

Chapter 23

Northern Ireland

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1 HISTORICAL DEVELOPMENT OF THE PROBATION SERVICE SYSTEM

Northern Ireland (NI) lies in the north-eastern corner of the island of Ireland, occupying about 17% of the land area. It is part of the United Kingdom of Great Britain and NI with a population of just fewer than 1.7 million. Since 8 May 2007 it has a regional assembly and executive government. A North-South Ministerial panel oversees relationships between NI and Republic of Ireland.

1.1 The start of probation in Northern Ireland.

The formative signs of Probation emerged in the last quarter of the 19th century. This was at a time when Ireland, having lost its legislative independence in 1801, was subject to the parliament in London. Two separate pieces of legislation in 1879¹ and 1889¹ empowered lower courts in Great Britain and Ireland to discharge an offender subject to him/her giving security and permitting a first offender to be put 'on probation' instead of being convicted and sentenced. It also provided a useful tool by which Police Court Missionaries appointed by Voluntary Societies attached to some English Courts could be asked to act as moral mentors. The reformatory religious seed was one that fell on fertile soil in Ireland too. Irish magistrates were inclined to act independently in matters of innovation and discretion. In 1892 the Chief Secretary² informed all Magistrates of the low usage of their new power and encouraged them to consider its appropriateness for first offenders where age and/or character of the offence warranted. The influence of the Judiciary on the use of probation was to remain an issue for the next 100 years.

Ownership of the probation idea by the institutions of the state had to wait for the 20th century and a reforming government. In 1907 the courts³ were given a new alternative to a sentence- a probation order and power to appoint a probation officer 'to advise, assist and befriend' the probationer. Although the previous limitations of age and first offence were swept away these defunct elements attained mythic substance restricting the growth of the new concept in the adult court but also in the newly created children court. (Children Act 1908) The flexibility of this probation order was increased seven years later with the facility to add conditions of a positive or negative nature e.g. residence or abstention from alcohol.

1.2 Important developments

In 1921 Ireland was partitioned. A separate devolved government was established in Northern Ireland (NI) which remained within the United Kingdom and subservient to the government in London. In the early years the regional authorities were pre-occupied by internal and external security. The probation presence, which was predominantly in Belfast, was part-time and poorly funded.

¹ Summary Jurisdiction Act and Probation of First Offenders Act.

² Beresford, J 1976 NI Probation Service, New University of Ulster, Thesis.

³ Probation of Offenders Act 1907.

Probation was like an underdeveloped child that needed nourishment to thrive. The new parents did not provide. They established a stringent economic policy. The crime rate remained comparatively low. The political/religious divide created two parallel societies⁴. Probation had no champions in positions of authority⁵.

However, some advances did take place. In 1928 Probation Rules setting out the degree of contact with the probationer were issued. Eight years later the appointment of probation officers was taken over by Ministry of Home Affairs. There was no compulsion for each court to have a probation officer (recommendations still needed to come from Magistrates.). Funding continued on a per capita basis from a court based account - the Dog Licence Fund. It was a source of much parody in later years that officers operating under this system, when carrying out home circumstances reports for courts, were as interested in the pets within a household as in the human inhabitants. In that year the total spent on penal custody was more than a hundred times greater than on probation. A more favourable wind was forecast. A parliamentary committee was appointed to advise on the treatment of young offenders. Its report⁶ published in 1937 called for the development of the Probation Service along English lines. The oncoming World War forestalled possible implementation.

1.2.1 1945 - 1969

In 1946 agreement was reached that NI would enjoy the same standards of Social Services as those prevailing in the rest of UK on condition that there was parity of taxation. 'The result was a striking advance in the material welfare of the people of NI'.⁷ No economic obstacle remained to better services to courts and offenders. In 1950 the Ministry of Home Affairs became responsible for the organisation, appointment and funding of probation in each petty session area of the whole region. (Probation Act (NI) 1950) After more than 40 years the Magistracy's stranglehold over the availability of probation officers was released. Probation usage outside Belfast rose by over 100% in the first four years of implementation. In the same legislation the probation order was modernised to be used (with consent) only after conviction while still replacing a sentence. Conditions in regard to mental health and residence in a voluntary society home were made available. The role of the probation officer in providing reports to assist sentencing was reinforced.

As new officers attended the English probation training programme the main ideas were derived from there. The moral reform of the individual had been overtaken by the casework approach - still based on reform of the individual but with a psychological rather than a religious foundation. The material improvement of the 50s and 60s was accompanied by social change. Sectarian

⁴ Brewer, J, Lockhart, B, Rodgers, P 1997 Crime in Ireland, Clarendon, Oxford.

⁵ Morrison, D A. (1973) Development of Probation and After Care Service in NI, Dept of Social Administration, New University of Ulster (Coleraine).

⁶ Lynn Committee Report 1938. Protection and Welfare of the Young and treatment of Young Offenders HMSO, Belfast.

⁷ Bardon, J (History of Ulster, p 591, Blackstaff, Belfast.

patterns were challenged. The traditional institutions faced challenge. The crime rate rose. Probation staff could envisage new roles for a community-based organisation such as theirs. To make headway they needed a more credible knowledge and skill base. Social work was their nearest home. The different social work agencies were beginning to find their common core and to make alliances with the local university. In 1967 the first probation officer was seconded to a social work course there. The next step was to establish a probation stream with the option of a supervised probation practice placement. Thus social workers were trained together to work in the fields of physical and mental health, child and elderly care and probation.

