other priority offenders) and from the Ministry of Justice related to NI 18 (Adult re-offending rates for those under probation supervision).

The Local Government and Public Involvement in Health Act 2007 requires the draft LAA to be submitted to the Secretary of State, via the Government Office of the Region (GOR). The LAA must specify, for each local improvement target, to which persons the target ‘relates’.

These drafts will therefore specify those targets which probation boards and trusts have signed up to and where probation intervention helps deliver a priority. In practice this may include targets that are not immediately obvious or part of that board or trust’s core business, but where signing up to that target assists other partners in meeting a key local objective.

The opportunity exists for the Director of Offender Management (DOM) to agree with GOR colleagues each board or trust’s contribution to local targets and to design contract or SLA specifications to reflect individual board or trust contributions to the delivery of PSAs and NIs.

## New Responsibilities for Probation Boards and Trusts

A key local delivery mechanism for crime reduction is the CDRP. Probation involvement is currently not mandatory but in most areas there is some level of engagement with CDRP business.

Probation boards and trusts already have a legal “Duty to Co-operate” in LAAs via the Local Government and Public Involvement in Health Act 2007 (England only).

Additionally, from April 2010 boards and trusts will be designated “Responsible Authorities” within Crime and Disorder legislation and will be integral to the Government’s Vision for Cutting Crime

The Communities and Local Government Handbook on National Indicators for Local Authorities and Local Authority Partnerships states: “The new local performance framework aims to reform the way in which public services are delivered”.

2008-11. Trusts will become equal partners with:

- The Local Authority
- The police force
- The police authority
- The fire and rescue authority
- The primary care trust

“All CDRPs in England are part of the new performance framework and.... should not be subject to any central targets or funding streams apart from what is negotiated through the Local Area Agreement” (Home Office document *Guidance for the Scrutiny of Crime and Disorder Matters - England*).

“Responsible Authority” status will place a duty on probation trusts to work with CDRP partners to:

- Prepare an annual strategic assessment identifying crime and community safety priorities from aggregated management information sources
- Produce a partnership plan clarifying approaches to addressing the priorities
- Undertake community consultation and engagement on crime and disorder issues
- Share information among the responsible authorities within CDRPs which can include the regular provision of Offender Assessment System (OASys) reports segmented into “neighbourhood/ward” postcoded reports to assist in targeting areas of high crime/social deprivation

From April 2010 the existing legal duty on Local Authorities under Section 17 of the 1998 Crime and Disorder Act to “prevent” crime and disorder will be expanded to include a new duty of “reducing

Business flexibilities proposed in the PA report [Probation Trust Freedoms and Business Flexibilities - A Mechanism for Driving Forward Public Sector Reform in Probation](#) will enable trusts to maximise their performance in this new, non-negotiable environment.

re-offending” to which probation boards and trusts can be expected to make a major contribution and to be evaluated against within local scrutiny arrangements.

Currently Local Authorities have no agreed measurement criteria for “reducing re-offending”. The Association believes this new duty on Local Authorities provides NOMS with a timely opportunity to embed probation performance into the LAA/CDRP framework by jointly negotiating common NIs for “reducing re-offending” by which performance of all CDRP partners can be measured.

## Local Scrutiny

Also new is the requirement for probation boards and trusts to be subject to Local Authority led scrutiny arrangements and the Comprehensive Area Assessments (CAA) processes, within which HM Inspectorate of Probation will inspect offender management activities. The CAA will include examination of scrutiny reports. The new scrutiny powers within the Local Government and Public Involvement in Health Act 2007 enable council scrutiny committees/panels to:

- Scrutinise LAA target performance
- Require information from partners signed up to LAA targets
- Require these organisations to have regard to scrutiny recommendations which relate to an LAA target

Many probation areas already measure LAA targets against a range of NIs - typically NIs18 (adult re-offending rate) 30 (PPO re-offending rate) and

Many probation boards and trusts have already re-structured services into Local Delivery Units coterminous with Local Authority boundaries. The LAA/CDRP terrain is complex, particularly in 2 tier areas. Regulations on 2 tier arrangements and district scrutiny powers in relation to LAAs are pending. The role of Local Authority trust members (at least one per trust where possible) should be instructive and facilitative in this new environment.

