

Chapter 9

England and Wales

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1 HISTORICAL DEVELOPMENT OF THE PROBATION SERVICE SYSTEM

1.1 The start of probation in England and Wales

In 2007 the Probation Service in England and Wales celebrated the centenary of the 1907 Probation of Offenders Act. This consolidated practice that had been developing in courts in England and Wales in the previous 30 years. There had been concern about the number of offences linked to drunkenness. The Church of England Temperance Society received a small sum of money from a Frederic Rainer to start a fund to appoint police court missionaries to help offenders find work and employment. The first was appointed in 1876 and by 1906 there were 124 missionaries including 19 women. The 1907 Probation of Offenders Act turned voluntary pioneering into a statutory responsibility. It enabled courts to release offenders on probation, introduced the probation order and probation officers who had the stated duty to “advise, assist and befriend”. Within one year of the Act there were 763 probation officers and 570 probation orders had been made.

The origins of the probation service were religious with offenders being helped to lead better lives. During the next 100 years a number of influences affected the probation service although these tended to “ebb and flow”. Staff within the service seemed to have strong beliefs and it was noticeable that very different approaches to working with offenders coexisted, although this became less possible towards the end of the 20th century as the demands of central government increased. These influences included:

- the original belief that offenders should be “saved from themselves” and particularly the menace of drink;
- social work philosophy based on casework to rehabilitate offenders;
- crime seen as a consequence of structural disadvantage within society as demonstrated by poverty and more recently discrimination against minority groups;
- academic research that suggested that nothing probation staff did had any impact on the level of offending;
- political pressure to find alternatives to imprisonment through the use of “tough” community penalties;
- increased prominence given from the 1990s to “public protection” work beginning with protecting children from adult offenders but widening to include all forms of violence or serious sexual offending;
- a renewed belief in the 1990s in the value of certain interventions with offenders using cognitive behaviour techniques supported by a range of practical measures to help offenders to find work, improve their literacy and deal with substance/alcohol misuse.

Throughout the first century of probation work in England and Wales the influence of academic research on probation practice was limited. There is little likelihood that this will change in the future. Penal policy in England and Wales continues to be politically very contentious with the media having enormous influence on decision-making.

1.2 Important developments

The first probation officers were part-time but following a further Act in 1925 full-time officers were appointed throughout England and Wales. Formal training was developed and by 1957 there were approximately 30,000 people on probation with a statutory probation committee in existence and a local service led by a Principal Probation Officer. The Prevention of Crime Act 1908 had established the Borstal System – a semi- indeterminate custodial sentence for young offenders followed by supervision in the community. Probation Officers ultimately became responsible for delivering this supervision. Other offenders released from prison were offered assistance on a voluntary basis. In 1967 the Criminal Justice Act established the Parole Board to advise the Home Secretary on the release of offenders on licence under the supervision of the probation service. These developments reflect the importance for the probation service of work with offenders sent to prison. For many years the Probation Service included “After-Care” in its title. Probation staff worked with young offenders extensively until the Crime and Disorder Act 1998. This created the YJB (Youth Justice Board) to oversee strategy and YOTs (Youth Offending Teams) to work in an interagency way with the offenders. Although probation staffs are seconded to these teams, this change meant that the probation service became focused on adult offenders. Until 2001 the probation service provided specialist help in family courts dealing with issues relating to custody and access to children of estranged parents. This work had gradually become specialised within the probation service and the decision to create a new agency, CAFCASS (The Children and Family Court Advisory and Support Service), in 2001 was seen generally as a constructive development.

During the 20th century the probation service became the major provider of work with offenders in the community. It worked closely with a wide range of voluntary organisations and it used volunteers extensively. In the 1990s probation areas were required to spend 7% of their budgets on work with voluntary organisations. Most probation areas achieved this target and a range of schemes was developed to help offenders with accommodation, employment, substance misuse and education. From the 1980s the government took an increasingly directive role in the work of the probation service. In 1984 the Statement of National Objectives and Priorities required services to respond with their Statements of Local Priorities which probation areas were required to implement. The first set of National Standards for the Supervision of Offenders in the Community was issued in 1992 following the Criminal Justice Act 1991.

The Criminal Justice and Court Services Act 2000 provided a legal basis for national standards which areas and practitioners are expected to meet. The HMIP (Her Majesty’s Inspectorate of Probation) use these standards to help assess performance and all staffs are aware that if a serious incident occurs in a case a failure to follow the standards will be regarded as negligence. The environment within which practitioners and local managers operate has changed dramatically over one hundred years. The first probation officers had no managers – today, work is constantly checked and monitored. This has led to the erosion of professional practice in favour of a managerially driven organisation.

1.3 Probation activities

The probation service in England and Wales prepares reports to assist the courts in making decisions relating to sentencing.¹ It supervises a range of sanctions designed to punish, rehabilitate, manage and resettle offenders into the community. The emergence of “end to end offender management” in recent years provides the framework for this work with a distinction made between offender management and interventions. The offender manager is responsible for assessment, the sentence plan, motivating the offender to engage with the interventions and evaluating progress. The interventions are provided by a range of organisations including the probation service, other statutory agencies (e.g. drug services, employment advice) and voluntary organisations. The government wants to encourage the private sector to be a major provider in the future and the creation of NOMS (The National Offender Management Service) in 2004 is designed to facilitate this development through the use of commissioning and competition.

The major change in the role of the probation service in recent years has been the increasing priority given to public protection and the management of dangerous offenders. The Criminal Justice and Court Services Act 2000 placed a statutory obligation on the Probation and Police services in each area to establish arrangements to assess and manage the risks posed by certain offenders. The Criminal Justice Act 2003 extended the obligation to include the Prison Service. A range of other organisations including Social Services, Youth Offending Teams, Housing Authorities and the National Health Service has a duty to co-operate. Each area has a system – MAPPA (Multi Agency Public Protection Arrangements) – to ensure that agencies co-operate, share information and agree strategies to reduce the likelihood of offenders committing serious offences.

The principle of “end to end offender management” applies both in the community and for offenders sentenced to imprisonment. One of the aspirations of NOMS is to improve the opportunities for joint work between custodial providers and those working in the community. This reflects concerns that offenders do not have access to the practical help they need to avoid offending such as accommodation, employment, education and advice on substance misuse. It is ironic that one hundred years after the 1907 Probation of Offenders Act offenders do not have access to the opportunities identified by the legislators of that time.

¹ In the 1990s the Probation Service prepared bail information reports to assist courts in making decisions on the use of bail/custody but this declined because of funding problems. There are indications that the government may begin to invest in this work again to reduce some of the pressure on the prison population.

2 LEGISLATIVE BASIS AND MISSION

2.1 Legislative basis

The Criminal Justice and Court Services Act 2000 created a unified National Probation Service for England and Wales with 42 probation areas with boundaries coterminous with the Police, Court Service and Crown Prosecution Service. The new organisation balanced local and national authority. The local probation boards employ all the staff with the exception of Chief Officers. The members of the probation boards, including the Chief Officers, are appointed by the Secretary of State. The service is led by the Director of Probation who manages the Chief Officers. On 9 May 2007 the government created a new Ministry of Justice that took over responsibility for Prisons and Probation from the Home Office. This follows the practice in other European countries.

The Offender Management Act 2007 will replace probation boards with probation trusts. The new trusts will have more scope to develop policy at a local level but they will face competition from voluntary and private sector organisations in providing services for offenders. The government has agreed that offender management will remain within the public sector for the medium term but interventions will be subject to competition. The legislation follows the publication of the Carter Report in 2003. This recommended the development of "end to end offender management" within a framework of commissioning and contestability. A new organisation, NOMS, was created to facilitate this vision. The government believes that public sector prisons have delivered better value for money and more effective services since they were exposed to competition in 1991. They have argued that the probation service will benefit from similar treatment. They also see the potential for wide partnerships in the delivery of services.

Until this legislation was passed, the responsibility for providing probation services to courts and offenders rested with the probation boards. They work within a framework of laws and statutory instruments. They are subject to inspection by HMIP and audit (both internal and external). Following the enacting of the Offender Management Act 2007 there will be a transition from the current governance arrangements involving probation boards to probation trusts.

2.2 Mission and mission statement

Following the Criminal Justice and Court Services Act 2000, the aims of the National Probation Service are:

- protecting the public;
- reducing re-offending;
- the proper punishment of offenders in the community;
- ensuring offenders' awareness of the effects of crime on the victims of crime and the public;
- rehabilitation of offenders.

However, the establishment of NOMS led to the incorporation of the probation

service into this organisation. The aims of NOMS are to:

- protect the public;
- transform the way we punish and manage offenders;
- reduce re-offending;
- cut crime.

NOMS' aims do not refer to victims or the rehabilitation of offenders. However, the overall strategy of NOMS emphasises the importance of:

- commissioning - service level agreements and contracts will be established with the public, private, voluntary and community sectors. These providers will be delivering services to punish, support and reform offenders. A vibrant mix of provider organisations, all with different strengths, will focus on helping offenders to turn away from a life of crime;
- local delivery - In each of nine regions there is a ROM (Regional Offender Manager), and in Wales a DOM (Director of Offender Management), who is responsible for overseeing the delivery of services offered by service providers. Each of the ROMs/DOM will help increase the range of people and organisations that can help to punish, educate and rehabilitate offenders;
- the National Re-offending Action Plan - based on seven pathways or areas of concern that need to be managed to make an impact on re-offending. (See 4.3.3)

There is a strong emphasis on partnership and three new alliances have been established to promote it focusing on the corporate, civic and voluntary/faith sectors. The strategy of NOMS uses populist language and the Offender Management Act 2007 was controversial. There was concern from existing probation boards that whilst commissioning may be constructive it would be best performed at a local and not at a regional or national level. The government provided assurances that local commissioning would be retained to some degree.

The target group of work within the probation service has increasingly become dangerous/high risk of harm offenders and prolific/persistent offenders. The pressure on the prison population in a country with one of the highest rates of imprisonment in Western Europe means that the government wants the probation service to deliver credible community punishments that will be used as an alternative to imprisonment.