The 1960s also brought a probation presence in prisons despite the scepticism of probation staff about such institutions. Support of prisoners and assistance on release was an underdeveloped area. The provision of after-care for prisoners was reliant upon Church based societies e.g. Catholic Discharged Prisoners Aid Society. Discussions in England and Wales about the differing roles of Statutory and Voluntary Sector had ended with responsibility for both compulsory and voluntary after-care being passed to the probation services. As a corollary in NI more responsibility passed to probation. In 1967 the first probation staff member was seconded into the male prison. Adults committed to long term sentences and some recidivists were made subject to supervised licence arrangements on release. (Treatment of Offenders (NI) Act 1968) Voluntary societies still had a part to play but probation had come more centre stage in this arena and new resources were required. Courts were also expected to consider probation reports before making such sentences - another lessening of the discretion of the judiciary.

1.2.2 1969-1998

The possibilities offered to probation by these changes were shattered by the eruption of civil conflict in the summer of 1969. The conflicts between communities and between those communities and the government resulted in the criminal justice agencies being adapted to deal with the conflict and paramilitary violence. Probation staff was not happy with such an orientation. They decided that they would distinguish between those defendants who were dealt with under the emergency legislation and the rest - politically motivated *vis a vis* delinquent.⁸ Preparation of pre-sentence reports and statutory supervision were to be restricted to the non-political categories. Service was offered to the politically motivated on a voluntary basis only. A *modus operandi* along these lines received a consensus within the courts and created space for probation staff to operate within all neighbourhoods. New methods were tried in the provision of welfare services to paramilitary prisoners. To assist these prisoners to deal with the impact of incarceration a series of supplementary workshops led by external instructors, artists, dramatists, writers, academics and performers were organised.

⁸ In 1975 National Association of Probation Officers Annual Conference adopted a policy against involvement in statutory work with politically motivated offenders.

Performing social work with offenders through this period when power in society was regularly turned upside down had a profound impact on the professional approach. The casework method with its concentration on individual pathology was no longer viewed as fit for the purpose. There was too much evidence around of the influence of family and community. Experimentation was carried out with psychoanalytical and therapeutic groups, group sporting activity and adventure learning in the outdoors. Alliances were formed with youth and community workers, teachers, social workers from other disciplines and psychologists. Practice placements and study tours to mainland Europe, North America and Australasia widened horizons. Working with groups evolved to an investment in intermediate treatment. Management was defensive and uncertain in the face of this bottom-up approach.

A new chief probation officer from England introduced a management approach. Management by Objectives were adopted⁹. Thus, when the Probation Board was formed in 1982 and chaired by a series of business leaders the Probation Service was recognisable to them as a functioning service organisation. These developments were followed in 1990s by the ideas of consumerism that were also adapted to the criminal justice setting. These ideas also collectivised the service delivery to the offender. Although the probation officer was the legal authority case management on behalf of the agency replaced the individualised approach.

A paradoxical consequence of the conflict was that staff went out more into communities. This was increased when the community service order was introduced in 1979. Again NI was following the English lead but the actual form of introduction was influenced by knowledge of practice in New Zealand where Pacific Island cultural ideas underpinned policy. These had resonance in NI where victim-centred and restorative ideas from Brehon Law¹⁰ culture were in the tradition but hidden in the sub-conscious.

Integration of social work training described above would have been exceptional without some integration of services. Health and Social Services were integrated in 1973. It was inevitable that the next question would be whether services for courts and offenders should be joined to this integrated structure. The question was referred to a committee. In 1979 the 'Black Report'¹¹ delivered a tailored NI response. It recognised the impact of conflict on the emerging generation. Offending behaviour was to be managed within the criminal justice system. To enable probation to maintain legitimacy it should cease to be under civil service management and be administered by a community based board. The report marked a watershed. Three years later the Probation Board (hereafter shortened to PBNI) was established with grant making powers. Civil court work passed to health and social services. Offenders were now the only business.

The community involvement in the management of PBNI fostered new funding partnerships with voluntary organisations that could offer good quality

⁹ Drucker, P 1954, The Practice of Management, Harper, New York.

¹⁰ Brehon Laws. An indigenous system of law which existed until 17th century in Ireland and was replaced by English common law.

¹¹ Northern Ireland Office (1979), Legislation and Services for Children and Young Persons in NI, HMSO, Belfast .

services with difficult offenders in an innovative manner and through a different culture. PBNI also came to recognise the possibilities of behaviour change in young offenders especially when local people are involved. It set up partnerships with community groups that came into being in response to local offending. Car crime in West Belfast was the most striking example of this - a brand of behaviour dangerous both to participants and to the public as illustrated by deaths and injuries from car crashes, shootings by the security forces and 'punishments' by local paramilitaries. Projects focused at the most critical times and locations were successfully used by PBNI and partner organisations in reducing the crime and the impact on the community.

