



Ministry of
JUSTICE

Penal Policy — a background paper

NOMS National Offender
Management Service

Working together to reduce re-offending

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Foreword

By Lord Falconer

Lord Chancellor and Secretary of State for Justice

There can be no greater duty for any Government than protecting the public. It is a responsibility that is shared across departmental and organisational boundaries. An effective justice system, supported by the right penal policy is an essential, integral part of making it happen.

The justice system is complex. The problems it deals with are complex. However, through the creation of the Ministry of Justice, with the bringing together of the justice system, I believe that we have the best chance for a generation to find the answers to some intractable problems.

The Government has made significant progress in tackling crime since 1997. Over the past decade, the British Crime Survey shows crime has fallen by 35 per cent. Ineffective trial rates have more than halved in the Crown Court. Offences brought to justice are up by nearly 40 per cent since 2002. Fine Collection is at 91 per cent, up from 74 per cent in 2003/04. We have significantly improved prison security, with no escapes from Category A prisons since 1996. We have increased probation resources from £563m in 1996/97 to £936m in 2006/07 – around 70 per cent in real terms. The Government has continued throughout to focus on rebalancing the Criminal Justice System in favour of victims and the community as a whole.

The creation of the Ministry of Justice offers a significant opportunity to build on this success and continue to address the Government's objectives: to protect the public, to punish offenders; and, to reduce re-offending. Considerable progress has been made over the past 10 years, but now the elements are in place to make an even greater difference to peoples' lives.

This paper outlines how an effective penal policy will protect the public and reduce re-offending. This includes ensuring that we build on those non-custodial sentences that offer tough, safe and effective alternative punishments, but are more effective in reducing re-offending.

We will continue to protect the public by ensuring we provide prison places for those who the courts determine need custody. This Government has already built 20,000 prison places over the past 10 years. New prison places have been built faster than ever before. In the last year we have announced that a further 8,000 prison places will be built by 2012. We will continue to protect the public by ensuring that there are always enough prison places available for those people who need to be there.

Our prison building programme will continue to ensure we have capacity to lock the most dangerous prisoners away for longer. We have always recognised that prison must be used for those who need it, and that sentences should be designed to reduce re-offending. However, over decades we have learnt that some short custodial sentences are not effective in reducing re-offending and this has been proved over successive governments.

That is why we want to see greater use of the best community sentences, where evidence shows that they reduce re-offending and offer more effective punishment than custodial sentences of less than 12 months. We will strongly support those schemes where the community are part of the solution.

An effective penal policy is one in which the public have confidence, where communities can see that justice is being done. But it is much more than that. They must see us deliver real reductions in re-offending and improvements in the way we protect them from dangerous offenders. The public needs confidence that they are being kept safe from harm, while offenders are not only being punished but are being effectively rehabilitated and their offending behaviour addressed.

Effective rehabilitation is essential in breaking the cycle of re-offending. We must ensure that problem behaviour is stopped, and that offenders receive treatment for drug or alcohol problems, as well as getting the necessary skills so that they can be a constructive part of society. We must also ensure that offenders in the community are properly monitored, and their liberty and movements restricted. Punishment in the community is no less of a punishment. For community sentences to be effective, the individual being punished, the community, and the sentencer all have to understand that if the penalty is breached, punishment will follow, with custody if necessary. We will ensure that prison places are available for this purpose.

The challenges a justice system faces will only be addressed through the Government and the Judiciary working in partnership. This does not entail encroaching on judicial independence. It means acknowledging and respecting the distinctive role of the other, but working together to a common aim.

This is a critical point. We will make the improvements that the public deserves when all parts of the system work together. The creation of the Ministry of Justice provides both the means by which we join up the justice system, and the catalyst for change.

The creation of a Ministry of Justice gives us an opportunity to deliver on our objectives of protecting the public, reducing re-offending and sense in sentencing. I believe all those involved in the justice system are ready to do it. I believe they want to do it. I believe they *can* do it. It will not require a brand new approach. It *will* require giving the excellent people in all parts of the justice system the opportunity to achieve. We have the same aims. We now have the opportunity to achieve them.

A handwritten signature in cursive script, reading "Charlie Falconer". The signature is written in dark ink on a white background.