2.3 Crime prevention

The Crime and Disorder Act 1998 created CDRPs (Crime and Disorder Reduction Partnerships) that included statutory agencies such as the police, probation services, local authorities and related organisations. There is a focus on a range of activity to reduce crime and make communities safer including neighbourhood watch schemes, the use of closed circuit television, public awareness campaigns, anti-burglary devices in motor vehicles and town planning to produce safer environments.

The probation service makes a significant contribution to these bodies through its work to reduce re-offending. It targets prolific and priority offenders – it is estimated that 5% of offenders commit approximately 50% of crime. It works closely with the police to intervene constructively with these offenders using the techniques described in chapter 4. It also provides offenders with the

opportunity to make reparation back to the community through unpaid work. In 2006 over five million hours of unpaid work were completed. Under the new “Community Payback” scheme the work completed by offenders on orders is now more visible to the local community through the CDRPs. The probation service is involved in a range of community partnerships designed to reduce crime. These include:

- the local MAPPA that manage dangerous offenders – the strategic management boards now include two lay members appointed by the Secretary of State;
- the DAT (Drug Action Team) that coordinates strategy and work with drug misusers – in some areas this includes alcohol misuse;
- the Safeguarding Children Boards established by the Children Act 2004 have a wider remit than the Area Child Protection Committees that they replaced. The probation service’s main role is to ensure that adults under supervision do not abuse children although the new body’s remit now includes the need to ‘safeguard and protect the welfare of children’;
- the YOTs and their strategic boards;
- the LCJB (Local Criminal Justice Board) composed of the chief officers of the main criminal justice agencies, i.e. the police, the crown prosecution service, the court service and the probation service. The main focus has been on the achievement of inter-agency targets set by the government to improve the operation of the criminal justice system. However, they have enabled developments in the other community groups listed above to have more momentum, e.g. the prolific offender schemes where probation and police staff work jointly on targeted offenders who have been identified as likely to commit high levels of crime.

2.4 Victim protection

In 1990 the government published a “Victims Charter” which required the probation service to have contact with victims, specifically the families of victims in “lifer” cases. In 1996 a second “Victims Charter” extended the contact to all victims of violent and sexual crime where the offender was sentenced to four years imprisonment or more. The Criminal Justice and Court Services Act 2000 made this a statutory duty and extended it to include contact with victims of sexual and violent offences where the sentence was one-year imprisonment or more.

The contact should not be by the offender manager but with a specially trained victim contact officer. The focus is on ascertaining if the victim wants to be informed of any conditions the offender may be subject to on release and whether they want to make any representations. Information on release is limited to the month not the exact date and the victim views seem to have most influence in producing either non-contact or geographical exclusions. Surveys of victims in contact with the probation service indicate that they find victim contact officers generally supportive and knowledgeable although a significant proportion would welcome more information on the offender’s progress.

Victim contact officers also assist in directing victims to other sources of help such as local victim contact schemes and may give practical assistance in

providing advice on the criminal injury claims process. The Domestic Violence and Crime Act 2004 instituted a new code of practice for victims, that was published in March 2006. All the agencies in the Criminal Justice System share a responsibility for work with victims. The range of local inter-agency groups referred to in 2.3 will also address victim issues. There are many examples of local CDRPs establishing special schemes for victims especially in relation to domestic violence where co-ordination between agencies is essential.

3 THE ORGANIZATION OF PROBATION SERVICES

3.1 Main characteristics

The Criminal Justice and Court Services Act 2000 established the National Probation Service in England and Wales. After the creation of the Ministry of Justice on 9 May 2007, it has become responsible for the strategic direction of work with offenders in prison and the community. The Welsh Assembly does not have direct authority over the provision of probation services in Wales; it has devolved powers over a wide range of social policy issues including education, housing, employment/training issues and health. This means that the probation service in Wales has to have close working relationships with the Welsh Assembly and its ministers.

The probation service in England and Wales is organised into 42 probation areas, each with a Chief Officer (CO) and a Probation Board. All the staff is employed by the local probation boards with the exception of the CO who is appointed by the Secretary of State. NOMS was established in 2004 and its Chief Executive has ultimate executive responsibility for work with offenders. The nine Regional Offender Managers (ROMs) and the Director of Offender Management (DOM) in Wales are responsible for ensuring that the performance of local probation areas meets the specification set out in their local service level agreements. It is planned that the ROMs/DOM will have powers to set the budget for each probation area. The Offender Management Act 2007 gives ROMs/DOM the power to commission probation services from a range of providers in the public, private and voluntary sectors.

3.2 Internal organization

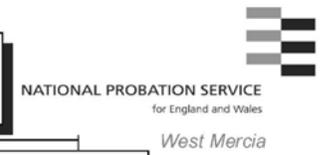
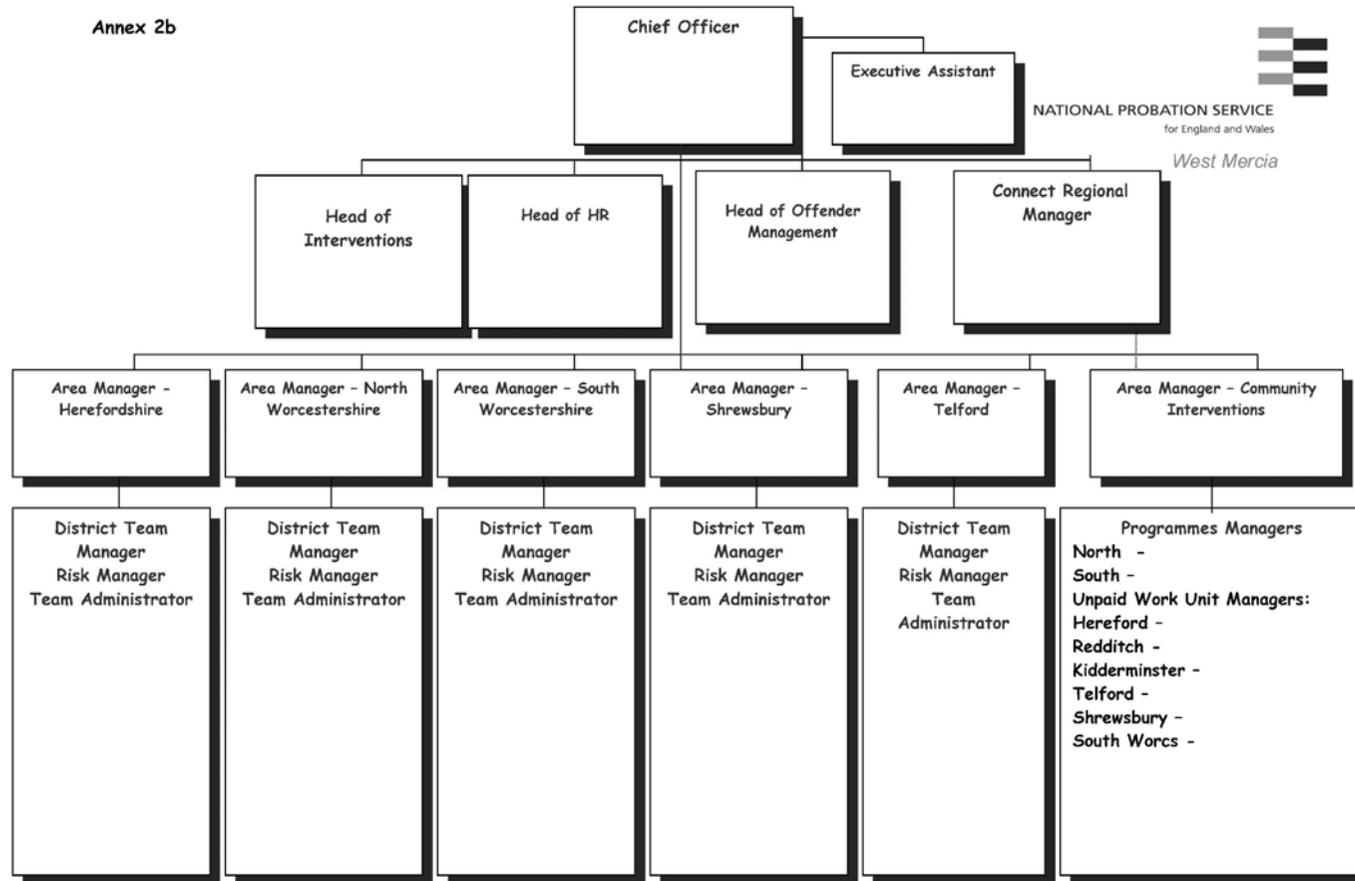
Each probation board is composed of a Chair and up to 12 members appointed by the Secretary of State. In addition there is the Chief Officer and a liaison Judge. Once the Offender Management Act 2007 is implemented the probation boards will be replaced by probation trusts that will have slightly different powers, although the extent of the change is unclear. At the time the legislation was passed it did seem that they would not have:

- control of their own property;
- the ability to negotiate wages locally;
- the authority to purchase IT systems for case management.

The 42 probation areas vary in terms of budgets, number of staff employed and geographical size. The challenge for managers is shaped by the combination of these factors. Each area is expected to operate within the policy framework set by NOMS and the development of service level agreements means that the "outputs" of each area are specified by the ROM. There is scope for areas to organise for themselves how they deliver these outputs. The work done with offenders must be in accordance with the National Standards for the Management of Offenders. The number of staff in each probation area reflects its budget and the composition will be determined at a local level. The number of grades of staff employed has increased in recent years and the terminology used to describe them varies considerably. An organisational chart of a typical probation area is

provided at Annex 2b although there will be variations throughout England and Wales.

