



JTU - 2021

**Kit Malthouse MP
Under Secretary of State for
Probation, Policing and Reducing reoffending**

(By email only)

25TH October 2021

Dear Minister,

Union briefing in advance of our meeting on 26th October 2021

We look forward to meeting you and wish you a successful tenure in your new position. We are conscious that the size of the following subject matter will not allow for a detailed discussion in the limited time available. Nevertheless, we hope that you will find this comprehensive briefing note to be a useful aid as you navigate your way through the many aspects of the world of Probation. We will obviously seek to summarise our representations on these various issues tomorrow.

A positive Comprehensive Spending Review outcome for the Probation Service

The unions recognise your recent announcements around the additional funding that has been provided for a number of initiatives within the Probation service such as the increase to help deliver more Unpaid Work and an expansion of Electronic Monitoring. The trade unions have been raising the following issues with your predecessors for a considerable period of time, and these also featured in a previous HMI Probation report, namely: high staff vacancies, dangerous workloads, concerns over the SFO process, a workforce that is not diverse enough, workplaces that are shabby and often unfit for purpose and the poor performance of the private contractors providing facilities management across the service and additionally, night cover in approved premises.

These issues have been compounded by the COVID pandemic during which our members have continued to provide essential services to clients and protect our communities at great personal risk to their wellbeing.

The unions will work with senior HMPPS management to try and address all of these issues but the depth of the problems faced by the Probation Service means that the

government needs to step in to significantly increase the funding for the service over the period of the next Comprehensive Spending Review.

The success of the Reunified Probation Service depends on CSR funding coming on stream to address the above difficulties.

Probation Pay

In addition to the Unions recent rejection of the 2021 Probation Pay Offer, we still have outstanding current disputes with the employer on Incremental Progression entitlement and still await the agreed back-pay for our AP Residential Worker members.

In general terms The pay freeze of 2020/21 has continued to exacerbate the financial pressure on workers that has accumulated over the period of austerity and the Covid-19 pandemic.

The Treasury's argument that the public-sector pay freeze is required in order to keep pay rises in line with rates of pay growth in the private sector is unsustainable. ONS data for April to June 2021 shows – in contrast to the period April to June 2020 – that the growth in private-sector workers' pay was 10.1% compared to just 2.8% for public-sector workers. Nevertheless, low pay remains a significant blight in the private sector, just as it is for many public-sector workers.

Under further pressure from rising inflation (with these pressures projected to grow in the forthcoming period), a spike in energy prices and the hike in employees' National Insurance contributions, the real value of our member's take-home pay will be eroded still further.

Many Probation staff have not seen a real terms pay increase for 10 years and Probation pay lags well behind that paid to other professionally qualified staff elsewhere in the market. Our members have delivered Probation Reunification and maintained vital services in the face of the Covid pandemic, and they have recently voted overwhelmingly to reject the Probation Pay Offer. We therefore urge you to authorise further negotiations between your senior Departmental leads and the Probation Unions at the earliest opportunity and that you seek to intervene directly with Treasury colleagues to make a case for a realistic pay award to our members in 2021 and the immediate years thereafter.

Probation Workloads

The reunification of the Probation service into public control and ownership, while obviously welcomed, has essentially seen a range of operational problems come across into the Probation Service, which itself has been beset by a series of long running difficulties. The confusion and frustration around the assignment and alignment processes as a result of reunification were an awful experience for our members, many of whom also faced uncertainty about their future employment in the transfer process. That was bad enough, but the weeks after transfer have shown just how serious things were in the former CRC's and the NPS.

Workloads have sky-rocketed to ever more dangerous levels, and staff struggling to adapt to a new employer and new ways of working are bombarded with tick-box spreadsheets and demands to complete mandatory online training. Confusion and chaos reign in Probation right now, with pay problems that elicit at least 17 different responses depending who you ask, continuing confusion about the consultations on major changes involved in moving to the Target Operating Model and workloads so high that newly qualified officers leave rather than suffer the same fate as their colleagues. The whole system is in disarray but we need to also highlight a few areas that we are working on at present.

SPO Workloads

These are plain and simply now out of control. They have been a concern since 2014 but in the last year they have reached crisis point. SPOs managing a team of people with excessive workloads find themselves at the mercy of a resourcing model which says they can manage 10 people. That would be challenge enough but consider the number of staff also working part time; the calculations use FTE (full time equivalent) so if a team has several people working part time the FTE number climbs, but the staff all require managing whether they work full or part time. Then PQUIP trainees only count for a fraction of a full timer even though they arguably need more support and closer management than more experienced staff. So an SPO can have 15 or 20 staff to manage, all needing supervision, all needing input on their work around risk, all struggling with excessive workloads and all needing support to navigate massive organisational change.

