



Justice Select Committee: Call for evidence

The Future of the Probation Service

September 2020

About Nacro

We are a national social justice charity with more than 50 years' experience of changing lives, building stronger communities and reducing crime. We house, we educate, we support, we advise, and we speak out for and with disadvantaged young people and adults. We are passionate about changing lives. We never give up.

Nacro is a strategic partner to Sodexo in the Transforming Rehabilitation (TR) programme, and we are a service delivery partner within the supply chain of four Community Rehabilitation Companies (CRCs) In addition, we support people who are supervised by CRCs or the National Probation Service (NPS) through other programmes in London, Durham Tees Valley, Northumbria, Staffordshire and West Midlands, and Cheshire and Greater Manchester. For instance, we run an enhanced through-the-gate service for people with mental health concerns leaving HMP Belmarsh, HMP Thameside and HMP Isis, funded by The Oxleas National Health Service Trust.

Our response to this inquiry is based on the experiences of our practitioners and staff. Please contact Andrea Coady, Policy and Research Officer, for more information about our response: andrea.coady@nacro.org.uk.

The Model

- 1. What are your views on the decision to end the competition for Probation Delivery Partners, and bring those service back into NPS delivery?**

We welcome this decision. Bringing these services back into the NPS will reduce fragmentation, simplify the model, and provide a service which is easier for service users to understand and navigate. Probation services should be designed with the needs of the service user at its centre.

We recommend that the Committee gives strong support for the Government's change of policy in this area.

- 2. How were private sector providers involved in the decision to end competition?**
- **What opportunity were providers given to make alternative proposals?**
 - **What effect will this decision have on the future of private sector involvement in the criminal justice system?**

Nacro was not involved in the competition for Probation Delivery Partners and so we have no direct knowledge of this.

- 3. What are your views on the new model of probation?**
- **What do you like about the new model?**
 - **What do you dislike?**

We believe that the unification of probation services in one overarching body is a positive step, as this can reduce fragmentation, drive consistency of service provision and delivery, and can mean that service users will not face such a lottery in terms of the services which are offered in their local area. It is important that the new model takes on board the innovation we have seen in some areas under TR and develops this innovation in the continued delivery of services. One example of innovation is the development of rent deposit schemes alongside PCCs.

Resettlement and rehabilitative services and women's services are to continue to be delivered by specialist providers. We support this decision, as specialist providers have the knowledge and expertise to deliver high quality services which are tailored to the needs and circumstances of service users. Ensuring that providers and the voluntary sector are able to deliver quality outcomes should be central to any commissioning structure.

We are concerned that the dynamic framework remains a complicated mechanism to commission services, despite some simplification. It will be difficult, time consuming and financially costly for providers to engage with the framework. Different pathways will be commissioned at different levels: some regionally (such as accommodation and education, training and employment), and some at Police and Crime Commissioner (PCC) level (such as finance, benefit and debt). If a provider wishes to bid to deliver services across the country in a pathway which is commissioned at PCC level, then they must take part in 42 different competitions.

The complexity of the commissioning model is particularly problematic because of the impact of the Covid 19 pandemic on the sector. The restrictions of lockdown (both inside and outside prison) have presented substantial challenges, not least in terms of communication and engagement with service users. Organisations delivering services are under enormous pressure, as most have had to rapidly change the way they deliver services, and continue to adapt at pace to the changing landscape. We believe that the commissioning process is still not as streamlined as it could be, and many providers will struggle to engage with the process when their focus continues to rightly be on service delivery in exceptional circumstances. (see also our answer to Q8).

We have particular concern about the proposed in-reach only model for resettlement services as we believe this will not enable providers to deliver the level and quality of services to service users. We have set out further information on this below. (see our answer to Q5).

We therefore recommend to the Committee that it shows support for the continued delivery of resettlement and rehabilitative services and women's services by specialist providers.