Annex 2b



3.2.1 Probation workers

The Chief Officer is the officer accountable for the expenditure within the area and is responsible for all operational performance issues and the advice provided to the board on strategy and policy. He/she is expected to provide leadership within the area to deliver the policy of the government and the probation board. The senior management team will include the CO and the senior managers. They will implement the policy set by the probation board and deal with all internal operational issues. Over the last 20 years senior management teams have widened to include financial, human relations and, more recently, business development skills. Middle managers include area managers, senior probation officers and interventions unit managers. Although the terminology varies, the key role of this group of staff is to manage the provision of front line services to offenders. They supervise practitioners and provide guidance on problematic issues. In recent years, they have increased their involvement in quality assurance. There is some concern that the erosion of professional authority of front line probation staff is making middle managers spend too much time on checking work.

POs (Probation Officers) are now predominantly employed as offender managers with assessment a key competency. They will work with higher risk of harm offenders and those who pose the highest risk of re-offending. Some POs will work in interventions delivering complex accredited programmes such as those dealing with domestic violence and sex offending. PSOs (Probation Service Officers) work in both offender management and interventions. They will act as offender managers for lower risk offenders and those on community orders that require more limited interventions. The PSOs working in interventions do a range of duties including unpaid work, group work programmes and resettlement schemes, including employment initiatives and court work. Administrative staff support POs and PSOs and will normally have face-to-face contact with offenders. They now do very little secretarial work – most probation staff enter their own records direct into IT systems. In recent years many areas have established clusters of administrative/PSO and PO staff to work with offenders in a joined up way. This enables a high number of offenders to be managed in a holistic way using a range of skills.

Volunteers support probation staff, although in recent years their use has become more specialised and incorporated into specific programmes providing mentoring and advice. SOVA (The Society of Voluntary Associates) was established in 1975 and this provides support for the use of volunteers with offenders through training, partnership projects and the promotion of best practice.

In 2003 the probation service experienced an industrial dispute over workloads. This was resolved through local negotiation and a commitment by the government to introduce a workload measurement tool. This tool is subject to local agreement and it is not possible to state a precise number of offenders who should be subject to supervision by any one member of staff. The configuration of staff, the risk of harm/re-offending posed by the offender and the demands of the court in terms of pre-sentence reports are all factors that vary considerably. However, the government gave a commitment that staff should not work beyond

their contracted hours although it reiterated its view that whilst at work the priorities to be pursued by staff should be set by management.

3.2.2 Education, training requirements and opportunities

In 1930 the government introduced the first probation officer training course and in 1946 established a special training centre under the auspices of HMIP. Probation training then became part of social work education until 1996 when all training ceased as a result of government policy. This coincided with the then government's belief that "Prison Works", a shift away from the promotion of community based services for offenders and the belief that probation practice should not be seen as "social work". In 1998 the new government reintroduced probation training. This Diploma in Probation Studies combines a university honours degree with a verified probation training qualification. There is less emphasis now on social work and more on wider criminal justice issues. The training is administered through the regional training consortia of the probation service and five universities and there is a strong emphasis on "distance learning". The employers are involved in selecting the trainee probation officers who are paid a salary whilst training. Whilst the trainees undoubtedly acquire skills in a very effective way, there has been some concern that the framework does not develop the same critical awareness as its predecessor. The government has already indicated that with the development of NOMS, it intends to review probation officer training. There is an acknowledgement that whilst probation officers do receive an effective training opportunity, this is not the case for PSO grades. It is possible that a modular training programme will be developed to allow PSO grades to acquire certain skills that can then be counted in relation to PO training if they want to progress into that role.

POs and PSOs involved in the delivery of accredited programmes receive additional training and supervision. The provision of training for different specialisms in probation practice is uneven and staff working in situations such as courts, victim contact and unpaid work would benefit from more opportunities and structured training.

All probation areas are required by legislation to have race, sex and disability equality schemes. These should address training on anti-discriminatory practice and awareness. There has been criticism of the probation service's commitment to these issues. The various probation staff associations promote the importance of diversity training. However, the senior leadership within NOMS has been criticised for not demonstrating sufficient commitment.

The National Probation Service established a "Living Leadership" initiative in 2003 to improve the quality of management and leadership. The future of this initiative is unclear with the establishment of NOMS and the creation of probation trusts. Although the government anticipates future leaders of probation trusts to be appointed, in some cases, from outside the probation service, there is some concern that there will be insufficient operational knowledge at a senior level within the service.

The costs of training vary from year to year. The major investment is in the recruitment/training and induction of probation officers and this is closely related to the number of trainees. For instance the regional training consortia budget for 2005/06 was approximately £53m compared with £58m in 2004/05. The cost in 2007 to train a Probation Officer was approximately 105,000 euro's. The current training arrangements lead to far lower levels of investment in PSOs

– approximately 15,000 euro's each.

3.2.3 Other organizations involved in probation work

There is a wide range of national and local organizations working with offenders. NOMS is anticipating that these organizations will play a greater role in the delivery of services to offenders. At present these organizations assist mainly in the provision of interventions such as accommodation, training, employment, education, substance misuse and welfare issues. There are some specialist agencies that work directly with offenders such as the Lucy Faithful Foundation (sex offenders), the Langley House Trust (hostel accommodation), the National Association for the Care and Resettlement of Offenders (employment, accommodation) and Turning Point (substance misuse). It is impossible in this chapter to list them all but probation staff would not be able to deliver such a wide range of services without the involvement of such organizations. The probation staff is mainly represented by two Trade Unions:

- Napo (formerly known as the National Association of Probation Officers – the Trade Union and Professional Association for Family Court and Probation Staff). The name change reflected the re-structuring of the probation service as a consequence of the Criminal Justice and Court Services Act 2000. This established CAFCASS to advise courts on issues relating to children. Napo acts as a significant pressure group on penal policy as well as conducting the normal duties of a Trade Union.
- Unison – this is a large Trade Union with membership in many public sector organisations. Its members from the probation service are largely in the PSO grade. It does not claim to be a professional organization but it has significant political influence that it has used to oppose government reform of the public sector through the introduction of competition and contestability.

Following the reorganisation of the probation service in 2000, the employers created a new body – the PBA (Probation Boards Association). This acts on behalf of the 42 probation boards in negotiations with staff on pay and conditions. It also provides an independent voice for probation boards on government policy on the provision of probation services. It has been very critical of the Offender Management Act 2007 and this has created tension between the government and local boards.

There are a number of staff associations that represent the views and perspectives of minority groups. None of these acts as a trade union although all will support their members in disputes with the employers. Both Napo and Unison welcome this involvement and there is a clear understanding of the respective roles. The organizations that exist at present are:

- ABPO (formerly known as the Association of Black Probation Officers) – this is a well established organisation that provides support to individual members and represents its members' views in the development of national policy and strategy within NOMS and the wider Criminal Justice System;
- NAAPS (The National Association of Asian Probation Staff) whose main aims are to promote an Asian perspective at all levels in the work of NOMS and to provide a support network for Asian staff in NOMS;
- LAGIP (Lesbian and Gay Men in Probation) that extended its membership in 2002 to include transgender and bisexual individuals. Its aims are to ensure

that LGBT (Lesbian, Gay, Bisexual and Transgender) issues are addressed at a national and local level, that no LGBT staff or service users are disadvantaged owing to their sexual orientation or gender identity, to provide an effective formal and informal support network for LGBT staff, to increase awareness of LGBT issues and to work with NOMS and the probation service to take forward diversity policies and strategies;

- NDSSN (The National Disabled Staff Support Network) which assists employer and employee groups in their commitment to ensuring equality and inclusion principles and practices are mainstreamed into employment policy, planning, projects and day to day operations.

4 PROBATION IN DIFFERENT PHASES OF THE CRIMINAL PROCESS

4.1 General

The legislative basis for probation activity lies in the following substantial pieces of legislation

- Criminal Justice and Court Services Act 2000 – provides the legal framework for the organization of the probation service and specifies the powers of probation boards;
- Criminal Justice Act 2003 – provides the legal framework for community orders, indeterminate public protection sentences and post-release supervision. Custody Plus has not been implemented but Custody Minus – essentially a suspended sentence with supervision - has been introduced.

Probation activity is covered by other pieces of legislation but in a piecemeal way.

Table 1: Activities of Probation during the Different Stages of Criminal Procedure

	Pre-Trial Phase See: 4.2	Trial and Enforcement Phase See: 4.4	Post Release Phase See: 4.4
Preparing a Social Enquiry report		x	
Early help/intervention (during the period of arrest at the police station)	x		
Supervision/assistance to pre-trial detainees	x		
Supervising/organizing etc. community service		x	
Supervising/organizing training or learning projects		x	x
Supervising etc. drug/alcohol treatment programs		x	x

	Pre-Trial Phase See: 4.2	Trial and Enforcement Phase See: 4.4	Post Release Phase See: 4.4
Supervising etc. electronic monitoring		x	x
Accredited programmes		x	x
Residence in an approved hostel/other designated place	x	x	x
Exclusion from a specified place		x	x
Mental Health Treatment		x	x
Supervision		x	x
Attendance Centre		x	
Pre-sentence report	x		
Supervising etc. sanction of probation		x	
Supervising etc. suspended sentence		x	
Supervising etc. special measures for drugs addicts		x	
Supervising etc. conditional release/parole			x

4.2 Pre-trial phase

4.2.1 General

Courts have the power to direct offenders to be remanded on bail with a condition of residence in an Approved Premise (formerly known as a probation hostel). All approved premises work to the National Standards and Approved Premises Regulations. They are required to have an admissions policy that is approved by the Secretary of State and be publicised to local courts. Admission of residents is based on an offender's risk of harm to the public, victims and staff. There should be no blanket exclusion of offenders convicted of specific types of offence. However, in 2006 the Secretary of State directed that some hostels that were located close to schools or nurseries should no longer house sex offenders. This followed a campaign by a leading Sunday Newspaper to have such hostels closed.