Lord Falconer
Lord Chancellor and Secretary of State for Justice

Introduction

This Government has changed the face of penal policy. We have recognised that prevention is better than cure, and radically overhauled the youth justice system to focus not only on stopping children re-offending, but on intervening early to make sure that they do not start. We have given the authorities the power to bear down on the anti-social behaviour and crime that blights the lives of too many communities and it has made a real difference.

Public protection is at the heart of what we do. We have been unequivocal in our commitment to keep dangerous offenders in prison until the risk assessed by the Parole Board is such that it may be safely managed in the community. We introduced indeterminate sentences of imprisonment for public protection with the 2003 Criminal Justice Act to ensure that this happened and the courts are using them in large numbers. Sophisticated assessment processes are enabling skilled staff to inform decisions about the risk an offender poses.

Prisoners sentenced to more than twelve months now remain on licence after their release until the end of their sentence and are recalled to prison if they breach.

We have built the prison places necessary to incarcerate dangerous and serious offenders and sought to ensure that the conditions in which they are kept are safe and secure for staff and prisoners.

Total prison capacity has increased by one third since 1997 and now stands at 80,700 places. Further increases are under way. 8,000 new places will have been made available by 2012 through an ambitious building programme. We must ensure that prison places are available to protect the public from dangerous offenders and that there are sufficient prison places to accommodate those who the courts send to prison. In many cases, prison will be the appropriate punishment.

In the community, tough orders are available to punish the offender and stop them committing more crime. The orders have twelve possible components, including punitive, restrictive curfews and prohibition from certain places or activities, rehabilitative drug treatment and courses and programmes to address criminal behaviour and improve skills. An offender who breaches their order goes back to court for tougher punishment which can include prison. Those on community orders can be made to do many hours of unpaid work – frequently on a project determined by the community. This means that the offender pays something back into the local community. This is not a soft option and evidence shows that these sentences can have a greater impact on re-offending rates. Community sentences can be more demanding because with the right conditions attached they can mean intensive, hard work and learning; it can confront them with their offending behaviour and get them to change. This level of investment has to be used where it will make a difference – for example with less serious offenders where very short custodial sentences may not reduce re-offending as effectively. Early evidence shows that the prolific offender scheme is working well to reduce re-offending.

To make sure that offenders can be supervised properly in the community, we have also dramatically increased investment in probation. Resources have gone up from £563m to £936m between 1996/97 and 2006/07, an increase of around 70 per cent in real terms.

More than ever before, we have sought to make sure that there are punishments available that fit the crime and the risk posed by the offender, and prison places for those who need them. We have introduced new training tools and action plans to improve the quality of risk assessment, which will enable better management of offenders to protect the public. We have also made greater use of the programmes and treatment that contribute to stopping someone re-offending. The courts are using the sentencing options available to them. Proven re-offending rates are coming down with a reduction of over 2 per cent points between 2000 and 2004 and more if we take into account the changes in characteristics of offenders.

This progress and information will enable us to make a real success of the progressive programme of commissioning across both custodial and community provision that is central to the work of the National Offender Management Service. All offenders are now to be managed by one person from the start to the end of their sentence, and commissioners will purchase the services and offender interventions that their region and local areas need. Already, innovative programmes are under way across the country to deliver better value for money and safer communities.

We have put in place the framework, the people, the programmes and the knowledge to make a massive difference to the way in which we deal with crime and protect the public in this country. We must make sure this investment pays off. Above all, that means the right punishment, for as long as necessary with the right interventions and the right level of supervision, for each offender.

The estates strategy and sentencing

The estates and sentencing strategy at a glance

- protect the public, maintain a high security prison system for the most serious offenders and prevent escapes;
- provide the prison places required by the courts as they sentence within the framework provided by the 2003 Criminal Justice Act;
- in keeping with the Act, focus on the risk posed to the public;
- use prison to punish dangerous offenders who will remain there until the risk they pose is assessed to be safely manageable in the community;
- achieve greater use of the best community sentences, where evidence shows that they reduce re-offending and offer more effective punishment for example than some custodial sentences of less than twelve months;
- achieve value for money in building and running prisons and deliver a modernised estate with facilities such as education, health care and drug treatment to reduce re-offending;
- hold women and juvenile prisoners in separate units which address their particular needs.