- 4. Does the new model address the issue of confidence in community sentence options?**
- **If yes, how?**
 - **If no, why not?**

We have often heard that lack of confidence in community sentences is due to the fact that courts do not know which services are available in their area, due at least in part to the disconnect between the NPS and CRCs. Reunification of the probation service should mean that there is a more consistent offer, and a more direct line of communication between the judiciary and those delivering interventions. We would hope that improving confidence in the use of effective community sentences will help to reduce the use of short custodial sentences and the revolving door in and out of prison that this can cause.

In order for community sentences to be successful it is important for there to be engagement with other providers. They cannot be delivered in isolation and barriers must also be addressed, for example relating to substance misuse, housing, debt or employment. Having a unified probation service should assist with the building of relationships with other agencies which will help facilitate multi agency working.

Government rhetoric remains an issue in terms of building confidence in community sentences, and we believe Government should take the lead in shaping the debate. The judiciary are members of the public, and as such are not immune to the political mood of harsh punitive responses to criminality, which does little to encourage the use of community alternatives.

We therefore recommend that the Committee presses Government to devise a strategy to tackle the lack of public and judicial confidence in community sentences between January 2021 and January 2022, against which progress can be measured.

- 5. The new model aims to strengthen integration between prisons and probation by integrating through-the-gate roles, processes and products with sentence management. What is your view on this? Do you anticipate any gaps/challenges?**

We welcome the strengthening of integration between prisons and probation by integrating through the gate delivery and sentence management. Aligned planning and co-ordination is important to ensure that the best service is delivered and the best possible outcomes are achieved.

However, we anticipate that a gap is being created in respect of the identification of the need for, and delivery of, interventions. It is intended that interventions will continue to be delivered by specialist providers, but it is planned that these providers will be based in the community with in reach into prisons as required. We believe that this approach could ultimately lead to a poorer service for people leaving prison. With the increased investment that enhanced through the gate has had over recent years we have seen a huge improvement in services. Nacro had one of the first Outstanding inspection grades for the delivery of this work, and a number of others have followed. With the right funding behind delivery providers such as Nacro we have demonstrated what works,

and a crucial element of this is having staff in both prisons and the community. An in-reach only model will mean there will be a disconnect and undoubtedly a delay between the planning of resettlement interventions and the delivery of them. Staff in prisons put in place workarounds on a daily basis in response to the changing prison environment to ensure they deliver services and reach people, such as going on to wings to see prisoners, moving appointments around etc. in order to respond to the challenges and changes with the prison regime. This is simply not possible when teams are based only in the community and would lead to a more inefficient service and an inability to meet prison needs within the required timescales. In addition, the removal of interventions providers means that the probation staff will identify the need for interventions but the actual delivery of them will be hindered by the inability of the provider to respond swiftly. We know that this can be critical in cases involving finance and accommodation. We have first hand experience of the difficulties of trying to deliver interventions for people in prison whilst working in the community during lockdown, and it has not been possible to provide all of the assistance that we would have been able to provide had we been working within the prison during this period, and have been unable to respond as swiftly and effectively to emerging need.

Having interventions providers based in the community will be particularly problematic for local establishments with a high turnover and short lengths of stay and for people who are to be released out of area. If an intervention need is identified, it is unrealistic to expect a swift response from a community-based service from their area of release, if the individual is in a prison which could be many miles away. We are therefore concerned that this model will mean that many service users who are held in prisons outside their local areas or individuals who are serving short sentences will not receive vital interventions and therefore will be released with additional barriers. We would therefore call for flexibility in the model allowing providers to make sensible decisions about whether they base their teams in appropriate prisons alongside teams based in the community.

We therefore recommend to the Committee that it presses Government to look again at the in reach model for the delivery of resettlement interventions in order to ensure that the best outcomes can be delivered under the new model of probation.

6. What progress has been made in implementing the probation reforms in Wales?

- **What lessons have been learnt so far and how are these being shared?**

We do not currently deliver resettlement interventions in Wales, and therefore do not have first hand knowledge of the implementation of the probation reforms in Wales. As the forerunner of reunification in England we would recommend that lessons learnt in Wales are shared and learnt from in the design and delivery of services across England and Wales.