The probation service has some contact with offenders prior to conviction. In the 1990s there was an expansion of bail information schemes where probation staff interviewed offenders to verify information that might influence the Crown Prosecution Service/Courts on decisions relating to bail. These schemes were not funded as core activity and the level of provision fell sharply in the late 1990s. However, recent pressure on the prison population has led to a renewed commitment by the government and there are plans to expand this provision. Bail support schemes have been piloted over the years for adult offenders but there is little current provision. The YJB provides extensive bail support for

young offenders (up to age 18 years) through the local YOTs that include seconded probation staff. There had been a number of pilot Mentally Disordered Offenders Diversion Schemes which used a combination of probation and health staff to assess offenders with a view to providing health based provision rather than deal with them within the Criminal Justice System. These schemes were also not funded as core business but again there is renewed government interest in them.

The government placed a high priority after 1997 on drug misuse. All areas have DATs (Drug Action Teams) that comprise senior representatives from a range of agencies working with drug misusers both within and outside the Criminal Justice System. One of the major initiatives of the DATs has been the provision of services in police stations and courts to offenders with drug misuse problems. The DIP (Drug Intervention Programme) includes provision for arrest referral schemes and the provision of advice to offenders at court prior to conviction. The probation service assists this process but is not a direct provider.

4.3 Trial and enforcement phase

4.3.1 General

The probation service's main involvement with offenders begins after there has been a conviction. Sentencers will request information to assist with sentencing. The report provides an analysis of the offence(s), relevant information pertaining to the offender and an assessment of the offender's risk of harm and re-offending. It should conclude with a clear and realistic proposal for sentence.

The Criminal Justice Act 1991 introduced the concept of proportionality. The court had to focus on the offence under consideration and the Act indicated that an offence should not be regarded as more serious on the basis of previous convictions or a failure to respond to previous sentence. It gave greater prominence to the information provided to courts by the probation service in newly styled pre-sentence reports that now had to be considered prior to key decision-making. The Act specified a number of sentencing bands and the court was obliged to provide an indication of the band it was considering when it adjourned for a report:

- so serious where only a custodial sentence would be justified;
- serious enough where a community sentence would be appropriate - in practice this meant either an order supervised by the probation service or for less serious offences a fine or discharge without punishment.

The Criminal Justice Act 2003 required sentencers to "have regard to" a range of sentencing purposes from punishment to reparation and specifically refers to deterrence and reform. The provision weakens the pre-eminence given to proportionality in the 1991 Act. Culpability and the harm the offence caused were prominent. Whilst the threshold seriousness tests in the 1991 Criminal Justice Act were retained, the court must treat each previous conviction as an aggravating factor.

4.3.2 Pre-sentence reports

The probation service in England and Wales provides approximately 250,000 reports per year. The format for the reports is set out in the National Standards for the Supervision of Offenders. There are three formats:

- oral reports - normally provided for less serious offenders when the court is seeking to sentence immediately;
- FDRs (Fast Delivery Reports) - normally provided either on the day or within five days. These are written documents and follow a format set out in the National Standards for the Supervision of Offenders. They are normally used for offenders with low criminogenic need where the court has a desire to sentence quickly. PSOs will normally prepare these reports. They have been popular with sentencers because they enable the case to be resolved quickly. See format probation documents-c;
- SDRs (Standard Delivery Reports) - normally provided within 15 working days. These are written documents and follow a format set out in the National Standards for the Supervision of Offenders. POs will normally prepare these reports because they must fully address the risk of harm to others/self and the risk of re-offending presented by the offender. They will be based on at least one interview with the offender during which a full assessment will be made using OASys (the Offender Assessment System). SDRs provide the opportunity to use a wide range of information sources and allow contact to be made with other agencies who might be involved with the offender or who might contribute to future interventions. Contact is possible with other family members and there should be time to verify information concerning the offender's circumstances.

Reports should make a recommendation about sentencing, including the use of custody, taking into account the seriousness of the offence and the purposes of sentencing. They should include an outline sentence plan and what requirements are envisaged, including outline timescales, and how the sentence is likely to be implemented, including any plans for sequencing interventions. SDRs are now produced electronically using the data collected in the OASys assessment. Whilst this has produced significant efficiencies, there is a danger that the language used in an assessment tool is not always appropriate for a court report. The offender and his or her legal representative see a copy of the report and can challenge its content in court. The report is forwarded to the prison if the offender receives a custodial sentence and will be part of the documentation used in other decision-making processes such as home leave and parole. See format probation documents-d

4.3.3 Probation procedures and processes

The National Standards for the Management of Offenders provide the framework for work with all offenders. They cover issues such as assessment, allocation, contact, enforcement/compliance and recording. HMIP inspects probation work on a regular basis and the National Standards are regarded as the benchmark against which practice is judged. Since the late 1990s there has been a strong emphasis on evidence based practice. The key elements are

- consistent assessment using OASys that was developed jointly with the Prison Service and is now used throughout NOMS in England and Wales.

- OASys assessments are transmitted electronically within NOMS;
- specialist assessment tools for certain groups of offenders, e.g. 'Spousal' for domestic violence perpetrators and a range of tools for sex offenders including 'Risk Matrix 2000', "structured risk assessment", to identify dynamic risk factors known to be associated with re-offending, acute risk checklists and risk prediction monitoring forms;
- a strong commitment to the principle of "end to end offender management". This is regarded as a key principle within NOMS and means that wherever possible one offender manager will take responsibility for overseeing the work with an offender from the first court appearance to the end of supervision whether or not a custodial sentence is involved. The key process is assessment/sentence plan/implement/review/evaluate with a strong emphasis on the importance of building and maintaining a relationship that will motivate the offender;
- a distinction between offender management and the provision of interventions with offenders, i.e. practical assistance, cognitive behavioural work, counselling, etc.

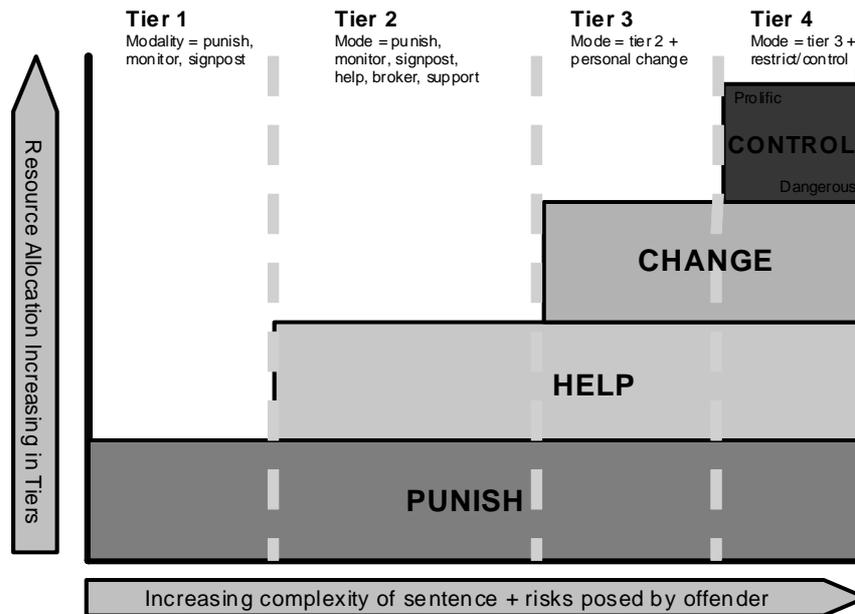
Underpinning this approach is a commitment to the systematic review and evaluation of offender management and interventions to identify "what works" so as to promote good practice. The government established the Joint Prison/Probation Services Accreditation Panel in 1999 to review programmes and only award accreditation to those based on "what works" principles derived from international research on the kinds of interventions that appear effective in reducing re-offending. Although the main focus has been on cognitive behavioural approaches some programmes have been accredited based on other models such as therapeutic communities and the 12-step approach for drug treatment. In 2002 the panel's remit was extended to include unpaid work, offender management and other rehabilitative work. The panel was reconstituted in 2006 as the Effective Interventions Board to accredit programmes that contribute to the reduction of crime and re-offending. There is some concern that the commitment by government to this approach has weakened since the creation of NOMS.

The offender management model incorporates a team-based approach with the offender manager supported by administrative staff. Tiering has been introduced to enable a consistent approach to be used throughout England and Wales. It has two main principles:

- resources are allocated according to the level of risk presented by the offender;
- the increasing complexity of the sentence will be reflected in the level of resources allocated.

Whilst early probation staff had a duty to "advise, assist and befriend", the current philosophy is to "punish, help, change and control". This is summarised in the diagram below which illustrates that the highest level of control is reserved for those offenders assessed as dangerous or prolific in their offending behaviour.

Diagram 1.



NOMS is committed to improving the link between work in prisons and the community. The use of a common assessment tool (OASys) and the principle that there will be one offender manager based in the community demonstrates this. Whilst this is welcomed in principle it remains to be seen whether there are sufficient resources to deliver it in the context of a record prison population. The probation service uses an effective practice model that incorporates work on practical issues facing offenders. The National Reducing Re-offending Action Plan 2004 set out seven pathways that needed to be addressed to work effectively with offenders:

- accommodation;
- employment, training and education (ETE);
- mental and physical health;
- drugs and alcohol;
- finance, benefits and debt;
- children and families of prisoners;
- attitudes, thinking and behaviour.

Although they were identified individually, public protection and prolific/priority offenders were seen as integral to all the pathways. This plan was designed as a framework for regional and local plans involving the probation service, statutory agencies and voluntary/private sector bodies. The indications are that this has been a successful way of encouraging partnership work although progress is greater on some pathways. There is considerable evidence of improved joint working on ETE, drugs and alcohol, public protection and prolific/priority offenders. There has been very little progress on mental health issues where there has been reluctance by any agency to take a lead. Finance and debt issues facing

offenders is given very low priority virtually everywhere.