143/144 (supervised offenders into accommodation, employment, education and training) though these are not currently elements of the IPPF. Trusts will need to develop local performance management systems and reporting mechanisms to enable them to adequately account for performance and respond to scrutiny requirements and CAA processes.

## Conclusions

Probation performance within the new local LAA/CDRP framework is already contributing to NIs within Home Office PSA 23 revised in June 2009. PSA 24 (last issued in 2007) needs updating to take account of the new probation local performance paradigm.

As probation trust performance is strategically and operationally connected to delivering outcomes via LAAs, the Association believes NOMS should give considerable weight to these performance elements in both the IPPF and contracts.

There is a strong case for designing an IPPF capable of being driven by locally negotiated performance criteria and designed around a suite of relevant NIs and “internal” measures.

Inclusion of “internal” measures which can be delegated to Chief Officers/Executives and “external” outcomes which account for probation

Not to include outcome “reducing re-offending” performance criteria raises the prospect of a trust being unable to account to local, regional and national stakeholders for the core business activities for which it is funded. The Association suggests NOMS actively considers indicators capable of measuring predicted against actual reconviction rates from case commencements, reduction in offence seriousness, frequency of re-offending and offenders self-perceptions of their progress under probation supervision (by using tools such as Crime Pics, used extensively in accredited programmes [www.crime-pics.co.uk](http://www.crime-pics.co.uk))

“reoffending” performance in local areas inputted through a COUNT approach would constitute a genuinely integrated probation performance framework.

Such a flexible model would accommodate regional and national NOMS performance expectations but they would not drive the performance agenda alone.

The Association suggests that:

- The IPPF should include indicators which substantiate probation trusts contribution, as a “responsible authority” in Crime and Disorder legislation from April 2010, to the new duty on Local Authorities to “reducing re-offending”
- Contracts should give weight and prominence to local crime reduction priorities and targets, based on those NIs to which local trusts are signed up to and are required to account for locally
- In order to reflect the pathways within the RRAP framework, the structure of the IPPF should enable aggregation of NI outcomes within the 7 RRAP pathways (where practicable)
- All government departments and agencies providing services measured by NIs are reducing and simplifying reporting requirements by engaging with the Data Interchange Hub and NOMS should assess its relevance to local probation performance requirements
- NOMS gives a commitment to Capture Once Use Numerous Times (COUNT) processes
- DOM offices should negotiate involvement in the process of quality assuring probation targets in LAAs with GOR colleagues as part of the LAA approval process
- Regional and national commissioning by NOMS should be explicitly planned and integrated with local arrangements

## Risks

- If probation performance targets agreed within the LAA/CDRP context are not included in the IPPF, there is a significant risk that NOMS will be unable to measure

probation performance within those frameworks where its major business is transacted. Following the 2007 CSR, the new local performance platform for all Government departments contributing to crime reduction is now established and the content of the next IPPF should align with this reality. From April 2010, trusts will be the only “Responsible Authority” not to be subject to, or validated by NIs

- The significant and, to date, nationally unexploited contribution of probation trusts to local crime reduction outcomes, democratic accountability and value for money will not be fully realised unless the income for trusts is directly linked to performance within these local frameworks
- Unless probation performance criteria are rationalised within the LAA/CDRP framework, there is a significant risk that NOMS contribution to the Government’s commitment to substantially reducing the public sector regulatory burden will not be realised – many boards and trusts are already subject to both IPPF reporting requirements and locally required reporting requirements stemming from LAA/CDRP targets

The Association considers that the human and reputational cost of the tragic cases cited on page two are significantly greater than the implications of failing to attain “green” status from the reporting of activity timeliness, reviews, terminations and starts which currently populate the IPPF. Both minimum standards and “best quality” criteria which legitimise, encourage and reinforce a standards-raising approach to public protection and reducing reoffending should henceforth be primary criteria for evaluating probation performance.

**Probation Association**  
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