7. How will the National Probation Service ensure that it maintains the innovation and best practice achieved during the Transforming Rehabilitation Reforms?

In order to maintain innovation and promote best practice, it is important for the NPS to recognise that much knowledge and expertise lies with CRC staff. The transfer of those staff to the new model therefore needs to be an attractive proposition for them, as they have a lot to contribute. It is also

important to note that the third sector is involved in much innovative practice, and so their continued involvement is key to maintaining and supporting innovation.

The HM Inspectorate of Probation Academic Insights 2020/08 'Innovation and the Evidence Base'¹ provides a basis for maintaining and promoting innovation. This states that in order to support innovation networks and relationships are key, both at the level of individuals and organisations. We strongly agree that innovation is enabled where there is co-creation with service users, localised approaches that focus on the development of shared values, and evidence-led and evidence-based practice. Innovations should be tested and evaluated, so that the evidence base underpinning the delivery of probation services continues to develop and broaden.

Commissioning: Dynamic Framework

8. **Does the new model offer a level playing field for small and specialist voluntary and third sector organisations in regard to the commissioning? Given the challenges in the previous model, how will a new national service secure input from smaller providers?**
 - **What impact has Covid-19 had on this, if any?**

The procurement model is complex and so it will be difficult for many small and specialist voluntary and third sector organisations to engage with. Many will have little capacity to do so as they remain overstretched by their efforts to deliver services during the pandemic. Their ability to engage properly in competition is therefore compromised. We know that voluntary sector providers often hold the core knowledge and experience of providing effective resettlement services and have the expertise to provide sustainable, positive outcomes for the people they work with. As a specialist third sector organisation we can see that the framework needs to support the high-impact and evidence-based delivery of voluntary organisations of all sizes and acknowledge and harness their years of experience in this field.

The balance in terms of size of contract is difficult to achieve, as different contract sizes and geographical footprint will suit some providers better than others. For many pathways the structure will involve smaller and more local contracts, and this may mean that some areas of work will simply be too small to be viable, as it is necessary to run services at a particular size in order that they can support the required infrastructure. Issues may arise if providers don't already have a footprint in an area as it may not be viable for them to run a very small service. It is also the case that some commissioning at larger geographical areas may be too big for smaller providers. In our view, there needs to be a mixed offer of bigger contracts for the larger pathways to support consistency of support, and smaller contracts for the more specialist pathways. Charities of all sizes have played an important role in the delivery of resettlement services and have significant expertise. Many small to medium sized charities lost out due to TR and we would therefore suggest that such a mixed offer would enable those specialist and expert charities that have regional and national reach to be able to deliver across geographies, and for the smaller, local charities to be able to deliver specialist work at a local level.

¹ <https://www.justiceinspectors.gov.uk/hmiprobation/wp-content/uploads/sites/5/2020/01/Academic-Insights-Fox-and-Albertson.pdf>

We are also concerned about indicative contract values. Initial proposed volumes and contract values were released in Nov 2019 and were significantly higher than those released in the most recent tranche of information. We know that these values are not final and that bidders have been advised not to model using them, however this remains really concerning, as the values in year 1 and in some cases subsequent years, fall short of the current cost of delivering services and are based on significantly lower volumes of work.

From the published indicative contract values we can see that contract values are planned to increase over a 4 year period, which causes concern because most of these services are already in place and running at full capacity with full staff teams, albeit perhaps structured differently to how the new services will be delivered. As we know that TUPE is likely to apply, it suggests that providers will need to make a significant number of individuals redundant (due to proposed envelopes being significantly smaller than current contract values), only to potentially re-employ them (or have to employ other staff with less experience) as services grow over the 4 year period. This would prove very costly, and potentially means that providers will not bid for the work as it is simply not viable. It also means that valuable staff, with knowledge and expertise, would be lost at a time when efforts should be being made to try to retain as many experienced staff as possible. The Ministry of Justice is, however, currently consulting with stakeholders about the issues of likely volumes and the stepping up of contract sizes over a four year period, and so we are hopeful that sensible solutions will be found.