The pathway on attitudes, thinking and behaviour is led by the probation service largely through its use of accredited programmes that represent a structured approach to helping offenders to acquire the skills and knowledge that can help them stay out of trouble. Although such approaches had been used in a piecemeal way since the late 1980s, the establishment of the Joint Prisons and Probation Services Accreditation Panel in 1999 gave a major impetus. Nearly 20,000 offenders completed an accredited programme in 2006/07. These programmes vary in length, intensity and the demands they make on the offenders. They include general offending programmes, specialist ones for Domestic Violence perpetrators, Drink Drivers, Sex Offenders, etc, Substance Misuse Programmes and ones specifically designed for women offenders. Most are delivered to groups of offenders but there is a general offending programme that is delivered on a one-to-one basis. All are subject to regular evaluation and review. There has been a tendency to refer some offenders who are unsuitable for this approach to accredited programmes – partly because probation areas felt under pressure to meet government targets. This has contributed to a high attrition rate and there is evidence that offenders who do not complete programmes are more likely to commit further offences.

The Community Order introduced by the Criminal Justice Act 2003 has the potential to impose 12 separate requirements on the offender. They match the offender management framework. For instance:

- punishment - a low risk offender might be simply ordered to abide by a curfew enforced through electronic monitoring or, if the offence was serious, a large unpaid work requirement could be added;
- help – an offender could be given a supervision requirement to enable help from some of the pathways, described above, to be provided;
- change – an offender might be given one of a range of requirements to deal with attitudes (attendance at an accredited programme) or substance misuse (drug treatment requirement);
- control – an offender might be given a combination of all these requirements and the offender manager might use the local MAPPAs to monitor the offender within the community.

The Court can also impose a suspended prison sentence attaching any of the requirements that can be made as part of a community order. The early evidence is that this sentence - known as Custody Minus – is very popular with courts and that breach of any requirements leads to immediate imprisonment. There is no evidence that the order has reduced the prison population – indeed it seems to be one of the forces driving the level of incarceration to record levels.

The local MAPPAs provide a framework under which agencies work together to reduce the risk of further serious re-offending by violent and sexual offenders. They were established by the Criminal Justice and Courts Services Act 2000 which placed a statutory obligation on the Police and Probation Services in each area to establish arrangements for the purposes of assessing and managing the risks posed by offenders assessed as dangerous. The responsibilities include the oversight of the sex offenders register in the area. The Criminal Justice Act 2003 extended the obligation to include the Prison Service. Other agencies were given a duty to “co-operate” – Social Services, YOTs, Jobcentres, Local Education

Authorities, Local Housing Authorities, Registered Social Landlords, Electronic Monitoring Providers, Strategic Health Authorities and other health providers. There is clear guidance on the:

- identification of MAPPA offenders;
- sharing of relevant information between agencies;
- assessment of serious harm;
- management of the risk.

Whilst the risk cannot be eliminated, this system of information sharing and joint management through case conferences is designed to produce decisions that can be seen as “defensible”. A key element of offender management has been compliance/ enforcement. The government was concerned at low levels of compliance by offenders and set stringent targets to improve levels of enforcement. The probation service met these targets by 2005 but this had the consequence that the number of offenders in breach of community orders and licences increased dramatically. In 2007 approximately 7,000 offenders were recalled to prison for breach of licence and served on average an additional 120 days imprisonment. This added extra pressure to the prison population. NOMS began to promote the importance of a compliance policy that emphasised action to prevent the need to initiate enforcement, e.g. the use of texting to remind offenders of appointments. A key difficulty has been the rigid implementation of national standards by staff that often felt intimidated into this behaviour by management and HMIP. Although the National Standards were written as a framework within which professional judgement was meant to be used in a “defensible way”, they have been interpreted in a rigid way to the detriment of wider penal policy.

4.4 Post-release phase

The Criminal Justice Act 2003 provided a legal framework for new arrangements for the supervision of offenders following a sentence of imprisonment. They were introduced on 4 April 2005 and were not applied retrospectively. This means that the post-release arrangements relevant to any offender are dependent on the date of the commission of the offence. The arrangements in operation prior to the legislation continue to be relevant to those offenders who were serving sentences prior to the introduction of the Act or who were subsequently convicted of an offence prior to 4 April 2005. The National Standards apply to both groups of offenders.

The Criminal Justice Act 2003 introduced new automatic release provisions for those Standard Determinate Sentence offenders serving 12 months imprisonment and over and who committed the offence on or after 4 April 2005. All such prisoners become eligible for automatic release at the halfway point of their sentence and are subject to supervision by the Probation Service for the remainder. There are six standard conditions applied to all licences. Further licence conditions can be individualised to meet the needs of the case. Almost all licences require the offender to report to the probation office on the day of release and then as instructed. The licensee may be required to live at a specific address, to observe a curfew and be subject to electronic monitoring. The offender may also have to attend an accredited programme or undertake specific

activities. The licence may identify prohibited activities such as contacting victims or visiting certain areas. The sentencing Judge can make recommendations about the inclusion of specific licence conditions and the Secretary of State, who nominally issues licences, is required to have regard to such recommendations. The supervision of these licences is undertaken by the offender manager who will use relevant interventions and manage the case using the same skills as for a community order. The National Standards provide the framework for contact/enforcement.

The Criminal Justice Act 1967 established the Parole Board to advise the Secretary of State on the early release of prisoners. It is an executive, non-departmental public body whose members are appointed by the Secretary of State. In 2006/07 it had 176 members including 47 Judges, 20 Psychiatrists, 11 Probation Officers, 6 Criminologists and 11 independent members. It considered approximately 20,000 cases and held nearly 2,000 oral hearings following a legal ruling that offenders should be able to make representations against recall. Its terms of reference have changed many times but it now deals with:

- life sentence prisoners – Most cases are considered at an oral hearing by a three-member panel composed of a judge, a psychologist or psychiatrist, and an independent, probation or criminologist member;
- determinate sentence prisoners serving sentences of between 4 and 15 years sentenced before 4 April 2005 – Considered by paper panels that can direct release;
- determinate sentence prisoners with sentences of 15 years and over sentenced before 4 April 2005 – Considered by paper panels that make recommendations to the Secretary of State on release;
- life sentence recalls – Considered either on paper as a recommendation to the Secretary of State, or subsequently at oral hearings to consider representations against recall;
- determinate sentence recalls – Cases are initially decided on the papers, although following the case of Smith & West the prisoner has the right to opt for an oral hearing to make representations against recall;
- extended sentence representations against recall – Considered at an oral hearing and, should the representations be rejected, subsequent annual reviews;
- IPP (Indeterminate Sentences for Public Protection) for prisoners sentenced after 1 April 2005 – Considered in the same way as life sentence prisoners with three-member oral hearings;
- EPP (Extended Sentences for Public Protection) for prisoners sentenced after 1 April 2005 – Considered in the same way as determinate sentence cases by paper panels.

The Criminal Justice Act 2003 created the Indeterminate Public Protection Sentence for offenders convicted of a serious sexual or violent offence where the maximum penalty is over ten years. These sentences have been made at a higher rate than the legislators had anticipated. In 2007 there were approximately 50 made per week which was adding approximately 2,000 offenders a year, who had no set release date, to the prison population. The record prison population was seriously restricting the opportunity to do any constructive work with this group of offenders. This may well present the Parole Board with serious problems in the

medium term when it considers whether the risk of harm they present can justify release. The Act allowed courts to continue to use extended supervision on licence for those offenders convicted of a serious violent or sexual offence where the maximum penalty was less than ten years. However, their release from Prison must follow approval from the Parole Board that must be satisfied that it is no longer necessary for the protection of the public to confine the prisoner.

The increased length of supervision produced by the increase in the number of offenders on life supervision and extended supervision poses significant challenges for the probation service in terms of both resources and long-term offender management. Offender management relationships may well last many years and there will be important skills such as motivational interviewing that will need to be developed. The new sentencing provisions introduced by the Criminal Justice Act 2003 draw no distinction between young and adult offenders. In practice this will mean that young offenders given a standard determinate sentence will be subject to supervision for the whole of the second half of their sentence. Those young offenders sentenced to 12 months imprisonment or less will continue to be released on a three-month statutory notice of supervision and can only be breached through the courts.

In June 2007 the government introduced emergency ECL (End of Custody Licence) arrangements to ease the pressure on the prison population that had reached a record level. Under the scheme, eligible prisoners will be released up to 18 days earlier than would otherwise be the case. All prisoners serving a determinate prison sentence of between four weeks and under four years will be eligible unless they had been convicted of an offence that was excluded, e.g. serious violent crime, or had broken the terms of temporary release in the past. Offenders on ECL are in the community under a Prison Service rule rather than statutory licence. This means that up until the end of the ECL period an offender is subject to recall by the Governor if breaches are drawn to the Governor's attention. Failures on ECL are not counted in relation to behaviour on any statutory licence supervised by the Probation Service after ECL ends. The government introduced this as an emergency measure and stated that they did not want it to be regular practice. They anticipated that 25,000 offenders would be released in this way in 2007/08.

4.5 Care and after-care outside the criminal justice system

Although the Probation Service used to offer after-care on a voluntary basis to those serving less than 12 months imprisonment, this is no longer done except in very rare cases. The government has clearly stated its priorities and they do not include this group of offenders. Some probation areas in England and Wales have recognised the shortcomings of this policy and have sought to provide some help. In the West of Midlands region the four probation services established the Connect Project in 2003. This has received significant finance from the European Social Fund and mentoring/advice and practical support is offered to offenders serving short-term sentences.

The Halliday Report published in 2001 considered the inadequacies of the existing arrangements for short-term prisoners. The report led to the Criminal Justice Act 2003 with the introduction of the Community Order. It also created a

new sentence - Custody Plus. This was designed to give offenders a sentence that combined a short period in prison with demanding supervision in the community. This has not been implemented. The government has been concerned about the costs involved and the possibility that it might add further pressure to the growing prison population because of the potentially high level of failure to comply with the requirements that would then lead to custodial sentences. The evidence of Custody Minus – which is a form of suspended sentence – is that this has driven up the prison population because offenders subject to many requirements have not been able to comply adequately.

