

This is not quite the death knell for the probation service, but it is certainly the most radical change it has ever seen

Tim Newburn evaluates the rehabilitation reforms announced this week by the Ministry of Justice, arguing that they represent the most radical change the probation service has ever seen. There are serious questions to be asked about whether these reforms have a basis in evidence and whether their potential implications have been properly thought through.



Ever since Chris Grayling replaced Ken Clarke as Justice Secretary in September 2012 we've been waiting for clear signs of a change of direction in government penal policy. Clarke, whose views on criminal justice, and other matters as varied as the EU and human rights, often infuriated Tory colleagues, was popular with the Lib Dem end of the coalition, and outside government had many admirers among those involved in penal reform. By contrast, Grayling, drawn from the right of the Conservative Party, was seen as much more likely to be in line with Conservative back-bench opinion and hard-line on penal policy.

When appointed he lost no time in signalling something of a change in the mood music in the Ministry of Justice. Where Clarke, successfully, had sought to reduce prison numbers and avoid some of the punitive rhetoric of his predecessors, Grayling's [first speech saw him saying](#) that 'The only changes I want to see to the prison population will come through returning more foreign national prisoners to their countries of origin.' A few weeks later in his party conference speech the 'dog whistle' moments concerned proposals to amend the law so that even 'grossly disproportionate' force could be used by homeowners against intruders in their home and the [announcement](#) of a 'two strikes and you're out' scheme for offenders guilty of serious sexual and violent crimes.

This week, however, we've seen the first real signs of a major shift in penal policy with the publication of a consultation paper entitled *Transforming Rehabilitation: A revolution in the way we manage offenders*. It is in some many ways a radical document and certainly offers a clear insight into Grayling's Ministry of Justice. Some of the basic objectives outlined in the consultation paper are far from controversial. In his Ministerial foreword Grayling says that transforming rehabilitation is his top priority, and that his aim is to 'reform the way in which offenders are managed in the community in order to achieve a steady year on year reduction in reoffending.' To do so, there ought to be an increased focus on rehabilitation, specifically to deal with offenders' broader life management issues. Significantly, rehabilitative activities will also be extended to prisoners released after short sentences.

The controversy lay not in these aims but rather in the organisations that will take the bulk of the workload and the mechanisms by which it is imagined the work will be delivered. Grayling's vision is of increased efficiency, lower costs, extended provision, a more diverse mix of providers, and payment by results. The consultation document envisages that the majority of community sentences and rehabilitation work will be delivered by the private and voluntary sectors. It is not quite the death knell for the probation service, but it is certainly the most radical change since it was introduced a little over a century ago.

It is anticipated that up to 70% of the probation service's work will be put out to competitive tender. Its work will be confined, in the main, to core functions focusing on the supervision of the most dangerous and 'high-risk' offenders, providing reports on offenders to the courts, and retaining ultimate responsibility for public protection in all cases. Little surprise then that initial reactions to the proposals – and not just from NAPO, the main probation union – have suggested that the reform is fundamentally about privatization. Little justification has been offered for the shift toward the private and voluntary sectors other than [generalized claims](#) that they contain 'a wealth of expertise and experience', and that the shift will allow stubbornly high reoffending rates to be tackled.

The sense that the reforms are at least partly ideologically driven is reinforced by the absence of evidence in support of much that is proposed. Whilst reoffending rates are fairly high, the focus of much of the Justice Secretary's express concern has been on the reconviction rates of short sentenced prisoners – i.e. precisely those that are not currently supervised by the probation service. Indeed, data from the Ministry of Justice show that the probation service met most of its targets in the last year and that reconviction rates have been improving. What of the private sector? The G4S Olympics shambles appears quickly to have been forgotten, despite the Home Affairs Committee [suggesting as recently as September 2012](#) that a rethink of the role of the private sector in the provision of public services 'would be a wise thing to do'. Then there is the issue of delivery. In future, work in this field will be delivered via 'payment by results' (PbR) despite the initial pilots established to test such systems not yet providing any conclusions. Worse still, last October the Justice Secretary suspended the remainder of the pilot programmes because of the potential change of strategic direction in their use in relation to probation and reoffending. Given a decision has now been made to institute PbR across the board in this field, it seems unlikely that genuine pilot programmes have much of a role.

As with some other policy developments in the criminal justice and penal fields (Police and Crime Commissioners – PCCs – being the best known) there is once again a sense that radical changes are being proposed, and most likely made, without the consequences being fully thought-through. In relation to this week's announcements, there are at least three areas where this is the case. First, there seems some confusion about where responsibilities will lie. Crudely it is anticipated that the probation service will retain responsibility for high risk offenders whereas those deemed as medium or low risk will be supervised, in the main, by other providers. This assumes a level of certainty and stability that doesn't exist. The divide between high risk offenders and others is by no means hard and fast and, furthermore, is subject to change. Who should supervise, and who has responsibility, may consequently be less clear than it seems at first blush. A second area where there is a lack of clarity concerns costs. A core part of the rationale for the changes is cost-cutting, yet the proposals envisage a very substantial expansion in work to cover all short sentenced prisoners not currently receiving supervision post-release. Very similar plans were envisaged in the Carter Review commissioned under New Labour. Custody Plus it was called then. The reason it never happened? Expense.

The final major area where the full implications of the changes seem somewhat unclear concerns structure and geography. Enormously far-reaching changes have recently been instituted in police and crime prevention delivery. The introduction of PCCs was part of the government's attempt to increase local involvement in delivery and accountability. A mere matter of months later the most significant changes to probation in a century are ostensibly moving in the opposite direction. Commissioning will be handled nationally and delivery will occur in 16 'contract package areas'. Though it is anticipated that these areas will be contiguous with combined PCC districts, the eventual outcome will almost certainly be a complex mix of providers, partners and political masters. Already there are signs that the PCC reforms are leading to some unexpected difficulties and conflicts. Sadly, we should not be surprised if the rehabilitation reforms did so too.

Note: This article gives the views of the author, and not the position of the British Politics and Policy blog, nor of the London School of Economics. Please read our [comments policy](#) before posting.

About the author

Tim Newburn is Professor of Criminology and Social Policy and Head of the Social Policy Department, London School of Economics. He is the author or editor of over 30 books, including: [Handbook of Policing](#) (Willan, 2008); [Policy Transfer and Criminal Justice](#) (with Jones, Open University Press, 2007); and, [Criminology](#) (Willan, 2008). He is currently writing an official history of post-war criminal justice, and was the LSE's lead on its joint project with Guardian: *Reading the Riots*. He tweets at [@TimNewburn](#).

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