The estate of the National Offender Management Service comprises a wide-ranging portfolio of buildings and facilities. It includes prisons, approved premises in the community, probation offices within courts and field offices as well as training centres and administrative buildings. The estate has to be flexible to meet future and potentially rapid changes in custodial and non-custodial demands. It must effectively manage the introduction of new sentencing policies and be able to adjust to new technologies, such as electronic tagging and video links between courts and prisons.

It is crucial that prisons and the wider estate have the facilities to deliver services for reducing re-offending. This is a critical component of the Government's strategy to reduce crime and the harm caused by illegal drug use. It also contributes to Government priorities such as reducing child poverty and increasing productivity and employment.

Key facts about prison

- There are currently 80,700 prison places in 141 prisons and young offender institutions.
- Since 1997, prison capacity has increased by 20,000 places including an increase of 3,500 in the last two years.
- We are building an additional 8,000 places by 2012.
- Eleven prisons are currently run by private providers – accounting for 10 per cent of capacity.

The Prison Estate – size and growth

The current prison estate provides nearly 80,700 places. Up to 400 further temporary places are also currently being used in police cells. Within the prison estate there are 141 establishments that support the objectives of the National Offender Management Service to protect the public by holding securely and managing humanely the people committed to custody by the courts.

We have made good progress in improving the estate. Stopping out was effectively discontinued in 1996 and the practice of holding three prisoners in cells meant for one was ended in 1994. We have also improved conditions, for instance through significant investment in healthcare facilities in partnership with Primary Care Trusts, but there is still more to do to ensure consistent accommodation standards across the wider estate.

Since 1997 the government has also increased prison capacity by around 20,000 places. In the last two years alone there has been an increase of over 3,500 places which includes building additional places at existing prisons and the new 840 place prison at Peterborough.

Forward strategy

We are building an additional 8,000 places by 2012 and this and previous programmes will deliver over 2,000 places this year. This investment will provide around 5,000 additional good quality jobs in prisons, not only in custodial work but in health care and education.

Subject to resources, we aim over time to replace those prisons that are no longer fit for use, or are not in appropriate places.

We want to examine how the prison estate might be modernised to provide more cost effective facilities that are better able to deliver rehabilitation services to reduce re-offending. We also want to identify whether the resources in our current estate can be used to finance new accommodation, be that new, large state of the art prisons or smaller local provision for women and young offenders.

I have asked Lord Carter to lead a review providing an assessment of the short term building plans for the 8,000 prison places and the longer term issues affecting the estate, including the inter-relationship between prisons and the rest of the Ministry of Justice estate to ensure that we have a coherent strategy.

Sentencing to protect the public and reduce re-offending

Sentencing is central to how we use our prison and probation resources to protect the public and reduce re-offending. The Criminal Justice Act 2003 was designed to achieve a major shift in sentencing policy and introduced substantial improvements to the sentencing framework. It makes clear that prison should be used to protect the public and to the extent and for the periods necessary (Sections 152 and 153).

The Act placed an emphasis on those offenders who present the most danger to the public. Those sentenced to unlimited sentences such as life sentences and Imprisonment for Public Protection (IPP) will only be released when they no longer pose a risk, which in some cases will be never. This contrasts with earlier legislation that distinguished between offenders according to the length of sentence but not the risk they posed to the public.

Those serving sentences of 12 months or more now remain on licence and subject to recall until the end of their sentence rather than before when they were on licence only until the three quarter point. New arrangements were introduced for the recall and re-release of prisoners on licence. Breach of requirements is liable to lead to recall to custody right up to the end of the sentence. Under these recall provisions, the decision whether to recall an offender is made administratively. The Parole Board review all recall decisions once the offender has returned to custody and consider whether to set a re-release date for the prisoner or a date for a further review of detention.

The suspended sentence order was introduced – a sentence of imprisonment suspended for a period of time during which the offender has to comply with community requirements with the threat of imprisonment hanging over them if they do not co-operate.

There is evidence that community punishments can work to reduce re-offending. The new community order provides a robust sentence for those who can be dealt with in the community in a way that can punish, reduce re-offending and provide a means to pay back to the community.

The Sentencing Guidelines Council (SGC)

The Sentencing Guidelines Council was also established by the Criminal Justice Act 2003. It began work in 2004. Its remit is to produce guidelines for all courts to promote greater consistency in sentencing, and to take into account cost-effectiveness and the need to promote public confidence in the Criminal Justice System. All courts are required to take the guidelines into account when sentencing offenders and the court must give reasons for departing from them in any particular case.