We are also concerned that some pathways, such as finance benefit and debt, and addiction and dependencies, are not being commissioned from day one of the reunification, but will be commissioned when the PCC or regional director wishes to commission such services. We believe that this creates substantial issues, as these services can be critical to ensuring that someone has the best chance at successful resettlement. Any withdrawal or suspension of these services will therefore be detrimental to those service users who would have benefited from them, and can also have a negative impact on the ability of service users to engage with other services. In addition, it creates uncertainty and anxiety for those organisations and the staff that currently deliver those services. This is in addition to the inevitable instability brought about by the Probation Reform Programme, and comes at a time when the Covid 19 pandemic means that many staff will have been working with heightened levels of anxiety and stress. There is significant risk that this will lead to many staff seeking alternative employment and much experience and knowledge within these pathways will be lost.

The impact of Covid 19

Charities of all sizes have had to put all their focus on responding to Covid with staff going above and beyond trying to find ways to deliver services and support, and management teams refocusing their strategic priorities. Many have faced financial challenges as a result, particularly those heavily reliant on fundraising income.

Covid 19 has required all organisations within the sector to work differently in order to continue to achieve positive outcomes for our service users. Pre Covid 19, resettlement services had been commissioned to be fairly rigid in their approach, with an emphasis on face to face support and structured interventions, and it has become increasingly clear during the pandemic that this is not always what works best for the service user and doesn't necessarily promote a person-centred

approach. During the pandemic, people have innovated, often working across pathways in order to achieve the best outcomes and being flexible in the way interventions are delivered, maximising the use of technology and remote support. The successes during this time and this learning should inform the future delivery of probation services, and should be woven into what the competitions for future delivery look like, particularly in developing more flexible and varied methods of service delivery.

We would ask the Committee to seek assurances from Government that it will urgently review the following:

- The complexity of the procurement model;
- The viability of current indicative contract values;
- The decision that some pathways (such as finance, benefit and debt) will not be commissioned from day one of the reunification;
- That the successes and learning from the delivery of services during the pandemic are woven into the future planning for the delivery of probation services.

9. What is the anticipated effect of procuring resettlement and rehabilitative services using a dynamic framework?

- **Do you foresee any problems with this model?**

The model has been chosen so that it can offer flexibility with commissioning across different geographies and contracts varying in size and length. The intention is that this will allow for involvement from varying size of organisations and will, in theory, allow contracts to be flexible to respond to emerging and ever changing needs. We are pleased to now have confirmation that all contracts will be of 3 years duration (women's will be 4 years) which alleviates the instability that shorter contract terms would cause.

10. What progress has been made so far in the commissioning of services through the dynamic framework?

At present we are in the qualification stage. In terms of funding, indicative contract values have been published (as stated in answer to Q8 above) but no commissioning has yet begun.

Transition

11. CRCs and NPS staff are being brought back together under the new model. How is this transition being managed?

- **What support is available to staff during this time?**
- **How are service users being supported through this transition?**

We are concerned that local managers have not been given sufficient involvement in or knowledge of the changes for them to be able to successfully manage this transition. It is critical providers like us are engaged so we can advise our staff and service users. With regard to staff, all staff working in the system need to be engaged within the transition as 'buy in' from staff is important at all levels. Without this, people start to worry about their jobs and security, and there is a risk that staff will leave for what they perceive as more secure employment.

Equally, it is critical that service users understand the changes and any direct impact to their supervision arrangements. This was not achieved during the transition under TR, which left many service users confused and anxious about their relationship with probation.

12. CRCs currently use several different operating systems – how easy will it be to merge these into one model? Do you foresee any challenges?

We do not have the technical knowledge to answer this question in detail, but we do have experience of the difficulties which have been well-documented as to the difficulties of compatibility of systems. In looking at operating systems it is also important to look at ways of working, as consistency of use of systems is also important for the free flow of consistent information across the sector.