The group work experiences integrated easily with the current of cognitive thinking that flowed in from North America. Evidence-based practice facilitated new thinking about the role of probation in a society emerging from conflict.¹² A new group work programme based on an amalgam of these ideas was developed and applied within the service. The experience of working in communities meant that while adopting the cognitive theories PBNI was conscious of not neglecting the social dimensions. Elements of employability, accommodation and social networking were maintained.¹³ Government endorsed this in-house confidence in practice. Fresh legislation affirmed probation led sentencing options and moved these to the more serious end of the continuum. The pre-sentence report became a front loaded requirement. The Magistracy and Judiciary no longer held that power over probation involvement that had been an issue for over a century. Probation had moved from religious and moral reform through casework to group work to intermediate treatment to cognitive programmes and evidence-based practice.

The legislation was implemented in the same year as the Belfast (Good Friday) Agreement 1998 that set out the basis for future government and relationships with rest of UK and the Republic of Ireland. It called for a Review of the Criminal Justice System to ensure that it had the confidence of all parts of the community. The report was published in 2000.¹⁴ After a period of consultation the government implementation plan followed the next year. A fundamental change of status was recommended for PBNI. It should become a government agency like the prison service instead of retaining its board with community representation. However, as a result of the dissent generated by the Board the government agreed to leave this decision until after the devolution of criminal justice matters to the new NI executive. Prisons and Probation were to remain as separate organisations but with greater interaction at management level and through staff interchanges, joint training programmes and offender behaviour programmes.

1.3 Probation activities in a nutshell

¹² Payne M.1991 *Modern Social Work Theory: a critical introduction* Macmillan, London.

¹³ Chapman, T and Hough, M (1998) *Evidence Based Practice: A Guide to Effective Practice*, H M Inspectorate of Probation, London.

¹⁴ Northern Ireland Office (2000), *Report of the Criminal Justice Review Group*, HMSO, Belfast.

Probation is involved with accused persons from assessment and reporting at the sentencing stage in court through management of a range of community sentences to provision of post-custodial supervision: pre-sentence reports, probation orders, community service orders, combination orders, custody probation orders, post-custody supervised licence and life licence supervision. It performs these services in partnership with other statutory and non-statutory organisations and community groups.

2 LEGISLATIVE BASIS AND MISSION

2.1 Legislative Basis

Probation Services are administered by the Probation Board for Northern Ireland (PBNI). It is a non-departmental public body. The board consists of a Chairman, Deputy Chairman, and not more than 18 members appointed by the Secretary of State for Northern Ireland to represent a wide spectrum of community life. Under the existing constitutional arrangement the Secretary of State is a member of the UK Government's Cabinet appointed by the Prime Minister in London. This cabinet minister leads the government in NI through the 'Northern Ireland Office' Department (NIO). The Board receives its funding from this central government source and is accountable to the Secretary of State for the manner it carries out its remit.

PBNI must provide and maintain an adequate and efficient Probation Service; enable persons to perform work under community service orders and provide staff to perform social welfare duties in prisons and young offenders centres. Additionally it has discretion to provide and maintain probation hostels, bail hostels, and other establishments for use in connection with the supervision and assistance of offenders and to make and give effect to schemes for the supervision and assistance of offenders and the prevention of crime. In exercising this discretion it can enter into arrangements with voluntary, or other, organisations.¹⁵

PBNI produces an Annual Report that is the public manifestation of its accountability to the Secretary of State. The work carried out by the service is governed by a set of Standards which set out the levels of service and practice required of PBNI in relation to its assessment, management and supervision of persons who have been made subject to Community Sentences, Custody Probation Orders or Statutory Licenses as well as for the provision of reports to courts and the Life Sentence Review Commissioners. The Standards also define the related Service Requirements and monitoring practices together with required quality indicators and measures. The Chief Probation Officer is accountable to the Board for ensuring that the Standards are consistently applied in practice. In turn PBNI is accountable for providing information required by the Secretary of State from time to time in relation to adherence to the Northern Ireland Standards. They are subject to periodic external inspection.

¹⁵ Probation Board (NI) Order 1982.

Probation authority begins in the Youth Courts and extends through all the levels of the Criminal Courts. The age range starts at ten years of age and rises to old age. The Youth Court hears criminal cases until a young person reaches his 18th birthday. In adult courts PBNI may be involved with any offender guilty of imprisonable offences.

2.2 Mission and mission statement

PBNI operates within parameters and budgets set for the Criminal Justice System in Northern Ireland by the Northern Ireland Office. An annual Business Plan supplements a three-year Corporate Plan. When drawing up its plans PBNI needs to take account of government aims, the implementation plan of the Criminal Justice Review, the recommendations arising from the Strategic Review of PBNI, the plans of the Criminal Justice, the priorities for joint working with Prison Service, the issues arising from its consultation process and the likely funding allocation. The Corporate Plan 2005-2008 represents its commitment to deliver services that contribute to the overarching Government purpose: 'to deliver a Criminal Justice System which protects the people of Northern Ireland and in which the whole community can have confidence.' A Justice Oversight Commissioner¹⁶ was appointed in 2003 to act as an independent monitor of the Review Implementation Plan. PBNI is required to make regular reports to the Commissioner on progress in regard to the specified changes within its area of authority. Within the above context their Corporate Plan outlines the Strategic Objectives and Key priorities over the three years. The Business Plan, e.g. 2007/8, details the Objectives, Key Performance Measures and Targets for the following year taking account of the need to make efficiency savings. PBNI's mission is delineated in three ways:

- 'Purpose – Protect the public by working with the Courts, other Agencies and Partners to reduce re-offending and integrate offenders successfully back into the Community.'
- 'Aim – To help reduce crime and the harm it does.'
- 'Vision – Achieve excellence in the assessment and management of offenders.'