On top of this SPOs are the first port of call for pay problems which, we have discovered, can be so intractable that it takes teams of people months to resolve them. Every time a new process is introduced, every time an audit or case review suggests the need for practice improvement, more work is heaped onto SPOs.

ViSOR vetting

Another issue of major concern is ViSOR and the police vetting required for it continues to be a huge concern. We now know that vetting failure rates are low but the impact on those who fail this vetting is huge. Movement to a different area of work has an impact on morale and potentially an individual's career: but more insidious is the impact on the diversity of the Probation workforce. Police vetting for ViSOR use is now part of the recruitment process and anyone who fails will not be employed in Probation. To understand why this impacts on diversity we must consider the known reasons for failure. People automatically fail if you have live County Court Judgements against you for example, this is a situation that many people who have experienced financial hardship will face. If you are a Black or Asian man you are more likely to have been stopped by Police, more likely to be arrested, more likely to be charged and at Court more likely to receive a custodial sentence than if you are a white man. Police vetting not only looks at any convictions you have but also convictions of your closest contacts and any intelligence about criminal networks.

It surely follows therefore that people in our society who are more likely to be convicted and who have families also more likely to be convicted will be less likely to be able to work in Probation. Next we consider another reason for failure of vetting – those who have been a victim of domestic abuse but remain connected to their abuser in some way, perhaps because they have a child or children together. This can be considered an ongoing link by Police and vetting would fail. So, those who have experienced financial hardship and had no cushion to help them – poor and working class people are less likely to be able to work in Probation. Black and Asian men face far higher likelihood of failing police vetting and therefore ever more barriers to employment in Probation, and victims who struggle to fully disconnect from their abuser, either because of the nature of the abuse or because of some other link between them are also less likely to work in probation.

Diversity at risk

At a time when HMPPS are proudly announcing the employment of 1,000 people with lived experience of the criminal justice system in the Probation part of HMPPS people with lived experience who already work in the system are being side-lined, and recruiting new staff with such experience will be ever harder. Make no mistake, there are now, and have been for decades, people working in Probation at all levels with lived experience of the justice system, and probation practice is all the richer for their presence.

Now we face people with this invaluable experience being recruited only to special roles separate from ordinary Probation practice. Our position is that people with lived experience of the justice system should be able to work in any and all roles in Probation. We know that careful consideration must be given and assessments will need to be made to enable this, but external vetting by the Police for the sole purpose of using a computer system should not be a barrier to creating a diverse workforce.

We have consistently taken a solution focussed approach to this, first suggesting that ViSOR is not the best way to share information given the complexities of processes – instead we suggested allowing other agencies restricted access to Delius instead. This was not pursued, then we suggested that those who fail vetting could be given a protected caseload that didn't require ViSOR use – this was seen as not possible. When unification was on the table the unions tried again, suggesting that a mixed caseload in the PS would surely allow for staff without ViSOR vetting to have a caseload that didn't need ViSOR access. Again our reasonable suggestions were politely ignored. We will continue to raise this and to carefully monitor the impact of vetting on staff who transferred from CRCs. We have also raised the issue with Justin Russell, after the HMIP report on race in probation and are now working hard to raise the issue more widely.

OMiC

Another ongoing and worrying issue is OMiC, the movement of the supervision of clients during the custodial part of their sentence into the prison, where a team of Probation and Prison staff work together to carry out all of the tasks formerly performed

by an Offender Manager in the community and an Offender Supervisor in custody. We are told this is being done because “end to end offender management” didn’t work. But it wasn’t really given much chance, with community staff not being resourced to travel to prisons, bans on travel claims due to cuts and excessive workloads meaning custody cases were deprioritised. Despite the obvious solution being to fix these issues OMiC was apparently the answer. So now instead of the community practitioner being the consistent thread throughout the sentence, from custody into the community someone serving a custodial sentence will have a new offender manager every time they move prisons and only meet their community officer close to their release. OMiC moves the work formerly done in the community and adds it to the work formerly carried out in the prison. It therefore moves more Probation staff into prisons. There is at present no workload measurement tool for OMiC, and so inevitably workloads are high, staffing too low and, because the administrative support comes from the prison team, it is taking a long time for them to adjust to tasks they have no experience of.