13. What impact is the transition having on the voluntary/third sector organisations already providing probation services?

As stated above, there are concerns around instability created by the transition. Third sector organisations do not have any guarantee that the footprint they currently have will be the same in 12 months time. This creates uncertainty and anxiety for staff at all levels, and it is inevitable that some staff will be lost. TR relies heavily on the third sector, and many third sector organisations invested heavily in this work often subsidising work from other areas of their organisations.²

In addition, the amount of resource required to bid for work will put additional strain on third sector organisations, in terms of both money and time. It is difficult to see how small charities will have the resource to devote to writing bids to retain the services that they currently run, when their priority is service delivery in exceptional circumstances.

It will be difficult for third sector organisations to maintain their current levels of intervention delivery and positive outcomes during this period, in light of the above.

14. The Ministry of Justice made the decision to end the competition for Probation Delivery Partners and bring these services into the NPS. These services are to go live in June 2021; is there sufficient time to transition probation over to the new model?

² https://www.clinks.org/sites/default/files/2019-11/clinks_state-of-the-sector-2019_FINAL-WEB.pdf p11

- **If anything, what needs to be taken into consideration during this time?**

We believe that it is possible to achieve the transition to the new model in the time available, but work needs to start now, and at pace. All stakeholders need to be fully involved and consulted, including prisons and the many third sector organisations that deliver in this sector. We would be disappointed to see the timeframe extended further, as this would simply increase the period of uncertainty and be detrimental to the ability of the current service to deliver probation work.

Workforce

15. Does the new model address workload issues, e.g. high caseloads, recruitment/retention?

It is not clear to us whether workload issues will be resolved by the new model, much will depend on staffing levels. We believe that recruitment and retention of staff may be easier under a unified probation system, as there is the possibility of improving support and career progression for staff, but this will largely depend on the agreed structures. What we can see from the dynamic framework indicative contract values, is that if these are proceeded with then the caseloads for these interventions would have to be enormous and therefore unworkable.

We would suggest that the Committee seeks Government assurance regarding caseloads and retention, as clearly the success of the new model will depend upon staff being able to manage their caseloads and the retention of experienced staff.

16. What progress has been made towards probation being recognised as a “skilled profession”?

We recognise that professionalisation could be a positive way to recruit and retain quality probation staff. From our experiences, we have seen a churn of staff in the current supply chain which is not only costly but also damages the quality of the work that can be done. Retaining staff is a critical element of success of services that work by establishing consistent and supportive relationships.

Having a unified probation service will help to create a more level playing field, as there is the view amongst some, however unfounded, that NPS staff represent the ‘professional’ side of the work, and CRC staff less so. We would also highlight that other staff working in the system, such as our staff delivering interventions, should also be considered as professionals, with the detailed knowledge and expertise that can make all the difference.

Covid-19

17. What impact has Covid-19 had on the probation service?

- **the immediate impact and/or**
- **the anticipated long-term impact**

Covid 19 has had a huge impact on the probation service. The service delivered changed over night, with most face to face interaction with service users ending, and so the way that service users are communicated with is very different.

In our resettlement work, our staff stopped working within prisons at the start of lockdown for several weeks, and all communication with people approaching their release date was done remotely. Our staff told us that the quality of contact with service users in prison was worse during this period, as they had to rely on the post and Email a Prisoner service to communicate, with no way to speak directly to people in their cells. It was a very anxious time for many people approaching release, as they were worried about where they would live and how they would access services, and what the outside world would be like in lockdown. Our staff also told us that changes to family contact and social distancing measures had made the resettlement of the people they work with more challenging. We know that maintaining contact with friends and family is really important for people in prison, as links to the outside world can really help with the transition back into the community and strong family and community connection can support a reduction in reoffending.

Many challenges have remained since our staff returned to delivering services from within prisons, as they continue to be restricted by a lack of face to face prisoner contact. In cell telephony makes a big difference to the quality of support that can be provided, as we have seen how much easier it is to deliver support in prisons where people can be contacted directly in their cells.