Two key strategic objectives are public protection and social inclusion. Public protection is sought through objectives relating to the assessment and management of risk. Social inclusion is the pursuit of equity in their service delivery. Equity also represents a traditional probation interest in how different categories of offenders are faring within society. PBNI has adopted a philosophy 'Offenders are citizens.' Consequently they have pushed for their access to the normal range of services available to all citizens or the adoption of those services to fit the particular needs. Only where those services are principally about the management of offending behaviour has it felt it appropriate to supply distinctive provision.

2.3 Crime prevention

¹⁶ Independent Justice Oversight Commissioner, Lord Clyde, appointed under the provisions of Justice (NI) Act 2002.

PBNI is involved in crime prevention at three levels. The predominant activities are oriented to prevention of re-offending. The belief is that it can make the most impact with known offenders. Nevertheless, PBNI remains conscious of its community-based heritage and continues to allocate 20% of community development funds for social crime prevention and capacity building in high-risk neighbourhoods. It also makes a contribution to the 26 Community Safety Partnerships¹⁷, based on District Council areas, which commit service delivery organisations and devise, plan and deliver the local plan for community safety. However, it finds it difficult to service this from its thinly spread geographic area teams especially outside Belfast. Particular attention, also, is given to the needs of children of prisoners. PBNI contributes funding to a service¹⁸ to assist families to reduce the impact of the imprisonment of a member. Without remedial action such an experience increases the likelihood of a child becoming an offender in later years.

2.4 Victim protection

During the 20th century this criminal justice system had become more focussed on the state v. the offender to the neglect of the victim. Probation and other criminal justice staff could see the imbalance of responses from the formal system. They could envisage how engagement of the victim in the process could help both the victim and the offender. A response to the emotional and other needs of the victim was required before any progress could be made. When the Probation Board was set up in 1982 it was thought that at first that it could use some of its community funds in this way but it was prevented from doing so on legal grounds. However, informal support was possible. In 1986 Victim Support (Northern Ireland) was formed – a non-government, voluntary organisation relying on the support of volunteers to provide a generic response to victims of crime. In those 21 years it has become a very significant service organisation with 250 trained volunteers dealing with 50,000 referrals per year. PBNI, while continuing to be empathetic, had to await the Criminal Justice Review of 2000, which recommended it for the lead role in providing information to victims in cases where non-custodial sentences were made. The Prison Service was to take the lead where custodial sentences were in operation. Under the scheme that emerged in 2005 information covers length, type, duration and requirements of supervision and an update on the outcome of any court proceedings if supervisee fails to comply. As it is not the intention to provide a counselling service, information about victims' organisations and services may be supplied.

Information about victims is supplied to PBNI through a protocol between Public Prosecution Service, Police Service of Northern Ireland, Northern Ireland Prison Service and Victims Support (NI). Contact is made directly giving choice whether the victim wishes to be involved in this scheme. Based on consumer

¹⁷ Community Safety Partnerships created as a result of the recommendations of the Criminal Justice Review 2000.

¹⁸ Family Links managed by Northern Ireland Association for the Care and Resettlement of Offenders.

feedback choice as to means of delivery of information is offered - written, electronic, telephone, or face-to-face.

The wider range of options has resulted in a higher take up than for the prison scheme. Initial evaluation indicates that 92% are satisfied, or very satisfied with the service they receive. Eighty per cent are victims of domestic or sexual violence. The interaction has assisted the public protection role of PBNI as victims' concerns and observations can be conveyed to risk assessment panels and taken in account in management plans for such offenders. Evaluation points to the appropriateness of the team beginning to develop a restorative process for victim and offender on a pilot basis. This would involve the consent of both parties. It is a clear need for some victims. The service is provided through a Victim Information Unit composed of one manager and two probation officers and an administrative officer. It is separated out from the rest of the probation service.