The legislation provides for the Secretary of State to ask the Council to frame or revise guidelines relating to: the allocation of cases between courts, a general matter affecting sentencing, a particular category of offender, or a particular offence.

In the process of producing guidelines, there is wide consultation and the opportunity for Government Ministers and for Parliament, through the Home Affairs Select Committee, to contribute to the consideration of what should be contained in the guidelines. But the final decision is that of the independent Council.

The Sentencing Advisory Panel provides advice to the Council following public consultation.

The impact of the Act

The courts have made a great deal of use of the new sentences for dangerous offenders which were implemented in April 2005. Over 2,200 sentences of indeterminate Imprisonment for Public Protection (IPP) have been issued so far.

On determinate sentences, there was a significant increase in lengths from 1995, and there has been only a very limited decrease since the introduction of the 2003 Act. The anticipated shift from short custodial to community sentences has not taken place although we now have much more effective community sentences in place, including programmes for prolific offenders. The evidence also suggests that the new suspended sentences are being used in cases where a community order might previously have been used and for summary offences, rather than for more serious offences and in place of custody. Just over 40 per cent of suspended sentence orders are being used for the less serious, summary only offences.

There has also been an increase in the number of recalled offenders in prison, reflecting the longer periods for which recallees are being held before they are re-released. It is important that dangerous offenders are kept in prison until they no longer pose a danger, and that the Parole Board can focus on assessing their risk. The recall population has increased from around 3,400 in April 2005 (when CJA 2003 was implemented) to nearly 5,000 in February 2007, an increase of 47 per cent.

The way forward

We must use prison and probation resources to best effect to protect the public, punish the offender and reduce re-offending. We have strong sentencing options in place and we need to ensure that they are used for the right people at the right time.

In order to achieve this the following reforms are proposed:

- Sentencing policy must align with the strategy of using prison when necessary to protect the public and to the extent and for the periods necessary to deliver on the statutory aims of sentencing in the Criminal Justice Act 2003. And to use alternatives to custody when they are more effective in reducing re-offending and provide payback to the community.

- The Secretary of State for Justice will ask the SGC to review whether their guidelines fully reflect the principles set out in the Criminal Justice Act 2003. He will also ask them to look at their processes to ensure that they can operate in the way that they consider best enables them effectively to produce such guidelines as are necessary.
- We will propose to make new arrangements so that in appropriate cases non-dangerous prisoners can be given a fixed term, punitive recall to prison for 28 days.
- We will also propose to provide that Suspended Sentence Orders are used for the more serious offences, as we originally intended when they were created in 2003. They will apply to indictable offences including either way offences, but not to summary (less serious) offences.

Reducing re-offending in prison and the community

Keeping the public safe is the first duty of the Criminal Justice System, and must be the overriding priority of those working with offenders. We will maintain a high security prison system to hold violent and dangerous prisoners in a very secure environment and we continue to recognise the highly skilled nature of working with these offenders.

We aim to ensure that local plans and partnerships are geared up to reduce re-offending and develop a network of prisons that engage with services in the community to deliver high quality support in health, education, drugs and alcohol, housing and employment. This is particularly valuable to those serving very short sentences, or who are reaching the end of their custodial period. We plan to improve the transition from custody into the community by developing alliances with services in the community. The next chapter of this paper sets out in detail how we punish and rehabilitate offenders in the community.

Women in the Criminal Justice System and the Corston Review

There are currently around 4,400 women in prison, many of whom have complex personal needs and often difficult family circumstances. A high proportion of women in custody are at risk of harming themselves; many have experienced sexual, physical or emotional abuse and mental health problems; many are lone parents who are anxious about their children; and substance and alcohol misuse are common. Staff and management need high levels of resilience to maintain effective support to meet their needs.

Baroness Corston's Review of *Women with Particular Vulnerabilities in the Criminal Justice System* (<http://www.homeoffice.gov.uk/documents/corston-report/>) makes a number of significant recommendations about the way women are dealt with within the system. There are 43 recommendations which are wide-ranging and propose action by a number of different Government departments and other organisations. For example, Baroness Corston recommends replacing women's prisons with smaller local secure units. This would be a radical change and would require a significant shift in resources and consideration of how it would fit in with broader proposals for managing the prison population in general and women offenders in particular. All the recommendations will be carefully explored and the Government will develop a detailed response and set out an agreed way forward. In doing so, we will look to build on the good work that is already being done in this area. For example, a Women's Offending Reduction Programme is already in place. Launched in 2004 it focuses on improving community based services and interventions to ensure they are appropriate for women and to support greater use of community sentences wherever possible. As part of this Programme, £9.15 million has been allocated to set up new initiatives for women to demonstrate how a multi-agency 'one-stop-shop' approach in the community can be more effective at addressing their multiple and complex needs and avoid the use of custody.