In our work with people in the community, we have also had to adjust, keeping in contact with our service users via phone rather than face-to-face. There have been clear benefits to this, as many service users find telephone contact to be more flexible and helpful than the rigid confines of office-based appointments, and we have seen benefits from speaking to service users over the phone in their home environments, as it has been possible to have more insight into what is going on in their lives. The fact that all prison leavers have been provided with a mobile phone on release has been really helpful in ensuring that contact is maintained during the crucial period post-release. However, visual cues can be missed if all contact is over the phone, service users have lost the benefit of the intangible 'social' nature of face-to-face meetings, and it can be difficult and time consuming to try to fill out forms or go through online processes over the phone. We also know that for some people, being met at the gate and receiving guidance and support in the first hours and days after release can make all the difference to them being able to turn their life around.

There is a great deal of learning around communication that should inform future service delivery, including:

- providing prison leavers with a mobile phone
- improving in cell telephony
- maintaining and expanding the video visits facility
- embedding an understanding of the benefits of a mixed approach of face-to-face and other methods of communication

Our staff tell us that finding accommodation for prison leavers has been their biggest challenge during lockdown, and that it has been more difficult for the prison leavers they work with to access health support and medication, and to access the basic essentials on release such as food, toiletries, and clothing. The DWP phone line for prison leavers has been really helpful for making claims, and

we believe this should be a permanent service to enable people leaving prison to easily make a claim for Universal Credit.

The focus of probation services has been undoubtedly on risk management in these exceptional circumstances rather than the delivery of interventions, which in some cases have had to cease or adapt to be delivered differently.

Some elements of court ordered work stopped, such as unpaid work, accredited programmes and other group structured interventions, and much of this has not restarted. The volume of people who still need to complete this work as part of their sentence has therefore increased, and it is difficult to see how this work will be completed moving forward, given the continued Covid 19 restrictions and the transition into new ways of working from 2021.

The wider societal impact that Covid 19 is likely to have should also be taken into account. It is likely that we will enter a period of high unemployment with higher levels of deprivation which may lead to increased crime levels, and therefore higher caseloads. We should also not disregard the impact of the pandemic on the mental health of staff and service users, which has the potential to affect both the ability of staff to supervise and the increasing needs presented by service users.

18. What lessons have been learnt from this period of Exceptional Delivery that should be taken forward into the new model of probation delivery?

- **How are lessons learnt being shared with probation practitioners?**

We believe that there is learning to be taken from the changes to service delivery during the pandemic. For example, it has always been assumed that face to face contact is of a higher quality than telephone contact, but we have seen that the flexibility of phone contact, and the ability to speak to service users from their own homes can be really beneficial. We have been challenged by the pandemic as to the way we do things, and have learnt that things can be managed differently, and successfully.

There is also learning to be taken from the changes to service delivery around the use technology. There is a significant need to be better able to provide service users with the required technology to enable communication, both within prisons and in the community. In cell telephony and the provision of mobile phones upon release are really valuable tools to enable us to deliver appropriate and timely interventions. (also see our answer to Q17 above).

We have also seen that much of the work we deliver is difficult to deliver from outside prison. It has been far more difficult for us to provide support with things such as dealing with court fines or ending tenancies for many people whilst our staff did not have a physical presence in prisons. This learning should be considered in deciding the future model for delivery of these services. Where technology does not enable the full engagement of people in prison from the community, then this work must, in our view, continue to be delivered from within prisons. We would therefore call for the model to allow intervention providers to be both in prisons and in the community.

We are not aware of any mechanisms for sharing good practice within probation or across regions, and this is clearly something that would be beneficial. Innovative practice that works well should be shared across the system. We have seen that teams have worked really well together locally during the pandemic, and there is learning to take from this which should be shared.

Other

- 19. Are there any other areas relating to the Probation Reform Programme that you would like to brief the Committee on, that are not already covered by the Terms of Reference above? (If yes, please provide information)**