5 FINANCES, REGISTRATION, EVALUATION AND OUTSIDE OPINION

5.1 Finances

The Ministry of Justice is responsible for the funding of NOMS. Individual Probation Areas receive an allocation using a formula based on population, the number of offences committed, the nature of the area (special allowances are given to very rural areas) and some indices of social deprivation (e.g. housing). There are plans to channel future funding through the ROMs. The use of the formula in the future is uncertain. Under the current arrangements, Probation areas can seek additional funding from other sources such as the European Social Fund. Statutory provision of a number of services used by offenders is now subject to various joint-commissioning arrangements, for instance, the money that used to be spent by probation areas on accommodation for offenders has been given to local “Supporting People” bodies. These are composed of representatives of a range of statutory and voluntary organizations. Various central government budgets that used to be allocated to separate agencies are now given to these bodies to spend – this has enabled the needs of offenders to be seen in a wider context. Whilst this has been helpful in some areas, a number of “Supporting People” bodies have not given sufficient priority to the needs of offenders. The contribution of probation areas to the process has also been inconsistent. Similar joint commissioning arrangements apply to the provision of drug services through the local DATs. The government has made major investment in these services in recent years and these arrangements have been successful.

Individual probation areas are not allowed to raise money privately, however, a number have set up local charitable trusts that are able to assist offenders. The money available to such organizations is generally very small compared to the budget of the probation areas. It is unclear if the new Probation Trusts will have scope to raise money privately. The probation area has to agree an SLA (Service Level Agreement) with the ROM that details the targets that must be achieved. There is very little scope for the area to commit itself to expenditure outside the SLA. Indeed, the government is encouraging areas with innovative ideas to identify them within the SLA but this has to be agreed with the ROM. The total budget for NOMS is approximately £4billion. The majority is spent on the Prison

Service.

Table 2: NOMS Budget

	Probation Services – 2007/08	Prison System (Public Sector)
Total yearly expenditure	£864.3m (06/07 - £827.3m)	£1,860,000 (not including building and capital costs)
Average number of employed staff	20,578 (2005/06)	Approximately 47,000
Daily average of number of offenders dealt with on 31/3/07	148,130 under community supervision 91,780 under pre/post sentence supervision approximately 240,000 reports prepared for court in 2006/07	71,300 in public sector prisons (end of March 2007) plus approximately 8,000 in private sector prisons

5.2 Accounting

Chief Officers and Chairs of Probation Boards are employed by the Ministry of Justice. The Director of Probation currently “line manages” this group. If the proposed Probation Trusts are established this arrangement will cease. The Chief Officer will become the Chief Executive and an employee of the Probation Trust. Probation Areas are currently accountable for performance by this line management relationship and to the ROM via the SLA – this will become a contract once a Probation Trust has been established. SLAs are set annually and reviewed quarterly – the contracts may be longer but will have periodic reviews.

Expenditure is monitored by the Finance Directorate of NOMS. Adjustments can be made to budgets during a financial year to reflect unexpected events although this is rare. The budget for NOMS is set by the Ministry of Justice following the Spending Review undertaken on a biannual basis across government. The Chief Officer is the officer accountable for expenditure within the local probation area. The Director of Probation is the officer accountable for the aggregation of all expenditure on the Probation Service. Probation expenditure is subject to three levels of audit:

- internal Audit arrangements within NOMS – a central team examines the robustness of financial systems and the probity of expenditure. It provides reports to the local Probation Board. It also conducts thematic audits across the whole of the Probation Service for the Director of Probation to assure him/her that expenditure is proper. Finally this team provides reports for the Secretary of State to provide assurances on overall expenditure;
- external Audit – the Audit Commission, which is an independent government body, is responsible for auditing Probation Areas. The Audit Commission either carries out these audits using its own staff or it contracts with private sector accountancy firms;

- consolidated accounts – the accounts of the 42 Probation Areas, together with the expenditure on central services, are consolidated into a statement of accounts that is the responsibility of the Director of Probation. The National Audit Office, which audits central government on behalf of Parliament, audits this process.

5.3 Registration systems and evaluation procedures

There is no national registration system for workers in the Probation Service. All probation staffs have to be checked by the national Criminal Records Bureau with “enhanced procedures” applying to PO and PSO grades. The aim of these procedures is to ensure that vulnerable people in the community are adequately protected

5.4 Societal support and clients’ views

The British Crime Survey is run by the Home Office and measures the amount of crime in England and Wales by asking people aged 16 and over, living in private households, about crimes they have experienced in the last year. It was first conducted in 1982 and has been done regularly since then. Since April 2001, interviews have been done on a continuous basis and results have been reported by financial years. In 2005/06 the most significant findings were:

- the total number of crimes in England and Wales was around 10.9m;
- total crime peaked in 1995 and has fallen by 44%;
- around 23% of the population were a victim to some type of crime;
- this had fallen from a high in 1995 of nearly 40% of the population.

The work of the probation service has to be seen in this context. LCJBs have been set targets to improve the level of confidence held in the Criminal Justice System by the wider community. Performance on these targets varies considerably across England and Wales. There seems to be little relationship between “fear of crime” and evidence which suggests that the total volume is dropping. Politicians have pressed the probation service to be “tough” in the management of community sentences in the belief that this will improve wider community support for non-custodial sentences. There seems to be little or no evidence to support this belief. NOMS is making great efforts to promote the positive benefits of rehabilitation of offenders through:

- the leadership provided by the Chief Executive who has extensive experience of the voluntary sector;
- the promotion of the Alliances with the various non-statutory sectors, e.g. the faith alliance;
- the local Public Relations strategies of individual probation areas.

6 PROBATION CLIENTS' RIGHTS

There is no formal charter or code setting out the rights of offenders under supervision. Generally offenders have the same rights as other citizens except to the extent that these rights are circumscribed by the sentence of the Court or by the powers of the Secretary of State. Requirements that impinge on the rights of offenders should only be imposed as lawful and proportionate punishment or in the interests of public protection or offender rehabilitation. Information about their rights and obligations is given to offenders in a pamphlet (available in several languages) and published online

(<http://www.probation.homeoffice.gov.uk/output/page80.asp>). The supervising officer has a responsibility to explain this to offenders at the start of the period of contact or supervision. Offenders are told:

- you should expect to be seen regularly and on time;
- you should expect to have things explained in a way you understand;
- you should expect to have a say in some parts of your supervision plan;
- you should expect to be treated fairly and with respect. This includes allowing you to attend religious or other important events when you give us advance notice.

The collection and management of personal information is regulated by the Data Protection Act 1998. This requires each probation area to register its use of personal data with the Information Commissioner's Office. Personal information should be held securely and responsibly. The legislation allows that in certain circumstances rights of confidentiality may be over-ridden for purposes of the prevention or detection of crime or the apprehension or prosecution of offenders. Unjustified or improper disclosure of information could lead to disciplinary action against the member of staff and perhaps to financial compensation for the offender.

Offenders under supervision are entitled to see information on their file, except where there is good reason to prevent this - specifically where this information might harm the offender or someone else; obstruct the investigation or detection of crime; or break an agreement with someone outside the probation service to keep information confidential (for example a psychiatric report passed over in confidence or the deposition of a victim). Increasingly, probation officers are required to deal with people who may have insufficient command of the English language. In such circumstances, a qualified impartial interpreter should be engaged. Relatives, children and friends should not be used. The probation service is a signatory to the National Agreement on Arrangements for the Attendance of Interpreters in Investigations and Proceedings within the Criminal Justice System. This Agreement sets out standards and procedures and expects that only interpreters from a National Register will be engaged. Welsh enjoy equal status with English in the Courts and other public services. There is a legal entitlement to use Welsh in Court proceedings and individual defendants have the right, for example, to have pre-sentence reports provided in Welsh.

Offenders are advised that they have a right to complain and that if they do it will not disadvantage them in their dealings with the service. The grounds on which complaints can be made are not defined, but would typically relate to allegations of unfairness, impropriety or discourtesy. The failure of a Service to

meet its own standards or to honour its own undertakings would also plainly be grounds for complaint.

In certain circumstances, eligible complainants may be entitled to publicly funded legal aid through the Community Legal Service. A leaflet available to all service users explains the process of complaint. They are encouraged first of all to try to sort out their concern informally by talking to a member of staff, but if this does not bring satisfaction they may make a formal complaint. A person of a higher grade than the person complained about will investigate the matter and report back to the complainant, either upholding or not upholding the complaint. Where the complainant is still dissatisfied, the matter will then be re-investigated by a senior manager and a report made to the Probation Board. Where a complaint is upheld an apology and or some redress may be offered. If a complaint cannot be resolved to the complainant's satisfaction through the internal processes, referral can be made to the Prisons and Probation Ombudsman, whose office will undertake an independent external investigation. The Ombudsman receives most complaints from serving prisoners and only a few from those under supervision in the community. (In 2005-06, just 307 probation complaints were received compared with over 4,000 for prisons.) The Ombudsman, who has only had authority over Probation since 2001, has criticised the Service because those on supervision seem not to know how to pursue a complaint or are fearful of the repercussions. The Ombudsman has commented that probation complaints often have a more 'personal' character than those about prisons. Prisoners complain about failures of the system; probation complainants tend to criticise the specific actions of a named officer. A substantiated complaint can lead to apology or redress and the Ombudsman will check to see if any recommendations he/she makes for improvement have been acted upon.

7 NEW DEVELOPMENTS

The last six years has seen a radical change in structure and organisation. For more than 90 years, probation in England and Wales was organised at a local level. A National Probation Service was created in 2001, but is already being subsumed into the National Offender Management Service. Meanwhile, the pace of change is also unprecedented: although the profession has aspired to being "evidence led", political imperatives have sometimes led to precipitate change, with new initiatives being introduced before the effects of practice have been fully evaluated and sometimes with inadequate consultation. Between 1997 and 2004, the government introduced 18 criminal justice related Acts, many of them with direct and significant implications for probation practice.