Young People

Young people in custody are a particularly vulnerable group. They are accommodated in dedicated facilities separate from other prisoners.

The Youth Justice Board has defined principles for these young people that focus on the reduction of harm and ensuring more is done to address drug and alcohol problems, behavioural and mental health problems, and education. The Youth Justice Board is producing estate plans:

- to ensure a better geographical match between supply and demand for custodial accommodation, and
- to develop high-dependency units for more vulnerable males aged 15 and 16;
- where possible to develop bespoke facilities separate from the adult estate.

A project is under way to develop a 48-bed unit at Wetherby Young Offender Institution (YOI) for young people who have been identified as being at risk because of their vulnerability factors or needing more intensive staff support. Significant capital is being invested in this facility, intended to open in summer 2008.

The Role of Competition

In my statement today I reiterated the Government's commitment to the vision of the National Offender Management Service. Competition is central to achieving this. In order to ensure that we get the best value for money, with prisons built and run as effectively and efficiently as they can be, we have introduced competition. The first privately managed prison, HMP Wolds, opened in 1992. There are now eleven prisons operated by the private sector providing just over 8,700 places, about 10 per cent of total capacity. The introduction of competition has been supported by Lord Carter's report of 2001 and the benefits noted by the National Audit Office.

We continue to look at how the prison estate could be modernised to provide more cost effective facilities that are better able to protect the public and to deliver services to reduce re-offending. Competition will be central to this strategy.

Community sentences

Punishment and rehabilitation in the community – the strategy at a glance

- sentencers now have access to community orders that combine punishments such as unpaid work, curfews and exclusions with rehabilitative requirements like drug treatment;
- it is essential that persistent offenders get the right level of punishment and supervision resources. There are now plans to test even more intensive measures to deal with these offenders;
- evidence tells us that community punishments are helping to reduce re-offending, therefore we would like to see greater use made of the best community sentences to punish and rehabilitate persistent offenders;
- we want offenders to make a constructive contribution to society, not be an expensive burden on it, and with the right combination of interventions, this can happen.

People can be and are punished in the community in several ways, including fines, compensation orders and civil orders such as antisocial behaviour orders (ASBOs). The most common alternative to custodial sentences is to pass a community order. Community orders have evolved greatly since the First Offenders Act of 1887 made it possible for offenders to be released into the community on condition of good conduct instead of going to prison. Current Community Orders were introduced in the 2003 Criminal Justice Act and provide a menu of punitive and rehabilitative options that can be combined to produce a demanding package.

The 12 potential requirements of a community order

With the 2003 CJ Act, we put in place a community order which can for the first time be made up of one or more of 12 different requirements. These are:

1. Unpaid work;
2. Supervision – the offender must attend appointments with a responsible officer;
3. Programme – the offender must participate in an accredited programme specified in the order (e.g. substance abuse programme; drink impaired driver programme; offending behaviour programme);
4. Drug Rehabilitation;
5. Alcohol Treatment;
6. Mental Health Treatment;
7. Residence – the offender must reside at a place specified in the order for a specified time;
8. Activity – the offender must participate in an activity specified in the order, or present him/herself to a person specified in the order. The activity might, for example, include reparative work;
9. Prohibited Activity – the offender must refrain from engaging in specified activities for a specified period (e.g. not attending football matches);
10. Exclusion – the offender is prohibited from entering a place specified in the order for a specified time;
11. Curfew – the offender must remain, for specified periods, at a specific place;
12. Attendance centre (offenders under 25 years only) – the offender must go to an attendance centre for a specified number of hours.

All community orders can be made alongside compensation orders, driving disqualifications and civil orders such as ASBOs.

