

RESCUE THE JUSTICE SYSTEM? RESCUE THE PROBATION SERVICE FIRST!

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(<https://wccsj.ac.uk/en/probation>)

In this submission to the Sentencing Review, I argue for a re-branding of the probation service as a separate organisation from the prison service and the devolving of probation responsibilities to the Senedd in Wales.

Overview

- 1) Any analysis of the complex arrangements and relationships which form our justice system should include a debate on how to deploy, manage, resource and support the probation service - never more necessary than now as the service is in a parlous condition as a consequence of previous governments mismanagement and neglect. The increase in the size of the prison population and its apparent imperviousness to attempts by successive Justice Ministers and Home Secretaries to reverse the trend is the elephant in the justice system's waiting room.
- 2) Recent research from Cardiff University confirms Courts in England and Wales proportionately send more adults to custody than other western European countries yet few commentators have included the role of the probation service in their analyses of this crisis or rehabilitation per se. Only with a return to a separate identity as the employer of staff can the full probation contribution to resolving the current crisis be realised. The two distinct value systems and operational cultures of prisons and probation have morphed into a one size fits all, top down, bureaucratic, office-based structure which is clearly dysfunctional. Over 100 years of experience should not be discounted - we therefore recommend a re-branding of probation with separate governance arrangements and a return to the regional/local footprint which previously promoted collaborative, multi-agency innovations and closer relationships with magistrates and Judges thereby increasing the confidence of key stakeholders.
- 3) In his in-tray, James Timpson has to consider both a strategic review of probation governance and the opportunities offered by devolving both Youth Justice and Probation to the Welsh Government. Any Terms of Reference for the former should take into account the learning from both the disastrous merger of prisons and probation and the privatisation debacle which has left the service with only a vestige of its former professional reputation, visibility, respect, confidence and experience base. A major contribution to this parlous state of affairs has been the gradual dilution of probation culture, expertise and influence by the prison service

over decades. Previous Justice Ministers and Home Secretaries have reinforced both the fragmentation of the service and supported the creation of “One HMPPS” against the backdrop of an inexorably rising adult prison population and disengagement from local communities.

- 4) Nationally and internationally renowned academic members of the WPDG have made major contributions over decades to the existing and substantial body of research evidence relating to effective probation practice. Whilst members welcome the opportunity to contribute to this Sentencing Review, it should be noted similar submissions have been made to numerous previous inquiries of a similar nature without resulting in any meaningful and necessary changes.
- 5) This Review should also focus equally on the reasons why we have reached this crisis. Neither the lack of expertise and skills available to previous governments, nor any lack of commitment by probation staff explain the current state of affairs, but the unwillingness of previous Ministers to make what they considered to be unpalatable political decisions should be factored in to any analysis of the current crisis. This Government now has an opportunity to draw on the contrasting success of youth justice services and existing practitioner and academic expertise to review progressive prison and probation policy and to consider how to address the crisis in sentencing in a sustainable and considered way
- 6) The traditional prison service top down, command and control structure has gradually built virtual walls around a service whose social justice and rehabilitation ethos is all but lost in a blizzard of processes and algorithms reducing critical judgements to paper exercises. Consequently, staff spend a disproportionate amount of time in front of computers and in offices instead of valuable face to face contact with offenders and their families.
- 7) Not just in the short term, to facilitate the early release of thousands of prisoners, but a long term plan to re-professionalise probation is urgently needed - separated organisationally from the prison service in England with its own Director General and governance arrangements, geographically coterminous with police force areas, with a strategic focus on locally commissioned and delivered services- and a reset in relationships with Magistrates and Crown Courts.
- 8) Given Welsh Government existing responsibilities for employment, housing, education and drugs and alcohol services, devolving Probation and Youth Justice heralds the prospect of a structurally “joined -up” approach to crime reduction services in Wales.
- 9) With over 100 years of history and once described as " the jewel in the crown" of the justice system, up until a decade ago UK probation expertise in the form of community programmes, services to Courts and victims and “joined-up”, local partnerships were exported to many countries. For the service to regain its

rightful place here at the heart of our own justice system, the role of probation in delivering social justice and rehabilitation should be themed into to any Terms of Reference for the upcoming reviews.

Operational Experience and its Relevance to the Current Crisis.