Most concerning is the plan to move prison based SPOs into the line management of the prison governor. This is due to happen soon. The unions are utterly opposed to this and have been since the start. Probation Service staff have different terms and conditions and different ways of working than prison staff. Moreover, the experience of COVID showed us that these differences can cause tensions and we have had to intervene in several regions. Especially where prison governors, even before line managing the SPOs, were insisting that despite the PS policy being to work at home where possible they wanted all probation staff to be in the prison every day. SPO members working in prisons tell us they are looking to move roles to avoid the inevitable issues that will make their positions very tough indeed. We have yet to see the full guidance for the line management arrangements but we remain vigilant to the risks to our members.

Programmes and unpaid work

Unification has meant that programmes work now all resides in the probation service. This is cause for celebration however there are many concerns about moves to alter programmes and delivery requirements and the potential for “dumbing down” skilled work. We await the promised consultation on the detailed plans for programmes, but we anticipate having to resist the move away from quality and towards economy as a driver for these changes.

In Unpaid Work there are also major backlogs due to the pandemic and Napo’s ‘safety first’ approach to recovery is being pushed past it’s limit by the fervour to ramp up delivery despite concerns about a rise in virus transmission. Alongside this, we have the challenge of unification, with the chaos that has brought. Unpaid Work staff face uncertainty and the planned work with trade unions on the new operating model, which could have helped to deal with some of the backlog issues, have been pushed into the long grass, as senior leaders just try to deal with the immediate chaos facing them.

COVID and its impact on operations in the Courts

COVID has brought many challenges and its impact will resonate throughout the system for years. One of the challenges we face now is the backlog of cases waiting to go through the Courts, we all know that the Court system was struggling anyway and closures of Courts, low staffing and lack of resources meant there were already delays.

Now many service users face a wait of years for their case to be heard, and our members working in Courts face ever more pressure to produce their advice to the Court in the quickest way possible. Despite many reports reinforcing what we already knew – that a quality pre-sentence report cannot be produced quickly – the direction of travel is towards speedy justice, seemingly at any cost. Rather than reopening closed courts, or investing in the staff who make the system work, the focus now seems to be on extending Court sitting hours and pushing through cases, ignoring the warnings that speedy justice sometimes simply isn't justice at all. We believe that a root and Branch review is now required on the interface between HMCTS, the Judiciary and Probation.

Privatised Double Waking Night Cover (DWNC)

The unions have consistently campaigned against the further privatisation of probation functions since Transforming Rehabilitation. Against all reasoned argument to the contrary, we saw the privatisation of waking cover in approved premises (AP's). Nearly two years on from the start of these ill-fated contracts, the performance of the double-waking night cover contracts remains poor to say the least.

In some APs, the contractor has never provided cover since the contracts went live. In other APs the private contractor has been providing two workers to cover the night duty, when public protection provisions in their contract state that there should always be one PS member of staff on duty alongside them. The unions warned that this would be the outcome of privatising a public protection function, but your predecessors insisted that this time privatisation would work. It is not working. It is failing.

These contracts were entered into under the last government's austerity drive in an attempt to save money. They have not worked, as HMI Probation identified in its recent report on NPS, and they do not fit with the aspiration which we know you share with us to improve the quality of the work delivered by the service. We therefore ask you to now terminate these contracts bring this vital work back in house as soon as possible. If austerity is truly over, then sole rationale for letting these private contracts has disappeared.

Review of E3 Job Descriptions/Pay and Grading

Previous HMI Probation reports the problems which the PS faces in recruiting and retaining staff with the qualifications and experience to deliver probation services. Back in 2016/17 NPS implemented its E3 Programme to standardise NPS delivery and to save money. Money was saved in particular by down-grading a whole range of probation jobs, including Victim Liaison Officers, Enforcement Officers, Business

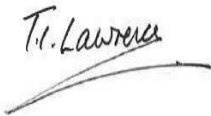
Managers, AP Managers, AP Residential Workers and more. These down-gradings covered a wide spectrum of professional roles, at both senior and more junior levels.

This exercise was not surprisingly received very badly by the staff concerned. They felt that their jobs had been dumbed down and their professional status questioned by their employer. The down-gradings have come back to haunt the NPS in the shape of:

- a staffing crisis in approved premises, particularly in some Divisions, where PS cannot recruit staff of the right calibre to undertake the extremely challenging work in APs on lowly pay band 2 salaries
- problems in prosecuting breaches in court, because having down-graded enforcement officers who previously did this work, NPS were not able to train up generic PSOs to do the work
- a specific call from HMI Probation for the Victim Liaison Officer role to be re-graded in light of the significant new duties required of this post since E3

The unions asked NPS to undertake the necessary 6-month post-implementation of the downgraded E3 jobs nearly 5 years ago, and only now are we seeing serious attempts to kick start the Job Evaluation process and hopefully see some justice delivered.

Yours sincerely,



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