The creation of the Ministry of Justice in May 2007 is likely to lead to further development, although the direction of change is hard to anticipate. For the first time in England and Wales, probation and police services and functions will be the responsibility of different government departments. While this development brings England and Wales into line with almost all other countries in Europe, the effect of this change upon local inter-agency partnerships is uncertain. Probation

work, for example, has moved to the Ministry of Justice, but public protection remains the remit of the Home Office. Anxiety about community safety has made public protection the single most important policy priority, with other policy proposals relatively less emphasised. There is still a policy commitment to “what works” but rehabilitation stands second to public protection. Other prominent policy objectives include:

- the agencies of criminal justice should work together more closely and in more effective collaboration;
- in particular, imprisonment and resettlement work should reinforce each other and constitute a well-managed and “seamless” experience;
- an emphasis on social inclusion, reflected in the identification of “pathways” to rehabilitation that call for the involvement of several agencies of civil society.

Central to the new Offender Management legislation is the idea of contestability. Although the Probation Trusts will be the “preferred provider” of services – at least to begin with – the new Act anticipates that some “probation” tasks may be commissioned from the independent/voluntary sector, or even from the commercial sector, rather than from the Probation Trusts. The belief is that the possibility of private provision in the prison estate has stimulated the public sector to improve its performance significantly and that opening up probation to the same influences will have this same effect. This analysis and prediction are disputed by some.

Regional offender managers will commission services from a range of providers. Some argue that decisions about provision should take place at a local rather than a regional level. There is continuing debate about the right level to make some important decisions - between national, regional and more local arrangements. There has been an emphasis in recent years on central (national) direction, but there is an increasing awareness that not all local variation is inconsistency and that communities do indeed have different problems that call for different responses. The management of high-risk offenders in the community is a substantial challenge. MAPPA are in place to protect the public and, wherever possible, to motivate and to change offenders. These arrangements are developing all the time and are often sophisticated and thorough. Unhappily, of course, their work is only noticed by the public when a serious offence takes place and is seen as a failure of policy and/or practice.

Recognising that a large proportion of offences are committed by a relatively small number of prolific offenders, probation areas have formed partnerships with police and other agencies to identify these offenders and to combine support and surveillance/control. Whilst these projects have been promising in many areas, it must be appreciated that persistent offenders and serious offenders are distinct, if over-lapping, groups. It is also the case that the most prolific group of offenders is changing all the time, with some ceasing to offend to be replaced by a rising generation.

Another relatively new project is Community Payback. This is a new way of presenting unpaid work / community service which invites local people to have their say on how men and women who have committed crimes should make amends for the harm they have caused. It also tries to demonstrate to the public the value of the work undertaken and the contribution that can be made to the

social good by (ex-) offenders.

Like most other parts of Europe, England and Wales has seen considerable movement and demographic change in recent years. Probation officers, much more than in the past, are now likely to work with people applying for asylum or whose entitlement to reside in the UK is in question. Some express anxiety that non-nationals in this position are at risk of being 'criminalised' and suspicion and xenophobia are apparent in several newspapers. In the best cases, probation responds to these challenges with a recognition that it needs to adapt its working practices to the distinctive needs of diverse groups and of individuals. Working with diversity is regularly affirmed as a policy priority.

A small number of very serious offences committed by offenders under supervision have attracted considerable attention and exposed the probation service to criticism. The most serious of these cases are investigated by the HMIP and the reports of his/her findings are available at:

http://inspectorates.homeoffice.gov.uk/hmiprobation/inspect_reports/serious-further-offences/. These reports (especially the inquiry into the murder of John Monckton and the inquiry into the supervision of Anthony Rice) have been very influential on policy and practice. Politically, probation has to balance an acceptance of its shortcomings and a willingness to learn from mistakes with a recognition that the most thorough and rigorous forms of community supervision cannot guarantee public safety: the best that can be done is to work professionally and conscientiously to reduce the risks as far as possible.

The Criminal Justice Act 2003 was a key piece of legislation with potentially a major impact on probation practice. Some of its most important sections were not implemented until 2005 and it is consequently very early to assess its impact. (Other sections are yet to be implemented.) Anxieties include the possibility that courts will prefer suspended sentences to community orders, with any subsequent breach leading to imprisonment and further pressure on the prison population. The Act also enables courts to make orders with a wide range of conditions and, if unrealistic demands are made of offenders, then again the consequences of enforcement could lead to more imprisonment in default.

A former HM Inspector of Probation recently drew attention to the pressure on resources in probation in England and Wales, describing this as probation's equivalent of prison over-crowding. A discernible trend towards greater punitiveness from the public and the courts has led to a number of relatively minor offenders, with no significant risk of reoffending, being placed under supervision. The need to supervise these offenders and to give effect to the sentence of the Court has prevented probation from concentrating on more serious and/or risky offenders. This was a theme of the Carter Report (which led to the creation of NOMS): many such offenders would have been fined in times past and Carter hoped for a revival of the fine. If probation continues to be overwhelmed by demands for its services, it will not achieve its potential in rehabilitation or public protection.

Just as contestability raises the possibility of other agencies undertaking tasks that have traditionally been undertaken by the probation service, there have been changes in the roles of probation service staff, with probation service officers being called on to perform ever more complex and sophisticated work – work that would once have been considered the responsibility of probation officers.

Debates about the proper roles, functions and skills of probation staff are reflected in uncertainties about the future of probation training. New “offender manager” qualifications are anticipated and it seems certain that PSOs will receive a fuller and more rounded training than in the past.

The formal separation between offender management and interventions is intended to ensure that offenders have the benefit of interventions from a range of expert providers. There remains a concern, however, that it could lead to a fragmented, confused and perhaps ineffective experience for offenders: multi-agency work is recognised as the right approach, but it is also challenging and complex.

It is difficult to anticipate the future of probation in England and Wales. The probation service often works very well and has met most of the performance targets set for it by central government; it employs many energetic and capable staff at all levels; and it has the potential to continue to thrive. Politicians continue to affirm probation’s aims to enhance public safety, to rehabilitate offenders and to contribute to a reduction in the prison population by providing credible, efficient and effective community sanctions. Organisational and legislative changes have been unsettling, however, and make longer-term planning much harder. Perhaps above all, since public safety, crime and punishment are areas in which political debate is most heated, political volatility is now the greatest threat to probation’s future.

8 IMPORTANT PUBLICATIONS

Any selection of authors will be arbitrary and will not necessarily reflect the full range of literature available. Key publications include:

J. Roberts, M. Hough, *Changing Attitudes to Punishment: public opinion, crime and justice*, 2002, Cullompton: Willan Publishing

This examines sentencing in the wider context of public attitudes to crime

L. Gelsthorpe, R. Morgan (eds.), *Handbook of Probation*, 2007, Cullompton: Willan Publishing

A comprehensive guide to probation activity

R. Canton, D. Hancock, (eds.), *Dictionary of Probation and Offender Management*, 2007, Cullompton: Willan Publishing

A complete overview of probation work in England and Wales

A. Underdown, *Strategies for Effective Offender Supervision*, 1998, HMIP

This is an analysis of the effective practice initiative in England and Wales drawing on lessons from work done in North America in particular

T. Chapman, M. Hough, *Evidence Based Practice: A Guide to Effective Practice*, 1998, London: Home Office

Probably the most widely read and influential book on effective practice.

R. Burnett, C. Roberts, *What works in Probation and Youth Justice – Developing Evidence Based Practice*, 2004, Cullompton: Willan Publishing
This reviews developments in evidence based practice in probation and youth justice drawing on the experience of both academics and practitioners

G. Mair, (ed. *What Matters in Probation*, 2004, Cullompton: Willan Publishing
This draws on research findings from early effective practice initiatives and challenges undue emphasis on cognitive behavioural programmes

Faulkner, D. (2001) *Crime, State and Citizen: A Field Full of Folk*, Winchester: Waterside Press
An excellent review of criminal justice politics and governance in recent years

W.H. Chui, M. Nellis, (eds.), *Moving Probation Forward: Evidence, Arguments and Practice*, 2003, Harlow: Pearson Longman
An introductory but very useful collection of papers reviewing contemporary probation in England

A. Bottoms, L. Gelsthorpe, S. Rex, (eds.), *Community Penalties: Change and Challenges*, Cullompton: Willan Publishing
A series of papers that looks at probation developments in a wider theoretical context

H. Kemshall, G. Mackenzie, J. Wood, R. Bailey, J. Yates, *Strengthening Multi-Agency Public Protection Arrangements (MAPPAs)*, 2005, Report 45, Home Office Research, Development and Statistics Directorate.

Available online at <http://www.homeoffice.gov.uk/rds/pdfs05/dpr45.pdf>
A detailed review of work to improve work between agencies to protect the public

H. Kemshall, *Understanding risk in criminal justice*, 2003, Maidenhead: Open University Press
A comprehensive and authoritative account of the challenges and opportunities of risk assessment and management

HM Inspectorate of Probation (2005). An Effective Supervision Inspection Programme Thematic report: 'I'm not a Racist but...' (available online at [http://inspectorates.homeoffice.gov.uk/hmiprobation/inspect_reports/thematic-inspections1.html/RaciallyMotivatedOffenders\(1.pdf\)](http://inspectorates.homeoffice.gov.uk/hmiprobation/inspect_reports/thematic-inspections1.html/RaciallyMotivatedOffenders(1.pdf))

An inspection report that highlighted weaknesses in the probation service in relation to race affecting both employees and offenders

S. Lewis, P. Raynor, D. Smith, A. Wardak, (eds.) *Race and Probation*, 2005, Cullompton: Willan Publishing
Papers exploring good practice with minority ethnic groups and contributing to wider debate about race and crime

The Offender Management Model

Available online at <http://noms.homeoffice.gov.uk/news-publications-events/publications/strategy/offender-management-model-1.1?version=1>

The definitive account of a model that is influencing all aspects of probation organisation and service delivery

S. Farrall, *Rethinking What Works with Offenders: Probation, social context and desistance from crime* 2002, Cullompton: Willan Publishing

An early and influential challenge to the dominance of 'what works' and an argument for a fuller appreciation of desistance.

9 CONTACT DETAILS

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Area Headquarters Information is contained in the Napo Probation Directory published on an annual basis by Shaw and Sons Ltd.

