



Contract Outcomes - Facing The Right Direction?

A briefing from the Probation Association and the Probation
Chiefs Association



From Trust Contract to Local Results

A Golden Thread of Accountability

Ministers, the public and stakeholders need hard evidence about how probation reduces crime and helps make communities safer in order for them to have confidence that it is working effectively on their behalf. They want the objectives and targets set for probation to reflect national and local priorities and to know that professional activity is concentrated on delivering them.

This briefing from the **Probation Association (PA)** and the **Probation Chiefs Association (PCA)** promotes a "golden thread" of communication and accountability, starting with probation trusts' contractual obligations to the Secretary of State and running through local business planning and front line activities to, ultimately, evidence of delivery of outcomes against national and local priorities. PA and PCA welcome the current review of performance within MoJ/NOMS and will collaborate in the development of the new universal reducing reoffending measure.

This document is aimed primarily at politicians and policy makers who have the mandate and authority to influence the direction of probation but we anticipate it will also stimulate debate in the probation community and amongst its stakeholders. This is work in progress. Its quality will be considerably enhanced if those charged with governance, leadership, management and practice, and those with a stake in its work, play a real part in shaping the future.

Moving towards an outcome orientation which measures public protection, punishment, restorative justice and rehabilitation presents its own challenges. These lie in the complexity of measuring the impact of a range of interventions or relationships on individual offenders' behaviour; the time frames used to measure rates of reconviction; what constitutes acceptable interim/proxy measures; and the shared responsibility for, particularly, rehabilitation and restorative justice activities often undertaken with multiple partners.

Given the radical nature of the changes proposed and the technical challenges of measurement, introduction of any or all of these proposals is not feasible in 2011/12. **In parallel with the revised Probation Trust Rating System requirements, we recommend the trialling of this new framework during 2011/12 with full implementation in 2012/13.**

Our principle recommendation is therefore that:

- **The contract between the Secretary of State and probation trusts should be modernised to take account of the Coalition Government's commitment to outcome crime reduction measures based on their four priorities for probation: Public Protection, Punishment, Restorative Justice and Reduction of Reoffending.**

Our recommended outcome measures and indicators are set out below.

Current trust contracts are overly focused on inputs and process. They look backwards to a time when probation was a national service working almost exclusively to objectives and targets set in Whitehall. A contemporary approach would not only emphasise outcomes but capture trusts' dual accountability, vertically to the Secretary of State and horizontally to local partnerships. Trusts are now Responsible Authorities, subject to local authority scrutiny arrangements, and thus their contracts should reflect local priorities as well as those of central Government.

The contract, and its supporting performance framework, must be flexible enough to respond to the role of trusts as variously providers, commissioners and co-commissioners of services. It should support the current reality of any Responsible Authority commissioning adult offender services from probation and also the potential for future innovative commissioning from trusts of services related to Anti Social Behaviour, Youth Justice or Families with Complex Needs (as anticipated within the 16 Community Budget pilots).

Much activity to reduce reoffending is undertaken through multi-agency partnerships. A simplified coherent national crime reduction performance framework binding on statutory partners will focus commissioning (especially when undertaken on a Payment by Results basis), drive reductions in the burden of data collection and multi-agency evaluation of performance, and support public understanding and acceptance. Proxy measures based on the Seven Resettlement Pathways will substantiate the contractual and accountability obligations of probation in local partnership arrangements.

We therefore also recommend that:

- **Similar to the police Public Confidence performance measure, a single measure for Reducing Reoffending should be the headline local target for Responsible Authorities commissioning and providing services within local authority geographical areas,**
- **A small number (no more than 10) of national crime reduction performance criteria, capable of disaggregation at local level for contracting and evaluation purposes and binding on all statutory partners, should be introduced .**

Outcomes, Inputs and Indicators

Public Protection, Punishment, Restorative Justice and Reducing Reoffending

Public Protection (MAPPA) and Safeguarding Children and Vulnerable Adults	Options for implementation
<ol style="list-style-type: none"> 1. Percentage of Risk of Harm work that has met the required standard 2. Improvements in the quality of Risk of Harm assessments using HMIP methodology 	<ul style="list-style-type: none"> ● Introduce mini audits ● Lobby HMIP for changes to the three year Offender Management Inspection programme ● Adopt a regular, unannounced sampling approach using HMIP criteria as a benchmark ● Introduce peer reviews ● Trusts consider cross boundary audit capacity ● Serious Further Offence measures are not recommended so as to remove the potential for perverse incentives

Punishment	Options for implementation
<ol style="list-style-type: none"> 3. Percentage of offenders successfully completing court orders, post release licences, specified activities, or requirements without either enforcement action or a further offence during the course of the order 	<ul style="list-style-type: none"> ● Measurement must commence from a benchmarked position. Uplift margins dependant on existing levels of achievement

Punishment (cont.)	Options for implementation
<p>4. Percentage of “fail to comply” offenders who complete the order or post release licence and/ or parole without offending after enforcement procedures have been applied</p> <p>5. Percentage of prosecutions for breach which comply with National Standards</p>	<ul style="list-style-type: none"> ● Completion of court orders and licences should be further segmented by order/programme and type of licence reflecting the intensity of the supervision experience ● The potential for new measures to introduce perverse incentives should be evaluated throughout 2011/12 ● 2007 National Standards for Enforcement should be relaxed to enable the delegation of “freedoms and flexibilities” which encourage staff to make professional decisions

