

# Napo's online submission to the MoJ consultation - Strengthening Probation (TR)

Submitted to **Strengthening probation, building confidence**

## Introduction

### C Which of the following describes you best:

#### Question C:

Probation professional

If you selected other, please state here::

### D If applicable, please specify your organisation:

#### Organisation:

Napo

### E What region do your views refer to?

#### Please select your region:

All regions

## Supervising offenders and delivering the sentence of the court

### 1 What steps could we take to improve the continuity of supervision throughout an offender's sentence?

#### question 1:

1. In Napo's view the re-unification of local service delivery is the critical benchmark for any new system. Since the split, service users have seen a significant decrease in continuity. This will be further exacerbated by OMiC, which will see prisoners changing officer every time they move prison. Prior to TR, continuity of supervision was seen as vital to building up a professional relationship that research based evidence states is the largest factor in desistance. Therefore, a reunified local service will ensure greater continuity and as such better results in reducing re-offending. Localism will improve continuity with partnership agencies working with service users.

### 2(a) What frequency of contact between offenders and offender managers is most effective to promote purposeful engagement?

#### question 2:

2. Frequency of contact must meet the individual needs of each service user in order to be responsive. However, evidence suggests that people are most motivated at the beginning of their sentence and therefore that is the best time to engage with them, especially with interventions such as programmes. Since National Standards were abolished, frequency of contact has become a post-code lottery, even for those posing the highest level of risk. We would therefore support a return to standards that ensure consistency in delivery of the sentence, increases engagement with clients, increases completion of orders and interventions and matches those standards used by HMIP to inspect quality of delivery.

### 2(b) How should this vary during a period of supervision, and in which circumstances are alternatives to face-to-face meetings appropriate?

#### question 2b:

The use of professional judgement is crucial for an effective delivery of a sentence. This must be based on individual progress, needs and circumstances using both clinical and actuarial assessments to inform decisions. All decisions must be defensible and in conjunction with other agencies where appropriate. The use of partnership agencies must be embedded in practice and local communities but they must be accountable for the work they do, the contact they have and the service they deliver.

Napo does not believe that telephone contact is an appropriate form of supervision. Whilst it can and has been used in exceptional circumstances it should not be seen as an alternative to face to face but an additional tool to allow flexibility ie: if someone is unwell and cannot attend in person, telephone contact might be used to ensure some contact is made.

### 2(c) Do you have evidence to support your views?

**If yes, please give details::**

National Standards were evidence based in their creation in order to maintain and develop the most effective results from probation contact. HMI Probation have subsequently created professional standards based on research-based evidence. They too are extremely critical of no face-to-face contact.

**3 How can we promote unpaid work schemes which both make reparation to communities and equip offenders with employment-related skills and experience?**

**question 3:**

3. Unpaid work (UPW) has seen many changes over the years and is still popular with sentencers and communities to make reparation visible. UPW should if possible, provide work related skills to clients that can help them in future employment. Appropriate placements require local liaisons with charities, agencies etc that provide work in the community that is both punitive and beneficial for all parties. A publicly owned probation service that has close ties to the local area is able to provide this as evidenced from previous probation trusts. However, since TR many CRC's now charge organisations unrealistically high rates for work completed, shutting out those smaller local organisations that could most benefit from UPW. Eg: \*\*\* CRC charges The MoJ £180 per day per client which we see as seriously excessive. Napo believes it is wholly inappropriate that private companies should be making money out of those completing UPW and those beneficiaries that need work completed. It undermines the ethos of UPW for the benefit of communities.

**4 What changes should we make to post-sentence supervision arrangements to make them more proportionate and improve rehabilitative outcomes? (You may wish to refer to your answer to question 2)**

**question 4:**

4 PSS has not proven to be as effective as first envisaged. Napo initially felt that PSS would have unforeseen consequences on work-loads, service delivery, enforcement and clients. During the first consultation Napo argued that PSS should be discretionary depending on the individual needs of the client and the offence focused work and support they need. An arbitrary PSS for all has led to many clients receiving little or no intervention as other more needy cases are prioritised, ineffective enforcement due to the complex breach process and precious resources being used on those that do not require further intervention. PSS should, in our view, be available as a proposal at the PSR stage where a short custodial sentence is inevitable but the individual has complex needs that would benefit from further support and work. Napo also however, is campaigning for a significant reduction in the use of short sentences and thereby PSS.