- 10) Seconded to the Home Office as Advisor on Wales (1999), then Regional Manager of Wales, (2000 onwards) I was the first operational manager to occupy the go-between role of reconciling HO and emerging Welsh Government crime policies and negotiating synergies which enabled front line staff in Wales to access devolved services relating to housing, health, substance misuse etc. Those early days of devolution were exciting, pioneering even, with no sense of the “jagged edge” tensions characterised in discussions today. Indeed, within the Home Office, my frequent observation that “this won't work in Wales” was often met with puzzlement and mild irritation!
- 11) As it is currently organised as the junior arm of “One HMPPS”, an undeniable argument for devolving probation is that services to Courts, victims and service users are currently delivered by such an under performing service compared to 20 years ago, that Welsh tax payers are entitled to a better service which devolving probation should offer.
- 12) From my experience as both an operational manager and HO and MOJ policy advisor, I suggest the current parlous condition of probation and the crisis in the prison population would not have occurred had HO and then MoJ not merged and ultimately amalgamated the two services, another powerful argument/benefit for devolution of probation to Wales. Simply put, if probation remains wedded to the prison service in England and Wales, more, not fewer poor outcomes can be expected.
- 13) The rationale behind “joined-up offender management”, perceived in the early 2000's by Carter et al to be disjointed and poor value for money, was entirely fallacious in operational terms – on the ground, much progress was being made, the 1990's and early 2000s were decades of innovation, expansion and the implementation into day to day probation practice of validated “what works” programmes (WPDG academic members foremost during this period)
- 14) Ministerial preference for prison style management (command and control) and increasing antipathy towards the leadership in the new National Probation Service created the environment which commissioned the Carter report and resulted, courtesy of David Blunkett, in NOMS and, over the next decade, increasing prison dominance and control over the probation agenda and profession resulting in the current poorly performing One HMPPS. There was little mention in the Carter report of Courts front-loading the CJ system and the

historical relationship between probation and the judiciary, an issue which features largely in the present crisis of confidence.

- 15) Even before 2001 and the advent of the NPS, when 4 Probation Boards were appointed in Wales coterminous with police areas, excellent working relationships already existed between Chief Probation Officers, Chief Constables, Prison Governors and Court Clerks. As Regional Manager, I met with them individually with the respective area Board Chair and Chief Officer to address problem issues. In the era before emails and ZOOM, face to face meetings at a strategic level were the accepted way of doing business. Each service knew its role, its boundaries and shared common aims related to “through the gate” rehabilitation services – things got done in this regional context and it never needed the structural amalgamation which has evolved to achieve successful outcomes because professional and personal relationships were mostly positive and supportive.
- 16) Prison staff have no role in Courts where permanent probation officers in Magistrates and Crown Court were respected and valued for their experience and advice on the contents or recommendations in reports and, informally, feeding back progress. Given the lack of any Court based role in prisons history and culture, the subsequent decline in probation links and influence with Courts is surely no coincidence.
- 17) In light of the current crisis in the prison population and the loss of probation influence in the Courts, I would suggest the gradual merger of prisons and probation into One HMPPS provides an additional rationale for devolving probation to Wales. I doubt the rise in the prison population, the retreat of front-line staff into their offices and away from local communities, the loss of local influence in Courts, the overt top-down control and micro management would have occurred (even after the National Probation Service came into being) because the Boards and Chief Officers in England and Wales had policy and budgetary freedoms with long standing local relationships capable of addressing spikes in practices – they also had speedy feedback loops via local Senior Probation Officers, the eyes and ears of local delivery services. During that chapter of probation history, such were the checks and balances developed over time and the quality of personal relationships, had this context been retained, I doubt the current situation would have arisen.
- 18) The probation service has history and experience in every stage of an offenders passage through the justice system, from diversion schemes and bail information, through alternatives to custody to supervision of high risk offenders on release. Having regained its former organisational independence, probation staff should return to impacting initiatives such as diversion from prosecution, bail decisions avoiding unnecessary remands, restorative justice and repairing local relationships and dialogues with Courts.

19) Freed from the current burden of bureaucracy and micro management, localism in the form of co-commissioned partnerships and joint working from one-stop-shop style offices should be allowed to flourish and staff encouraged to spend more time in Courts and local communities - only by enabling a re-professionalised probation service will this government achieve its objectives of reducing demand on prison beds and reducing reoffending.

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