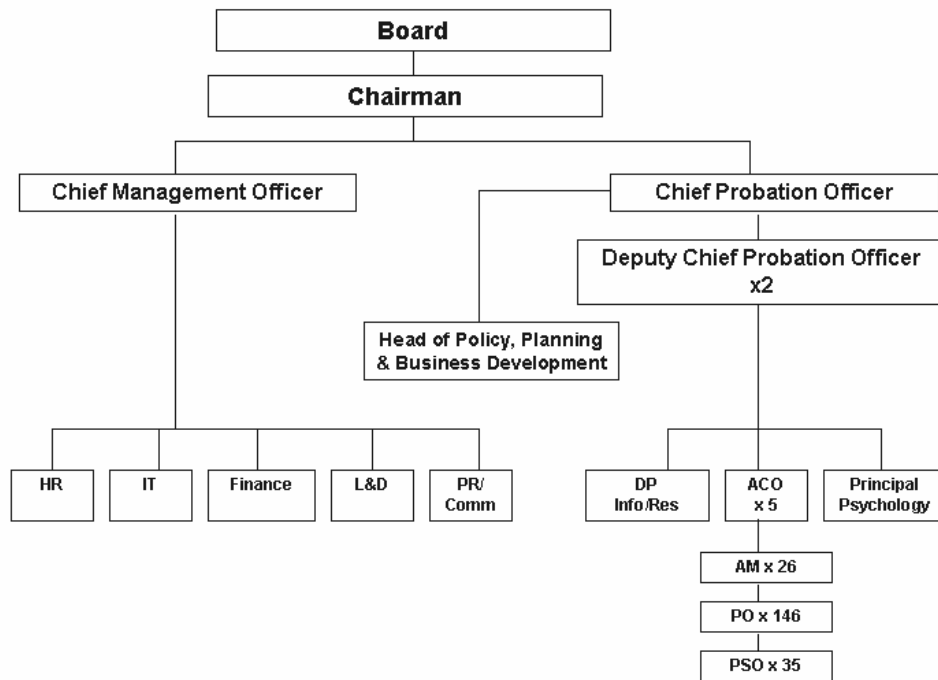
In addition to the above, this service is able to supply relevant information to the commissioners making decisions in relation to life sentence. A probation report to the commissioners to assist decision-making in regard to release can be supplemented by a view from next of kin of victim. It is prepared by a member of this specialist team and submitted separately.

3 THE ORGANIZATION OF PROBATION SERVICES

3.1 Main characteristics

The Criminal Justice System in Northern Ireland is made up of six Agencies that are contained within three separate Government Departments. The agencies are: N. Ireland Court Service (NICtS), N Ireland Prison Service (NIPS), Police Service of Northern Ireland (PSNI), Probation Board for N. Ireland (PBNI), Public Prosecution Service (PPS), Youth Justice Agency (YJA). The Court service relates to the Department of Constitutional Affairs and the PPS links to the Office of the Attorney General. The remainder are under the umbrella of the Northern Ireland Office. At present these Departments are subject to oversight by Ministers (Lord Chancellor, Attorney General and Secretary of State) appointed by the United Kingdom Government in London. These three Cabinet Ministers share responsibility for the CJ system in NI. Like the Police and Prison Services PBNI has one structure covering all the geographic area of NI. The directors of these seven agencies meeting under the chair of the Director of Criminal Justice NIO constitute the Criminal Justice Board.

Figure 1: PBNI Organisational Chart



3.2 Internal organisation

The Board has an appointed chairman and deputy chairman. It meets 9 or 10 times per year and does most of its work through committees that refer issues to the Board for decision. The joint leadership of a Chief Probation officer and a Chief Management Officer – a Roman Consular model for an experimental period, leads the day-to-day management. The former is accountable to the Board on all professional matters and the Chief Management Officer is accountable for the use of funds. (This arrangement is set to be reviewed in 2008.)

The fundamental structure for delivery is through teams managed by an area manager. Area can be both geographic and functional in its coverage. The core services are delivered by 18 area teams covering all the court areas and prison establishments in NI. This is done through 30 permanent office outlets. These services are supplemented by 10 specialist teams. There are three strata within the organisation – senior management, middle management and main grade. The main layer is made up of probation officers supported by probation service officers or other technical grades. It has become more stratified in this century but compared to prison and police and health and social services it still retains a relatively flat structure.

3.2.1 Probation workers

Probation officers (po) make up over 40% workforce. They are supported in their professional role by probation service and community service officers (ps). All are managed by 22 area managers (am) plus a programme manager, a project manager and a learning and development manager –a ratio of 1:8. Additional specialist support is supplied to these workers by four forensic psychologists, an arts development officer and an awards officer. All are internally serviced by a range of administrative and technical staff at headquarters and in area teams. The definitive job within the service remains that of probation officer. Despite changes to the nature of community sanctions and post-release supervision described above a probation officer is still nominated in law as the supervisor and the authority in relation in further court or tribunal proceedings. That authority is exercised within an agency case management approach in accordance with NI standards and service requirements and mediation with other agencies, organisations, and institutions.

Development, delivery, assessment and evaluation are now being achieved by a contribution from a recently introduced grade of probation service officer (ps). The main purpose of this new post holder is to provide direct service delivery in a manner which allows the probation officer to concentrate on those aspects of service that require approved professional discretion and judgement. This grade is accountable to the Area Manager for the performance of duties. The area manager monitors and evaluates individual performance of the po and ps and carries out an appraisal on an annual basis. On behalf of the organisation it is his/her duty to produce business plans in line with the corporate plan and to allocate work, deploy staff and contract with partners in order to achieve effective delivery of service. A free, personal confidential counselling service managed by an external agency is available to all staff.

3.2.2 Education, training requirements and opportunities

From September 2004 the Degree in Social Work is the recognised professional qualification for probation officers in NI. This maintains a 40-year tradition of prospective probation officers being trained alongside social workers covering all the areas of service delivery e.g. childcare, mental health. It replaces the Diploma in Social Work that will continue to be recognised by Northern Ireland Social Care Council – the awarding authority. The new qualification, which is both an academic award and a professional qualification, is based on a partnership in course governance between agencies and universities. An assessed first year in employment is a new dimension.