**5 What further steps could we take to improve the effectiveness of pre-sentence advice and ensure it contains information on probation providers' services?**

**question 5:**

. Pre-Sentence Reports are a valuable tool for the judiciary to be sure that they sentence someone appropriately in line with expected public safety and rehabilitation standards. They are also very valuable for Probation, practitioners giving details of previous behaviour, risk assessment and personal circumstances etc. This is especially important if the case is allocated to someone other than the PSR author. However, it is Napo's view that this has been totally overlooked and undermined in recent years, as cost cutting and the requirements for speedy delivery has taken priority over the quality and the purpose of a PSR. An arbitrary use of FDR's and Verbal reports in Magistrates Courts has left sentencers in the dark about a persons need and risks. Whilst these types of reports have proven valuable and appropriate in very basic cases, such as a first time offence where UPW is the most likely outcome, more complex cases or those clients with greater needs, are being done a disservice. For example, women offenders may very well have complex needs behind the original offence such as abuse, child safeguarding issues and mental health, all of which may be overlooked in an FDR or verbal report. This situation is further compounded by the lack of multi-agency information that can be gathered within the period of short adjournment.

In the Crown Court this can have even greater consequences with judges being forced to sentence without all the appropriate information before them and, in many cases, inadequate risk assessments. This a view shared by HMI Probation, The Magistrates Association, practitioners and those in the CRC's that depend on PSR's to allocate their cases. Napo is of a view that the "dumbing down" of PSR's has played a part in the easier option of the use of short sentences, the reduction in programmes and UPW as well as contributing to vital information being missed from assessments.

**More effective rehabilitation of offenders**

**6 What steps could we take to improve engagement between courts and CRCs?**

**question 6:**

A publicly owned unified probation service would be able to fully engage with Courts. Regular forums between the judiciary and probation would enable courts to have a better understanding of community orders and probation staff could develop their knowledge of how sentencing decisions are reached. Continued dialogue and shared training would enable a closer relationship to be built up which in turn would lead to speedier justice being served and the most appropriate sentences being imposed.

**7 How else might we strengthen confidence in community sentences?**

**question 7:**

Napo is of a view that sentencing needs to be fully reviewed in England and Wales alongside a review of the Sentencing Council as called for by Lord Woolf. A public consultation would help engage a wider audience and this would develop a greater understanding of sentencing. Whilst the media has a part to play in this in terms of accurate reporting that is not based on fear, the MOJ could use such a review to develop a more public profile. Sentencers have reported to Napo that they lack confidence in the post-TR Landscape as they are not familiar with CRC providers, what they can offer or what for example a Rehabilitation Activity Requirement actually involves. A publicly owned probation service could provide this confidence.

**8(a) How can we ensure that the particular needs and vulnerabilities of different cohorts of offenders (e.g. female, BAME, young adult offenders) are better met by probation?**

**question 8a:**

Probation needs to be pro-active in implementing recommendations from the Lammy Review. As previously stated the use of PSR's is critical in ensuring

vulnerable groups are assessed and their needs are highlighted at the point of sentence. By scrapping the arbitrary fast reports and increasing the use of full PSR's at the discretion of the author, and dependant on risk, need and complexity, probation would be better able to present the Court with all the facts relevant to sentencing. Minority groups are often overlooked as they are small in numbers and therefore resource intensive. This has become even more apparent in CRC's where cost cutting is all too often at the forefront of the delivery model. Cases are being cherry picked to provide CRC's with the results they need whilst more complex cases, often involving women are overlooked. In fact, TR has been heavily criticised for ignoring the needs of women completely. 10 years on and the Corston report has been shelved rather than fully implemented. Innovative approaches to working with BAME clients and women have been shelved due to costs and a significant reduction in partnership working. It is vital that probation works with local organisations to meet the needs of the local community and clients. The MoJ must be more open to research and new ways of working including developing specific interventions for each cohort. Alternatives to custody must be robust, and used in the majority of cases to reduce the number of vulnerable groups being sentenced to prison.