Requirements can be combined to punish offenders, rehabilitate them and to restrict their movements. The number and intensity of requirements can be varied to produce an individually tailored package. The overall restriction on liberty imposed by the order must be commensurate with the seriousness of the offence. This means the community order can be used as a sentence for a very wide range of offenders. More serious offences will attract more or longer requirements, whereas less serious offending may be appropriately dealt with by one or two requirements. A single unpaid work requirement is often imposed for less serious offences.

A community order can last for up to three years but individual requirements can be for different lengths:

- An offender convicted of a serious offence might typically receive a sentence with a 2 year supervision requirement, a requirement to attend an accredited programme and a curfew requirement backed by electronic monitoring.
- If offending is fuelled by a drug problem, the offender might receive a sentence with a 12 month supervision requirement, a 12 month drug rehabilitation requirement and a programme requirement.
- If a serious offence has been committed, but no specific problems have been identified, the offender might be sentenced to an unpaid work order of 300 hours and a 6 month curfew.

There are minimum standards for how often an offender must be seen, with *minimum* contact set for a number of offenders, although *required* contact may be much higher. Most offenders will be seen at least weekly for the first 16 weeks of the order, although for those on Prolific and Other Priority Offender schemes this might be four times a week or more.

Those whose sentence includes requirements for drug rehabilitation have higher minimum contact times. Requirements for drug, alcohol or mental health treatment may include clinical intervention, counselling and group work as well as housing and employment support.

Offenders who fail to comply with their community order are breached and returned to court. The court can re-sentence the offender for the original offence and might impose a custodial sentence. Alternatively, the court can extend or add requirements and allow the community order to continue. Home Office National Standards require Probation staff to breach an offender after a maximum of two unacceptable failures to comply in a 12 month period. The National Probation Service has significantly improved its performance for enforcement of community orders in recent years: 52 per cent of offenders were breached in accordance with the national standard in 2001/2 but this increased to 92 per cent in 2006.

Unpaid work

- The number of hours which a person may be required to work must be not less than 40 and not more than 300 hours;
- It is estimated that the average worked is 109 hours.

In 2006:

- there were 35,700 successful completions of unpaid work requirements under community orders;
- local communities benefited from 6.5 million hours of compulsory unpaid work, the equivalent of nearly £35 million worth of work free to local authorities, schools, local groups and charities.

Prolific offenders

Those offenders who commit the most crime and who are of most concern to their local communities can be placed on a *Prolific and other Priority Offender scheme* (PPO). This initiative was established in 2004 and there is a PPO scheme in every probation area in the country.

Prolific and other Priority Offenders (PPOs) are subject to intense supervision and are offered interventions to change their offending behaviour or face a swift return to the courts. An offender is actively monitored by the police, probation and other agencies who ensure that he or she is supported to stop re-offending and helped to prevent re-offending. While no firm conclusions can yet be drawn about the specific impact on levels of offending the results are already encouraging.

Stopping prolific offenders

Mr D's criminal history began in 1997 when he was sixteen and became a regular visitor to the courts. He was considered to be a prolific offender with a clear pattern of behaviour associated with acquisitive crime and he had failed to respond to previous sentences of the court. After several custodial sentences he was finally released on licence in November 2004 with a condition to attend the Prolific and other Priority Offenders Programme. Mr D was offered a property which he accepted. He has decorated it and maintained this tenancy. He was offered a methadone script, which he accepted and subsequent urine tests were all negative for opiates. Mr D was on the programme for twelve months and during this period there were no further recorded offences and no police intelligence to suggest further illegal activities. Consequently, during the October 2005 formal review Mr D was removed from the current PPO register. Since then, no further convictions have been recorded against Mr D, and local police intelligence have no further information recorded against him.

Building on arrangements for supervising offenders on PPO schemes and on the minimum contact times for offenders on Community orders with a Drug Rehabilitation Requirement, we will work with the courts to commission and test even higher intensity community orders as an alternative to custody for offenders who might otherwise get a short prison sentence. This sort of high intensity community order would not need new legislation and could include:

- a Supervision Requirement (maximum 3 years) to build and sustain motivation, address individual need for rehabilitation and to support inter agency working;
- an unpaid work requirement (max 300 hours) to deliver punishment and reparation;
- a programme or treatment requirement;
- a 6 month curfew to punish the offender and restrict his/her liberty.

The order would mean minimum contact of about 20 hours per week with some contact most days. It would involve information sharing and liaison between probation and the police to deter further offending and, if the offender did commit further crime, ensure quick arrest and interruption.