This new qualification has been planned to produce professional staff that are competent to make judgements at the point of loss of liberty. That is the common level of operation required of social workers in all disciplines and is fundamental to the rationale for PBNI remaining with social work training rather than opting for a segregated criminal justice alternative.

On recruitment PBNI new staff are expected to undertake a corporate induction programme and front line staff a practice induction section for a further nine days. In order to meet its requirements under social care registration PBNI, through its membership of the NI Post-Qualifying Partnership, provides continuing learning opportunities for probation officers to complete part, or full,

awards under the Post Qualifying Award Scheme. Over time experienced staff can be assisted to analyse and evaluate their own work in a manner that also influences the agency services. Probation Service Officers, who are not expected to have a social work qualification, are contracted to achieve National Vocational Qualification Level 3 Offending Behaviour within 2 years. Service delivery work undertaken is used as the learning opportunity for compiling a portfolio for assessment of competence. A mobile team accredited by the awarding body administers external verification of competence. A programme module route, culminating in a certificate of management award from a university has been used for the training and professional development of middle managers.

3.2.3 Other organisations involved in probation work

Two key non-statutory organisations receive core funding from NIO in order to be in a position to supply services in the criminal justice field – Northern Ireland Association for the Care and Resettlement of Offenders (Niacro) and Extern.

Niacro's establishment in 1971 coincided with a fading from the scene of the Discharged Prisoners Aid Societies. It was set up by a group of individuals to have a broader focus than imprisonment and to become a lobby group for changes in the system. In the early years advice giving leading to advocacy, recruitment and use of volunteers, accommodation services and families of prisoners were the main activities. By 2005/6 its turnover had grown to over £3 million. It now specialises in families of prisoners, employability of offenders, advocacy with employers, mentoring of young offenders and community safety initiatives. As a non-statutory organisation it has played a vital role in the support of young persons who have been the subject of threats from paramilitary organisations that use an unofficial system of sanctions against persons suspected of anti-social behaviour within neighbourhoods. Niacro now receives core funding from NIO and service funding from Prison Service, Youth Justice Agency, Housing Executive, Health and Social Services Trusts, European Social Fund as well as PBNI. This is an indication of how services to offenders are increasingly delivered through their position as citizens as well as through their position in the criminal justice system. Extern, similarly, was founded in 1978 by a small group of activists who saw a role for a non-statutory organisation in providing structured innovative services. In the early years experimental projects in accommodation for homeless and probationers, a social firm in furniture recycling and an auto project for car crime established its credentials. It retains key partnerships in the provision of constructive activities, employability, accommodation support, hostels and circles of support for high-risk offenders living in the community.

Community Development: A total of 86 other non-statutory, voluntary and community groups received funding from PBNI during 2005/6 year. This enabled these organisations to directly contribute to the supervision and management of the Probation caseload, to supply services to other offenders and their families and to make responses to crime within localities. This constituted 9% of PBNI expenditure.

Professional Association: For over 30 years Probation and service officers have been able to join the NI branch of the National Association of Probation

Staff (Napo) that is both a professional organisation and a trade union recognised by their employer. Napo encompasses staff in England, Wales and NI. In addition to negotiating on pay and conditions the organisation is influential in policy and practice matters. In the 1970s Napo was an invaluable source of support to the emerging service and staff in NI. Subsequently it has provided roles through which NI staff can play a part on a wider stage.

4 PROBATION IN DIFFERENT PHASES OF THE CRIMINAL PROCESS

4.1 General

In parallel with the new political arrangements the criminal justice system is in transition. Previously the police service was responsible for the investigation of crime and shared decision making about prosecution with the Director of Public Prosecutions. In the new dispensation the police service is solely responsible for the investigative function. All decisions re prosecution are passing to the new Public Prosecution Service. PBNI has no defined role at this stage. It may have a contribution to make to some decisions about whether an accused person should be brought into the court stage of the process. PBNI is more firmly set in the sentencing stage of the process. Provision of assessment to sentencers is a core duty. PBNI and Prison Service are subsequently the main providers at the enforcement stage. The former leads on community orders and post-release while complementing the Prison Service and Youth Justice agency in regard to the institutional stage of custodial orders.

Three main community orders provided by PBNI, probation, community service and combination, constitute a community sentence. The offence(s) need(s) to be serious enough to warrant such a sentence. 'The particular Order or Orders comprising or forming part of the sentence shall be such as in the opinion of the Court is, or taken together are, the most suitable for the offender; and the restrictions on liberty imposed by the Order or Orders shall be such as in the opinion of the Court are commensurate with the seriousness of the offence and one or more offences associated with it'. They represent a combination of punishment and rehabilitation. (Criminal Justice Order (NI) 1996 Article 2(2))

When a judge is considering the imposition of a custodial sentence of 12 months or more he or she has an obligation to give consideration to the substitution of a custody probation order. (CJO Article 24(1)). If imposed with the consent of the defendant the period in custody will be immediately followed by a probation order. Where a sentencer imposes a custodial sentence for a sexual offence he/she may also attach a post-release licence without consent. The offender is under the supervision of a probation officer for the remitted period of his sentence. (CJO 1996 Article 26). A sentence of life imprisonment may also be followed by a period of licence supervised by a probation officer. (Life Sentences (NI) Order 2001 Article 8(2)).