### **8(b) Do you have evidence to support your proposals?**

#### **If yes, please give details::**

Evidence for the above can be found in the following sources:

Lammy Review 2018

Corston Report

MOJ prison figures for women and BAME prisoners.

HMIP reports.

Evidence from Napo membership.

### **Preparing prisoners for life in the community**

### **9 How could future resettlement services better meet the needs of offenders serving short custodial sentences?**

#### **question 9:**

'Through The Gate' (TTG) was the supposed cornerstone of Chris Graylings Transforming Rehabilitation programme but it has been an abject failure as recognised by Napo, HMI Probation and the Justice Select Committee. HMI Probation went as far as to say that if it disappeared it would not make any material difference to resettlement activities. This in part is recognised by the MoJ, who have admitted that they had not fully defined what they wanted from TTG in the original CRC contracts. Therefore, it is obvious that huge improvements in service delivery, funding and training will need to be forthcoming to meet this objective. That said, with the imminent introduction of OMiC, resettlement will be even more important as prisoners will not have a community based Probation Officer with whom they can discuss their release plans. Napo believes that OMiC and TTG should be scrapped, and responsibility for resettlement should go back to the probation area to which a prisoner is to return. A robust resettlement plan must include local knowledge of housing, partnership agencies, and awareness of other external risk factors such as family or previous acquaintances etc. The supervising officer is best placed to make these enquiries and liaise with all the agencies involved in a case.

These objectives can in our view, only be properly delivered within a publicly owned and reunified Probation Service.

### **A workforce with the right training and skills**

### **10 Which skills, training or competencies do you think are essential for responsible officers authorised to deliver probation services, and how do you think these differ depending on the types of offenders staff are working with?**

#### **question 10:**

Napo sits on the Probation Qualification Assurance Board and the Learning and Development Forum. Napo is a staunch campaigner in maintaining and developing professional standards and is the leading driver behind the calls for a Licence to Practice. Since TR, probation has seen a significant erosion in professional qualifications, the professional status of practitioners, as well as professional standards and a reduction in the quality of service delivery. All of these factors, and the subsequent failure to significantly reduce re-offending are all directly linked to the need for high quality standards of professional qualifications and training. Napo is of the view that all Probation Officers (and this term should be maintained) MUST be fully qualified in the requisite accredited probation qualification. We are vehemently opposed to the employment of social workers who have not completed the probation qualification element of working with offenders as some CRC's are doing (Sodexo ) and we oppose the employment of Senior Probation Officers who have no probation qualification at all (RRP). The current PQIP has proven to be lacking in a number of areas with NQPO's reporting that they do not feel confident to practice as a PO having completed the 15-month course. The course is too short and lacks important areas such as professional boundaries. Due to the split, probation trainees are not able to access the full spectrum of casework and probation work that is needed to develop skills and confidence.

There is an increase in the blurring of role boundaries as CRC's change the titles of job roles and it is more difficult to differentiate between people's level of qualification and training. Napo calls on the MoJ to introduce a mandatory licence to practice in line with other professions, clear definitions of roles and what qualifications are required to carry those duties out, together with a training matrix so that new qualifications can be transferrable across providers. Probation Service Officers also carry out essential work. A definition of what work they should be doing must be made available to providers and stakeholders. Probation Officers should be afforded the respect for their work and skills that other professionals receive and the creeping erosion of the profession must be halted.

### **11 How would you see a national professional register operating across all providers - both public and private sector, and including agency staff - and what information should it capture?**

#### **question 11:**

A register would offer protection to all involved. Napo passed the motion to call on the MoJ for such a register some 4 years ago and it is frustrating that more progress has not been made. A register would protect the MoJ and providers by enabling them to employ the right people for the right job. The register would outline the individual's qualifications and experience, giving employers access to the information they need. For staff, it would enable them to evidence their qualification and experience, protect them from carrying out work beyond their pay and training and help them to identify CPD requirements. Napo envisages a register to have an element of CPD for all staff within the probation service to develop.

In order to ensure that these requisite standards are acquired, Napo believes that the appropriate training must be delivered and assessed by NPS employed personnel.