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National Association of Asian Probation Staff
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227/237 Borough High Street
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LAGIP for lesbians, gay men, bisexuals and transgendered staff working in
probation and family courts, www.lagip.com

National Disabled Staff Network
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ANNEX 1

Criminal Statistics

1. Sentencing Statistics

- the total number of offenders sentenced in 2005 was 1,482,500 – a reduction of 4% compared with 2004 which had the largest figure recorded since 1994. There had been an overall increase of 9% compared with 1995;
- burglary and theft and handling stolen goods recorded the lowest figure in 2005 since 1995;
- in 2005, the number of offenders sentenced in Magistrates Courts was 1,406,700 and in the Crown Court 75,000;
- the number of male offenders sentenced in 2005 was 1,190,700 (down by 5% compared with 2004) and women 282,600 (down by 1% compared with 2004);
- number of offenders sentenced to immediate custody increased by 27% from 79,000 in 1995 to 101,200 in 2005;
- between 2004 and 2005 there was a decrease in the use of custodial sentences in the Magistrates Courts (7% to 57,200) and the Crown Court (2% to 44,000);
- the custody rate in Magistrates Courts in 2005 was 14% (compared with 15% in 2004) and in Crown Court it was 60% (compared with 61% in 2004);
- the average custodial sentence increased by 25% from 20.8 months in 1995 to 25.9 months in 2005. (This figure does not include those offenders sentenced to indeterminate public protection sentences under the Criminal Justice Act 2003);
- “Theft from shops” (11,500) recorded the highest number of offenders sentenced to immediate custody in Magistrates Courts in 2005, whilst “other burglary in a dwelling” (4,700) recorded the highest use of immediate custody in Crown Courts in 2005;
- there was a significant increase in the use of the new suspended sentence (introduced by the Criminal Justice Act 2003) – 7,100 offenders received this sentence in 2005 compared with 1,130 in 2004 in Magistrates Courts whilst the number in Crown Court increased to 2,600 from 1,600;
- there has been a steady increase (57%) in the use of community sentences from 129,900 in 1995 to 204,200 in 2005;
- in 2005 the most common offences resulting in a community sentence in Magistrates Courts were common assault (22,200), theft from shops (20,700), driving whilst disqualified (14,300), driving with alcohol in the blood above the prescribed limit (13,200) and criminal damage of £5,000 or less (10,100). In Crown Courts assaults occasioning actual bodily harm (2,700), burglary in a dwelling (2,100), affray (2,000), wounding or inflicting actual bodily harm (1,100) and handling stolen goods (800) were the most common categories of offence resulting in a community order;

- the number of fines imposed was 1,025,100 in 2005 – a decrease of 5% compared with 2004. Summary motor offences accounted for 590,500 offences;
- the total number of pre and post Criminal Justice Act sentences commenced in 2006 was 170,574 including 15,569 sentences made under the legislation in force prior to April 1, 2004 – the date the new Act was implemented. Any offences committed before that date continue to be dealt with under the old legislation, although the numbers declined from 2,719 in January 2006 to 481 in December 2006;
- there were 121,690 community orders commenced in 2006 and 32,869 suspended sentences.

Table 1.1 Community Orders/Suspended sentence order requirements for orders commenced in 2006

Number of requirements	Community Orders		Suspended Sentences	
	Number	Percentage	Number	Percentage
0	213	0	622	0
1	60,253	50	11,628	36
2	42,693	35	14,094	44
3	16,563	14	5,774	18
4	1,787	1	688	2
5	179	0	63	0
Total	121,690	100	32,869	100

2. Average Offender Population

- at the end of March 2007 148,130 offenders were under the supervision of the probation supervision on a court order – this was an increase of 5% compared with March 2006;
- the new community order, introduced by the Criminal Justice Act 2003, accounted for 64% of all court order supervision and suspended sentences 22% compared with 47% and 7% respectively. This reflected the increasing impact of the new Act and the attractiveness of the suspended sentence to courts;
- there were 90,740 offenders under supervision either before or after release from custody – of whom 26,096 were in the community. This was an increase of 3% compared with March 2006;
- the total number of reports (Standard, Fast Delivery and Oral) prepared in 2006 was 219,721 broken down as follows:
 - standard Delivery Reports (SDRs) – 151,735;
 - fast Delivery Reports (FDRs) – 46,705 (27% of the total);
 - oral Fast Delivery Reports – 8,372;
 - breach of community supervision – 8,342;
 - deferred sentence – 3,352.

3. Staffing statistics

- at the end of December 2006 there were a total of 21,370 full time equivalent (FTE) staff in the National Probation Service (NPS) including Chief Officers;
- 87% were employed in offender related function (18,564 FTE) with the remaining 13% employed in corporate services. The overall ratio of staff in offender services to staff in corporate services was 6.7 to 1;
- the number of staff across the NPS rose by 786 FTE or 3.8% in 2006/07;
- the national attrition rate for the 12 months up to end of December 2006 was 8.9% ;
- the overall level of sickness was 12 working days in 2006/07.

Tables 3.1 and 3.2 provide detailed information on staffing issues. It is significant that:

- the number of Probation Service Officers now exceeds the number of Probation Officers – this shift represents the increased role this grade of staff play in the delivery of interventions and the supervision of offenders who do not present a serious risk of harm;
- although the NPS has talked about extending its skill base the number of psychologists employed is very low – 27.5 out of a workforce of over 21,000;
- over 2000 staffs are employed as managers. The nature of their duties has changed over the last 20 years with most managerial roles containing little or no direct contact with offenders;
- the majority of Probation Officers are employed in offender supervision.

Table 3.1: Staff in post in National Probation Service on 31/12/06 covering Offender Management, Intervention and Other Agency/Services

Grade	Offender Management			Interventions					Other agency/services				
	Community supervision	Resettlement	Other OM	Accredited programmes	Other programmes	Approved Premises	Unpaid work supervisors	Other interventions	Victim liaison	PO training	MAPPA	Courts	Prisons
Deputy chief officer	4.5	0	11.5	1.10	0	0.10	0.20	8.30	0	0	0	1	0.10
Assistant chief officer	16.35	1.40	63.10	7.75	0.70	4.83	4.40	20.24	1.85	0.20	0.85	2.45	3.75
Area/District Manager	19.80	0	53.80	5.79	2	3.80	15.20	15.60	0	1	2	3	0
Middle manager	232.16	8.93	442.88	104.40	34.63	80.46	70.60	64.74	16.70	12.70	23	37.80	100.90
Senior Practitioner	35.3	0	88.91	33.31	1	21.80	23.35	11.40	4	15.80	3	3.50	9
Probation Officer	1,503.87	87.2	2,284.83	306.71	23.19	51.60	14.20	156.95	22.66	30.36	9.69	163.12	407.07
Professional Development Advisor	0	0	0	3	0	0	0	0	0	85.65	0	0	17.40
Trainee Probation Officer	7	0	1	0	0	0	0	0	0	745.09	0	0	0

Treatment Manager	0	0	2.67	150.26	8.50	1	4	5.97	0	0	0	0	3.30
Probation Services Officer	965.97	43.7	1,606.13	795.54	172.65	386.07	1,092.43	295.22	131.22	0	2	304.11	329.18
Psychologist	0	0	3.5	8	1	0	0	5	0	0	2	0	7
Other operational staff	15	0	17.16	3.20	23.51	285.34	195.57	16.20	2	0	0	0	0
Support staff-administration	784.48	37.20	1,312.15	171.85	47.03	96.88	202.21	131.17	42.37	5.17	23.30	203.36	8.84
Support staff -other	134.70	0	4.90	5.56	1.40	26.74	25.31	0	0	0	0	0	0
Other staff	13.70	0	4.90	5.56	1.40	26.74	25.31	0	0	0	0	0	0
Total	3,603.13	17843	5,899.83	1,597.47	318.41	966.62	1,647.47	732.49	220.80	895.97	63.84	718.34	887.21

All numbers reflect full time equivalents

Table 3.2: Staff in post in the National Probation Service on 31/12/06 covering other agency/services (continued from table 1) and corporate services

	Other agency/services				Corporate services						total			
Deputy chief officer	0	0	5	2	12.66	9	0.70	0.10	2.05	1	2.50	3.89	14.65	80.35
Assistant chief officer	0.40	0.20	63.20	4	18.46	19.13	2.03	2.83	14.80	6.13	4.65	4.20	38.60	306.50
Area/District manager	0	2	10	4	3	8	1	0	3	3	0	1	17.40	174.39
Middle	1	10	77.85	12.80	29.72	41.12	34.04	10.91	57.30	21.00	0.90	13.30	76.71	1,616.55

manager														
Senior Practitioner	2	0	13.30	0	0	1	11.10	0	1	0	0	6	1	286.77
Probation Officer	211.43	17.30	55.10	11.10	1	3.50	11	1.50	3	2	0	12	8.50	5,398.88
Professional development advisor	0	0	0	1	0	0	41.20	0	0	0	0	44.10	0	192.35
Trainee Probation Officer	0	0	0	16	0	0	109	0	0	0	0	256	0	1,134.09
Treatment Manager	0	0	1	0	0	0	0	0	0	0	0	0	0	176.70
Probation Services Officer	28.40	66.40	55.48	14.50	0	0	15	1.11	12.50	8	0	0	0.40	6,326.01
Psychologist	0	0	0	0	0	0	0	0	0	0	0	0	1	27.50
Other operational staff	0	6	12.06	2	2.55	6.30	8.60	3	17.70	1	0	0	1	618.19
Support staff administration	4.67	31.40	32.84	25.07	215.59	165.89	84.28	21.44	269.09	24.38	7.51	43.19	571.95	4,564.31
Support staff – other	0	0	1	10.03	27.23	26.50	11.74	3.20	67.89	0.50	0	1.49	24.08	251.27
Other staff	0	0	1	3.50	16	40.19	11	2.40	49.29	2.16	0.81	5.50	1	175.12
Total	264.70	133.30	330.83	106	326.21	320.63	340.69	46.49	497.62	69.17	16.37	390.67	756.29	21,328.98

All numbers reflect full time equivalent