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	
Supervision / assistance to pre-trial detainees	x		
Supervision / assistance to offenders whose pre-trial detention has been conditionally suspended	x		
Mediation/victim support		x	x
Supervising/organizing etc. community service		x	x
Supervising/organizing training or learning projects		x	x
Supervising etc. drug/alcohol treatment programs		x	x
a. A combination order – a mixture of probation and community service supervision		x	
b. A custody probation order – a combination of a period of imprisonment with a supervised probation period		x	x
Pre - sentence report		x	
Supervising etc. sanction of probation		x	x
Supervising etc. semi-liberty		x	
Supervising etc. the mentally ill or retarded offenders (in-out patient orders)		x	x
Supervising etc. special measures for drugs addicts		x	x
Assistance / support to prisoners in prison	x	x	x
Supervising etc. conditional release/parole		x	x

4.2 Pre-trial phase

4.2.1 General

At a preliminary or pre-trial hearing PBNI may be asked to make enquiries or appropriate referrals to assist a court in the consideration of bail instead of

custody. These may range from mental health and substance dependency assessments to homelessness. Moreover where the accused is charged with an offence against a child there may be a role of liaison with the multi-agency forum to ensure that child protection issues are considered before a return to the community. Where the accused is remanded in custody the probation staff member on duty can make a referral to the Family Link service. In addition the remanded person will be interviewed by probation staff in the prison and made aware of the services available. The historic role of the probation staff in court, in addition to providing reports, has been that of the social worker in that institution making contact with defendants and families and receiving referrals from the legal profession of problems not necessarily connected to the charges. However, the increasing technological improvements in systems and flows of information and security have restricted that kind of activity. The role is now more in relation to the formal processing of reports. More of this will be carried out without human involvement. Their 'social worker in the court role' is likely to diminish if not disappear.

4.2.2 Pre-trial report

Where adults and young people are being considered for prosecution the public prosecutor may seek information from PBNI as to the person's response to previous interventions. This may result in a report to the Director of Public Prosecutions to assist in a decision as to prosecution. The public prosecution service has recently been established and is on a staged basis developing throughout all of NI. At this evolutionary stage there is no agreed protocol between PPS and PBNI regarding such reports.

4.3 Trial and enforcement phase

4.3.1. General

PBNI formally takes up role when guilt is established. Preparation of pre-sentence reports is the foundation stone of PBNI's edifice. Sentences are divided into three tiers—non-custodial, community and custodial. PBNI has responsibility for the management of community orders. They have become sentences rather than an alternative to a sentence. Such management is undertaken in the understanding that if the order is not adhered to or if management is no longer considered viable there can be a return to court for review and/or revocation. A probation order with its different designs is the vehicle for the consensual community sentence with supervision. In addition to the usual requirements of maintaining contact with the probation officer the order can include one or more extra conditions related to preventing re-offending. A range of cognitive change programmes is available in a menu set out for the courts in each area. The range is endorsed by a joint NIPS/PBNI approval body. Failure to participate as well as attend the programme may result in a return to court. The range – violence, substance abuse, disqualified drivers, sex offending, persistent offending – are geared for categories of offenders and /or offences e.g. instrumental violence = self change programme. Intensive

programmes in relation to substance abuse, sexual offending and domestic violence are organised in partnership with inter-agency fora such as MASRAM.¹⁹ Those in regard to functioning and socialisation are lead by non-statutory bodies on referral from the statutory. The most notable are in the fields of accommodation and employability. In the case of the most serious offenders conditions in orders will be funded by criminal justice with support for general maintenance and skills accumulation coming from the generic statutory departments responsible for employment and housing via the same voluntary organisations. Community groups are more involved as providers through schemes dealing with more localised offending issues. They are also essential to PBNI's capacity to provide placements for community service - the community order based on reparation.

Co-operation between PBNI and Prison Service has become much closer in respect of custodial sentences. This is represented by their Framework agreement and their joint Resettlement strategy. The aims of the framework represent an amalgam of the remit of the two organisations - supporting prisoners to cope with imprisonment - opportunities for prisoners to address their offending behaviour and reduce the likelihood of offending - assisting prisoners to maintain and rebuild links in relationships outside the establishment - helping prisoners prepare for release and resettle in community through risk assessment and planning. The strategy is the translation of this last aim into a plan that includes other agencies mentioned above and which enables release packages to be prepared in prison and put in place in the community. At present there is not adequate funding for this to be available for the 40% of released prisoners who are not subject to supervision on release.

4.3.1.1 Methodology

The predominant methods used by staff are motivational and cognitive. Some staff is trained in counselling and solution-focussed approaches but these are not generally used.

4.3.2 Pre-sentence report

Pre Sentence Report is defined as follows:

'A report in writing prepared in accordance with Northern Ireland Standards and Sentence Requirements and submitted by a probation officer with a view to assisting the Court to determine the most suitable method of dealing with a defendant and which imposes a restriction on liberty commensurate with the offence.' (NI Standards²⁰ and CJO 1996 Article 2(2)). A Court is obliged to consider a pre sentence report before making certain orders:

- a probation order with additional requirements;
- a community service order;

¹⁹ Multi-agency Sex Offender Risk Assessment and Management (MASRAM)- Annual Report 2006 NISOSMC, PSNI, Belfast.

