

Response to Independent Sentencing Review 2024 to 2025

From Su McConnel: Napo Cymru exec member

England and Wales is an outlier in Western Europe, with the highest, and rising rates of incarceration. Viewed from Western Europe, the UK looks, in our fixation with imprisoning our citizens, as mad America looks to us in its fixation with gun ownership.

England and Wales is also an outlier in its Probation Service model and arrangements. Once a world leader, England and Wales Probation Service has been torn from its social work roots and close relationship with courts, and transplanted into the prison service where it is withering, to the detriment of all.

Neglect of the oft misunderstood Probation Service is one thing, the malign interference it has suffered for most of this century, most notably through the TR debacle, requires radical overhaul.

The prison service, and the probation service, are currently on a disastrous trajectory. The building, at eye-watering costs, of more prisons will serve to continue this trajectory. Like roads, if they are built, they will fill. For every new prison we build, we should tear down a dilapidated old one.

And at the same time, the rewards for working in both prison and probation services are in a relentless downward trajectory. Plans made for prisons and probation will be meaningless if recruitment and retention is not tackled, and the gap between professional reward and recognition in these services, and the pay for significantly less demanding and complex work, narrowed.

Given the need for radical overhaul, the short timescale of this consultation is regrettable, albeit the urgency undeniable

Below are a few points

- History and trends in sentencing

Discussion of “trends in sentencing” tends to revolve around trends in custodial sentencing, much as the prevalent discourse is about prison regimes and resettlement following release. That there has been a seemingly inexorable upward trend in both the rate and length of custodial sentences, we would strongly encourage this review to widen its gaze to issues further upstream, namely how can cases be diverted away from custodial sentences. Much is made of the need to improve work in prisons to turn offenders away from a life of crime. The reality is that this is the worst place to start any attempt at this journey. The widely accepted statistic is that if a man (overwhelmingly it is men in the custodial estate) avoids a custodial sentence before the age of 25, he is unlikely to enter the estate thereafter, and also likely to thereafter lead a more responsible and law-abiding life. Therefore we would suggest all efforts should be made to avoid custodial sentences for those offenders whose incarceration is not necessitated by the risk of harm they pose.

Possibly one of the most unhelpful recent changes to legislation is the post sentence supervision introduced by Graylings TR, and one of its lasting negative legacies. This

catches just that cohort: young men under 25: into the revolving door vortex. In a less catastrophic way than the debacle of IPP sentences, but nonetheless damaging, costly, and unethical, it puts individuals at danger of imprisonment for failure to comply with a regime imposed *after the sentence is completed*. We would urge the wholesale removal of this legislation, replacing it with *voluntary* contact and support to the end of the year following release from a short custodial sentence. This would of itself ensure effort and resource expended to those asking for it, would be focussed on those receptive to it. In particular with this cohort, contact between the supervising professional and the offender may span several offences and sentences (assuming a Probation Service that has resolved its recruitment and retainment issues), and being at hand at the critical moment when change in lifestyle is contemplated, is worth any amount of relentless enforcement, in itself liable to endanger the supervisory relationship, before that moment

- The structure of sentencing: no comment offered
- The use of technology within sentencing

In brief: technology used in sentencing, eg sobriety tags can be a valuable and effective tool but only in the context of meaningful and skilled supervision. Probation practitioners in the current arrangements experience unrealistic workloads and expectations in the position of the interface between the tech- and the tech provider- and the person supervised. The expectation on an almost inevitably overworked probation practitioner, to comb through reports and data: this is particularly relevant in location monitoring tech: is unrealistic.

- Community sentences

We implore this committee, and the following promised review of Probation, to take the brave and crucial step away from the political justice rhetoric that has dogged this area of public life for decades. Of course, proportionality: that the sentence should be proportionate to the seriousness of the crime: is paramount, but the need here is not to convince the Daily Mail that Community Sentences are “punishing” and “tough”. The need is to satisfy yourselves that Community Sentences are convincing to sentencers and policy makers, that they are effective in meeting the *needs* of those subject to them, and *effective* in moving them towards a law-abiding life. There is an abundance of empirical evidence to show that a person-centred professional approach, and availability of resources to meet the most basic of needs such as housing, as well as support and intervention services, will be more effective in reducing the rate of reoffending. The review must grasp and promote the idea that a happier, healthier person, socially invested, is significantly less likely to re-offend, and therefore any community sentence should have as its underlying principle the aim of enabling the person to become happier and healthier, not more punished, enforced and marginalised. The most successful and well-entrenched community sentence would have at its conclusion, a sentiment of the person, that “it was the best thing that has happened to me”, not “it was tough and punishing”. Of course, such a sentence can be both constructive and transformative, *and* tough, but the primary goal must be constructive transformation.

- Custodial sentences. The potential for custodial sentences to be ethical, humane and constructive cannot be realised in the current over-crowding of the prison estate, or, as

with probation, with poor recruitment and retention of staff. Every effort must be focussed on the reduction of incarceration

- The progression of custodial sentences: no comment offered
- The individual needs of victims and offenders

The public-as-victim is encouraged to express a desire for longer and harsher prison sentences. Individual victims are more likely to express a desire for “justice” of course, but also to feel secure and safe, and for the likelihood of further offences harming others to be reduced or eliminated. Should the leaders of the CJS, and politicians, spend as much effort communicating the need for effective work to those ends, rather than promoting retribution as the sole aim of the system, we would all be better served