Restorative Justice	Options for implementation
<p>6. Percentage of community orders or licences in which any RJ “agreement” (as defined by a national standard) has been completed</p> <p>7. Victim satisfaction rates with the outcome and process.</p>	<ul style="list-style-type: none"> ● These measures are speculative pending the outcome of the Green Paper options. ● Any mandatory framework for RJ will require the introduction of a national standard or best practice guidance, or both ● Victim satisfaction is essential and quality criteria should replace the current timeliness target

Reduce Re-offending Rates and Likelihood of Reoffending

Options for implementation

- 8. Percentage reduction in the overall reconviction rate after 12 months from end of order or licence, compared with the predicted rate (headline measure)**
- 9. Percentage reductions in the severity of offending over 12 months follow up period**
- 10. Percentage reductions in the frequency of offending over 12 months follow up period**
- 11. Percentage measures to demonstrate offender need is being met through effective commissioning of local services**
- 12. Introduce a process of routinely capturing offenders' views of their experience under supervision**

- Six monthly data could be available subject to resources and access to database
- Need to commence from a benchmarked position. Uplift margins dependant on existing levels of achievement
- National Standards for Enforcement will need to be relaxed
- Any local proxy measures introduced should be congruent with the "national" measures and indicators
- Total Place methodology advocates the mainstreaming of "customer" perspectives of the services they are consuming

Underpinning Rationale

Outcomes, Indicators and Inputs

“Outcomes” are defined as results (e.g. reductions in offending) whereas “Indicators” provide information which predicts the likelihood of these results occurring (e.g. reduced intake of drugs, gaining of employment). Indicators usually provide aggregated information on the progress (or otherwise) of individual offenders during the course of an Order or Licence usually sourced from OASys data. Necessarily, evaluating progress against “inputs” is also valid where the input concerned fulfils a crucial operational requirement such as Risk of Harm assessments.

Risks

With any new measure of performance, there is a risk of unintentionally introducing perverse incentives either in the design of the measure itself and/or the way an organization manages the activities it is designed to assess. The piloting of the new measures proposed in this Briefing is essential to test their validity as measures and to remove any unintended consequences of implementation.

This section explains both the professional justification for the proposals in each of the 4 domains and the legal and policy context the measures must reflect.

Public Protection

Public Protection approaches require differing perspectives to two user groups: Offenders, who pose a Risk of Harm to others; and Victims, i.e. Children and Vulnerable Adults who are subject to Risk of Harm from others.

As risk can never be eliminated completely, no guarantees can be attached to public protection work. A tragic event is not necessarily a sign of failure.

In relation to offenders, the test of professional competence is the degree to which the organisation is both improving the quality of its Risk of Harm (to others) assessments and, following a Serious Further Offence, can demonstrate “all reasonable action to keep to a minimum the offender's Risk of Harm to others” had been taken.

The test in relation to Safeguarding is that the organisation has “taken all reasonable action to keep to a minimum the risk of a child, young person or vulnerable adult coming to harm”.

Improving the quality of Risk of Harm assessments using the HM Inspectorate of Probation methodology is an input activity.

Punishment

These measures are intended to demonstrate punishment within 100% of court orders and post release licences. They measure completions without further offence(s) and reward compliance activities which result

in more offenders completing their orders and licences.

Completion rates should reflect the use of multiple conditions and requirements, which vary in their intensity.

For offenders who fail to comply and are prosecuted, a measure of adherence to current (or revised) National Standards for breach prosecutions is included.

Restorative Justice (RJ)

Restorative Justice is only permissible where both offender and victim are agreeable. The principle measure of RJ activities should be the degree of satisfaction of the victim whatever the activity or transaction agreed. The potential spectrum of RJ activities ranges from apologies via third parties to direct victim/offender meetings, the latter option usually requiring significant resource. Current vehicles for negotiating RJ activities span pre Court diversion arrangements, in-Court Compensation Orders, Community Payback and Community Orders with additional requirements.

The existing power in the 2003 Act (Purposes of Sentencing) to "the making of reparation by offenders to persons affected by their offences" could in future become mandatory. Courts could sentence with this purpose in mind thus introducing a new duty on offender managers to attempt to negotiate RJ.

To give substance to unequivocal public approval for the principle of RJ as a legitimate vehicle for expressions of contrition, PA and PCA advocate the mandatory introduction of RJ into community sentencing - currently RJ activities are optional though can be the focus of an additional requirement in a Community Order.

Mandatory RJ would necessitate a sea change in front line practice and take time to implement. Any new duty on probation trusts resulting from mandatory RJ should be carefully costed and piloted.

Reducing Reoffending

Probation has long experience of academically authoritative evaluations of accredited offending behaviour programmes which measure long term (usually 2 years following the end of an Order or Licence) reconviction data, reduction in offence severity, offence frequency and offender attitudinal evaluations. The measures in this Briefing provide a package which reflects the tension between accuracy (long term reconviction data) and promptness (short term interim measures). In theory, the longer the offence-free period following the end of an Order or Licence, the more likely the proposed outcomes in the sentence plan can be assessed as a result. Pragmatically however, Reducing Reoffending measures proposed in this Briefing argue for a shorter, 12 month follow up period.

Using the method of "rolling cohorts" of offenders is the recommended (HMIP) mechanism.

Measures 8-10 could include six monthly reconviction data subject to resources and access to databases.

Centrally driven OASys returns may no longer be required.

A shorter, user friendly version of OASys is under consideration.

There are numerous outcome criteria within Reoffending Pathways demonstrating progress in individual cases which can be reflected in staff supervision and appraisals. This is a connection which gives substance to the notion of a "golden thread" of information and communication.

Models for exit surveys and tools for measuring attitudinal changes during the course of an order already exist. How this information is collected, against which criteria, who collects and how it informs business planning needs careful attention.



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