The aim of the sentence would be to punish and rehabilitate offenders while restricting their liberty in the community. Because of the intensity and combination of requirements, it is envisaged that sentencers would use an order like this instead of a short custodial sentence whenever appropriate. We plan to test the idea to ensure that it works well in practice.

"... it's not only a punishment, but it is a making right, because being in jail is clearly a punishment but doesn't make anything right. Whereas doing something in the community that may well make other people's lives a bit better is making it right" Community member talking about Unpaid Work

There is evidence that:

- community-based programmes, in general, produce more positive results compared with prison-based interventions¹;
- offenders perceive community sentences to be useful and to help them stay out of trouble², and that they welcome the opportunity to learn new skills;
- supports the effectiveness of cognitive behavioural programmes (also referred to as offending behaviour programmes) in reducing re-offending. These programmes include cognitive behavioural programmes for general offenders, sex offenders and for substance-misusing offenders;
- drug treatment can be effective in reducing drug-related crime and overall re-offending;
- indicates that community orders generally are reducing re-offending.

Offenders who commenced a community penalty in the first quarter of 2004 showed reductions in their actual proven re-offending rates compared to their predicted rates (based on 2000 patterns) and actual re-offending rates were lower in 2004 than in 2000 for all types of community sentences. For example: for Community Punishment Orders (the predecessor to an unpaid work requirement) the predicted and actual rates were 43.5 per cent and 37.9 per cent respectively.

1 McGuire, J. (2000) What Works in Reducing Criminality. In Graycar, A. (ed.) *Reducing Criminality – Partnerships and Best Practices*. Australian Institute of Criminology.

2 Mair, G. and May, C. (1997) *Offenders on Probation*. Home Office Research Study 167. London: Home Office.

It is imperative that the public has confidence in community penalties. There is already evidence that the public likes to see unpaid work used.

"I think it's brilliant...if it's doing something that is putting something back in the community, if there is an end result that says this is what we can do, this is something positive, and its got to be beneficial to the people who do it as well, rather than a lot of the sentences that may be passed, surely it's better for them to be out in the community doing some good" Community member talking about Unpaid Work

Commissioning

The commissioning: the strategy at a glance

- making a reality of end-to-end offender management across prisons and probation in order to reduce re-offending and protect the public;
- making the best use of resources, by ensuring that the most effective services are delivered at the right time in the right place, from drug treatment to offender behaviour programmes, from Unpaid Work to victim contact;
- recognising that no single provider can meet the diverse and challenging needs of offenders – ensuring that a whole range of large and small providers make their full contribution, locally, regionally and nationally;
- improving services by giving existing and new providers the opportunity to show how they can deliver best value;
- turning high performing Probation Boards into Trusts, with the flexibility to determine how best to deliver on their re-offending and public protection targets, working in partnership with others, from beginning to end of offenders' sentences.

In recommending the establishment of the National Offender Management Service (NOMS) in December 2003, to be responsible for reducing re-offending, Patrick Carter identified that 'services remain largely detached from one another and the structure of the system encourages concentration on the day-to-day operation of the services. A more strategic approach to the end-to-end management of offenders across their sentence is needed'.

He went on to say that 'the benefits of competition could be further extended... the introduction of competition has provided a strong incentive for improvements in public sector prisons but currently there is minimal contestability in the front-line provision of probation services'.

(Managing Offenders, Reducing Crime, Patrick Carter, December 2003)

So NOMS has invested heavily in putting end-to-end offender management in place:

- Each offender in the community now has a named offender manager from the relevant probation area, responsible for assessing risk of re-offending and of harm to the public, formulating a sentence plan accordingly, and overseeing its implementation.

- Last November this approach was extended to cover over 10,000 offenders in custody – prolific & priority offenders, and those whose risk of harm is high or very high. Each of these now also has an offender manager in probation, working in collaboration with appropriate prison staff to ensure that the sentence plan covers the time served in both community and custody seamlessly.
- Over the next three years we will complete the rollout of this new approach to cover all offenders in custody, in line with Carter’s vision.

Offender managers need to be able to draw down the interventions (like offending behaviour programmes) and other services (drug treatment; education, training & skills etc.) that their offenders need in order to reduce re-offending. Where it is best value to do so, these services should be delivered by probation and prison staff themselves. But no single provider can meet the diverse and challenging needs of all offenders – there are a whole range of large and small voluntary, charitable, public and private sector organisations who could be making a greater contribution than currently.