## Improving system integration

### 12 Do you agree that changes to the structure and leadership of probation areas are sufficient to achieve integration across all providers of probation services?

#### Question 12:

No

#### Please explain your answer::

Many of the CRC providers now have their leadership teams based in their parent company rather than within the regions that they administer. Add to that a high number of leaders having no or little probation background, and it is easy to see why effective integration as envisaged by the Transforming Rehabilitation programme has not been achieved and arguably cannot be achieved. A unified publicly owned probation service would offer a more integrated service with better communications and co-working across regions.

It is also important that there is integration and effective partnership working with other critical agencies such as the Police. Creating Probation areas to be co-terminous with the police would improve the important co-working needed to manage complex risky cases and improve public protection. The NPS experience has proven that a centralised probation service does not work. The centre cannot drive the service whilst also demanding localism with our communities. Added to the fact that the NPS is also part of the civil service we now see an institution that is paralysed by bureaucracy rendering it unable to respond to local area needs, the needs of staff and the needs of clients. A non-departmental public body status for probation would enable a better overall view of the service and monitor important indicators such as national standards and processes whilst allowing the service to be flexible to meet local needs and complexities. For example, rural areas have very different requirements to those within inner cities.

### 13 How can probation providers effectively secure access to the range of rehabilitation services they require for offenders, and how can key local partners contribute to achieving this?

#### question 13:

Partnership agencies are vital for probation and enable a wide range of providers and services to be offered to clients. Napo believes this work MUST be commissioned on a local level to meet the local needs of the community, clients and staff. It enables close liaison between partners and statutory agencies for multi-agency working and local accountability. However, the impact of TR has been to shut out many small third sector and private sector organisations for financial reasons. CRC's have preferred to do the work in-house, in effect creating localised monopolies and using this as an additional income stream. Small organisations were pushed out of the original bids for TR and are now largely unable to access the market. Where this is possible, they are often dependent on CRC's for funding which cannot be guaranteed over a sufficient period to meet their costs. CLINKS recently published an excellent report on the impact of TR on the third sector.

## Working more closely with partners

### 14 How can we better engage voluntary sector providers in the design and delivery of rehabilitation and resettlement services for offenders in the community?

#### question 14:

A local, publicly owned service would be in a better position to engage with third sector organisations that can meet the needs of the clients and the local communities. Since TR, Clinks report that the voluntary sector has lost faith in the private providers after they shunned them from their delivery model or have simply used them as 'bid candy' to secure the contracts. Many were either cut out before the contracts started or have since been side lined as CRC's take on more and more work themselves to increase their income. The NPS now has to go to the CRC's for services even though they could often obtain them for a cheaper price if they went direct to the voluntary organisation. This has reduced confidence in the whole system and has increased the overhead costs of the NPS.

### 15 How can we support greater engagement between PCCs and probation providers, including increased co-commissioning of services?

#### question 15:

There are some stakeholders that argue PCC's could be much more involved in probation and act as the commissioners of other services instead of complicated unworkable contracts with the private sector and PCC's could oversee a unified publicly owned probation service. Something that was proposed by some prior to TR. Whilst Napo currently has no policy on this issue there are examples of this working well such as the West Mercia PCC having overall control of the YOT services in that area. Either way, any increased involvement of PCC's will require probation to be coterminous with police forces. As stated before this has many benefits which would improve multi-agency working and multi-agency involvement. PCC involvement might increase public confidence in many respects but PCC's hold political positions and many would argue, including Napo, that justice should be independent of political influence in terms of its day-to-day operation. In the absence of this the result could be more inconsistency in contract management, overt political interference and an increase in operational disparity across the country depending on the political position of each PCC.

## A probation system that works for Wales

### 16 How can we ensure that arrangements for commissioning rehabilitation and resettlement services in Wales involve key partners, complement existing arrangements and reflect providers' skills and capabilities?