So the Government wants Probation Boards to make more use of such organisations, focusing their own efforts on making a real success of end-to-end offender management over the next three years, and increasingly commissioning the services their offender managers need from other providers, in accordance with best value principles. In some cases this means entering into contracts with other bodies for the delivery of such services; in others, it means active engagement in local strategic partnerships with councils, NHS, police and others to secure the housing, healthcare etc. that is needed to reduce re-offending.

This approach to commissioning and partnership is also needed at regional and indeed national levels. So NOMS now has a regional commissioning tier in place, to:

- contract with service providers at regional level where this provides better value for money than purchasing at local level;
- work in partnership with other regional bodies – strategic health authorities, learning & skills councils etc. – in support of the reduced re-offending agenda;
- negotiate and manage service level agreements with Probation Boards and the Prison Service (contracts in the case of private prisons), through which probation and prisons are held to account, increasingly jointly, for the delivery of key targets to reduce re-offending and protect the public.

This is set out in more detail in the NOMS Commissioning Framework, published in January 2007, alongside 10 Regional Commissioning Plans. For 2007/8, regional commissioners have been working with Probation Boards to seek to increase their use of other providers to 10 per cent of turnover.

Examples of the potential for such an approach, regional and local, include:

- The East of England commissioning pathfinder which was established in 2006 to reduce re-offending by increasing the take up of sustainable employment by offenders. Initially the project focuses on Luton, Southend and Bury St Edmunds where key workers will provide individualised support to motivate, mentor and prepare offenders for work. Key workers engage with employers to boost confidence in offering work to offenders. The project runs until 2009 and aims to place 460 additional offenders into employment each year.
- Community Chaplaincy and faith alliance in London. An innovation funding model has been employed by the London Regional Offender Manager to award small capacity building grants to faith community organisations in the capital to support the development of services to offenders. Nineteen projects were funded, and the programme successfully targeted Black majority Christian and Muslim organisations.
- The Connect project, which started in West Mercia, through which the resettlement of short-term sentenced prisoners is supported by volunteer and other mentors. We are supporting bids for ESF funding to spread this locally-originated project nationally.

The Offender Management Bill will enable us to take this approach further:

- We will turn high-performing Probation Boards into Trusts, operating under contract to their regional commissioner, given more flexibility to determine how best to deliver on their reduced re-offending and public protection targets (though continuing with the maintenance of national standards for the management of offenders).
- The Chiefs of these Trusts will no longer be line-managed from the centre, but will report instead to the Trust board (which will include a local councillor). The Trusts will be full partners in their Local Strategic Partnerships, signing up to local area agreements as appropriate.
- We are reviewing the potential for giving Trusts a range of possible freedoms to support local innovation, subject to appropriate regulatory arrangements.
- We will work with them to make a real success of end-to-end offender management across probation and prisons, with a more joined-up approach to securing the interventions and other services offenders need, whether in custody or the community.
- We will expect Trusts to examine rigorously the potential for achieving better value by making more use of other providers (both under contract and in partnership) to help them reduce re-offending and protect the public, and act accordingly, and our contracts with them will take account of those areas where it is more cost-effective to secure services at regional & national level.

- We will continue to intervene directly to tackle under-performance by the remaining Probation Boards, as has already happened to good effect in six areas of the country over the past year. In doing so, we will look particularly closely at the efforts they have made to seek support from other agencies to help them overcome the challenges they are struggling with. Our aim is to provide the right mix of challenge and support to enable all Probation Boards to become Trusts over the next three years, including the possibility of some Trusts taking on work from other Boards if this were to improve service delivery.
- At the end of this period, we may choose to invite other bodies from the voluntary, charitable and private sectors to take on work of Boards which have not been able to achieve Trust status, and/or to compete with Trusts once their contracts have come to an end. In all cases, our approach will be to ensure best value in the use of public money to reduce re-offending and protect the public. However, probation assistance to courts will remain the preserve of the public sector unless Parliament were to lift this requirement at some point in the future.

And we will also make more use of other providers of prisons where this provides best value – whether in building new prisons or improving the performance of existing ones.

Taken together, these policies and reforms will enable us to make a significant difference in our work to protect the public and reduce re-offending.

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