#### question 16:

. Napo welcomes the proposal to move all offender management to the NPS but we feel this does not go far enough. The CRC, Working Links has demonstrably failed at delivering a service and Napo does not believe that an alternative provider can do any better with interventions. This is in part, due to the topography and geography of Wales which is largely rural with poor infrastructure in many parts of the country. This exacerbates the problems caused by the "split" which is where the TR model is most deeply flawed. A fully unified publicly owned service would allow the flexibility and local approach needed to work effectively in Wales as with England. Wales has fewer prisons than England that means prisoners, especially women are imprisoned long distance away from families increasing the

need for robust alternatives to prison, especially for women, and effective resettlement services that are managed in house. The Welsh Assembly has called for the devolution of justice which Napo supports. This would give the Welsh government the control they need to develop a truly local Welsh probation service that meets the needs of their communities and is locally accountable.

## **Driving performance improvements**

### **17 What should our key measures of success be for probation providers, and how can we effectively encourage the right focus on those outcomes and on the quality of services?**

#### **question 17:**

There is a huge disparity within the 21 current CRC contracts between the ability of providers to meet contract requirements and the quality measures and good practice that HMI Probation believe should be standard practice. Although some CRC's may have met their contractual obligations there is a wealth of evidence to show that generally many have failed to deliver on quality as a result. The two measures must be aligned to enable providers to focus on the right areas of service delivery.

However, this situation is exacerbated by the private sector needing to increase their profit margin, often at the cost of quality. So for example if we look at the TTG scheme, the CRC's met the contractual measure of completing specific forms and providing statistics, but failed to deliver a resettlement programme that was effective for prisoners as to do have done so would have been very costly and resource intensive. This is just one example where it can be seen that the concept of profit in the delivery of rehabilitation is fundamentally flawed.

A publicly owned, unified service removes this profit concern and would mean that the focus on quality would once again be a priority as there would be no shareholders to answer to. Napo believes that HMI Probation benchmarks should be the measure for quality and outcomes and have greater power to hold providers and the MOJ to account when it fails to deliver. Re-offending figures can offer some measurement on outcomes but these are often 2 years behind actual delivery. All targets must be aligned to professional standards and quality and not simply be a 'tick box' exercise that allows providers to simply go through the motions but not actually deliver which sadly appears to currently be the case.

## **Additional information**

### **18 If you have any further comments, questions, or suggestions, please add them here:**

#### **question 18:**

Napo wants to see a unified and publicly owned probation service that is desistance driven and has local accountability that meets the needs of the local community it serves. This means moving staff out of the civil service and still prison-centric HMPPS, which in turn has created a NPS that is paralysed with bureaucracy. Napo believes this is not only possible but will provide better value for money than the continued 'marketisation' of probation that clearly does not fit into an effective business or delivery model. The split in the service has proven to be deeply flawed and until this is addressed, any future model will fail to deliver an effective service.

The initial contract management of TR was poor and allowed bidders to submit delivery models that were not only short on innovation but also potentially dangerous. Sodexo for example were allowed to include open plan interview booths in their model. An initiative that has been deeply criticised by practitioners, Napo and HMI Probation. Telephone supervision has been allowed to become practice in a number of CRC's, again deeply criticised by Napo, staff and HMI Probation.

Issues such as this must not be allowed to be repeated. Much stricter control and accountability on how probation is delivered must be brought back. This includes specifying what qualifications and training staff must undertake to carry out certain duties, job titles to accurately represent their position and profession and clear performance measures on providers that cover not only ticking boxes but actually deliver on quality.

Napo would also like to see the MoJ return to their proposal to have HMI Probation take responsibility for SFO investigations. Recent SFO reviews have highlighted the need for transparency, public confidence, and accessibility to reports, better support for victims and a shift away from a blame culture to a learning culture.

There is currently a significant shortage of staff in the NPS and CRC's have made huge reductions in personnel to reduce costs. The service cannot deliver if it is cut to the bone and the focus must also be on the recruitment and retention of staff. Therefore, pay reform is vitally important to ensure that probation is seen as an attractive career opportunity and a profession for life.

Napo are currently engaged in consultation with the Project leads where we will of course be taking the opportunity to reemphasise all of the above issues which we are also regularly presenting to a cross-party political audience.

It can easily be seen that Napo is vehemently opposed to these proposals, which essentially are a relaunch of the failed Transforming Rehabilitation programme and which as we see it provide a convenient route for existing providers to simply repeat their failures in revised geographical areas.

## **Confidentiality**