²⁰ NI Standards for the assessment, management and supervision by Probation Board staff of offenders...implemented 2006.

- a combination order;
- a supervision order (child) and
- a custodial sentence.

A pre sentence report may also be sought where other non-custodial orders or sentences are being considered, such as monetary penalties. Thus, the importance of assessment as an element of the report has been upgraded. Probation is the main unaligned basis of assessment available to courts and sentencers. In cases where there may be an assessment of greater risk of harm, the probation officer view may be supplemented by that of a probation clinical psychologist/psychiatrist to assist the court. The alternative sources of such assessment are either based on instructions from the prosecution or defence and, as such, are more likely to provide assessment in a more limited manner e.g. relative to the current offence only or fitness to plead.

Upon a finding of guilt a referral is made by the clerk of court to the local PBNI area team. By agreement a period of 20 working days is given for probation to supply this report. Where the defendant is in custody, and will be in custody while awaiting sentence, that time may be reduced to 15 working days. There is a facility available, particularly to lower courts, to have a Specific Sentence Report prepared for the Court on the same day. This option has not proved particularly popular with Magistrates. Punctuality in production of reports is a key performance measure with 100% achievement²¹. An Inspection Report²² on avoidable delays did not see reports as being part of the delaying factors within the process. Causation lay elsewhere in the system.

The probation area manager for the region in which the defendant resides, will allocate a report writer and clarify the gate-keeping arrangements for the report. At the initial interview the probation officer needs to ensure that the defendant has understood the contents of the leaflet sent out with the letter of appointment. This may involve some assessment of literacy attainment. If the defendant does not consent to the report being prepared, the probation officer does not proceed. In preparing the report the author carries out an assessment of the likelihood of the defendant committing further offences. If this generic assessment indicates the need the writer is then required to complete a full assessment of the risk of causing harm to others and/or self. (See format probation documents). Where the assessment indicates the suitability of a particular form of community sentence, and that can be arranged, the writer is expected set out specific proposals in a draft work plan.

Where a custodial sentence appears to be the most likely option, the writer is expected to indicate adverse affects for defendant and family, for education and employability, any other considerations regarding length of sentence and whether supervision on probation or licence after release is helpful for rehabilitation or necessary to protect the public. (NI Standards)

Once presented the report passes into the authority of the Court. It is empowered to give a copy of the defendant's lawyer and the prosecuting counsel in addition to the sentencer(s). In most cases the prosecutor will not seek to read the report, as it is not usually his/her practice to use the information contained

²¹ PBNI Annual Report 2005/6.

²² Criminal Justice Inspection NI May 2006 Avoidable Delay, a thematic inspection, Belfast.

therein to influence the sentence. The Court is under an obligation to maintain confidentiality. Prior to submission by the probation officer, the defendant will have an opportunity to read, or have read, the proposed contents. The contents may be challenged. However, the probation officer is only obliged by his employer to make changes of a factual nature. It is discretionary whether other changes regarding opinion are made. Probation officer may maintain the opinion but make a note in the report about the contrary view expressed by the defendant.

4.3.3 Probation procedures and processes

The Court making a community sentence has a duty to explain to the defendant (a) why it is making the order; (b) the effect of the order; (c) the consequences following breach of the order; and (d) its power to review the order on the application of the supervising officer. Quite often this is done in a cursory nature. An induction interview is arranged within five days in order that the offender understands both the above contract with the court and the ensuing contract with PBNI. The new probationer is allocated to a probation officer within an area team in Northern Ireland. The probation staff member allocated to supervision by the area manager, or a substitute will conduct an induction interview. The offender is asked to sign a record of induction confirming that he or she has received this explanation and that he/she understands. If received from the court, a copy of the order will be given to the probationer at this interview. If not, it will be handed over within five days of receipt.

4.3.3.1 Probation order

(CJO 1996 Article 10) A plan is expected to be agreed with the probationer within 15 days. The initial assessment should shape this supervision plan. Overall direction is that the plan should draw on identified strengths of the individual and be solution-focused. Fundamentally it should include an outline of the frequency, form and location of planned contact. As a minimum one face-to-face meeting, in connection with the work plan, should take place each week for the first 16 weeks. Then the work plan is reviewed. A reassessment of risk of harm and likelihood of re-offending is carried out. A revised plan is agreed to run for another 16 weeks.

Frequency of contact may be revised for the second 4-month period of supervision, but should be at least once per fortnight. At 32 weeks a further review will take place on the same basis as before. From this point frequency of contact is outlined according to assessed risks and degree of progress on supervision objectives. It should be at no less than 4 weekly intervals. Subsequently the plan is reviewed again every 16 weeks. Minimum contact is often irrelevant as probationers can be engaged in programmes that involve attendance on a number of days per week. Of the orders being supervised on 31 March 2007 32% had additional requirements such as participation in a programme. It is unlikely that the probation officer supervising will be the same as that completing the pre sentence report. Some degrees of specialism exist within all the area teams. It is most applied within the Belfast area where there is

one specialist team for preparing pre sentence reports and three separate teams for providing programmes, working with youth and with sexual and violent offenders. Staff within these area teams have to be prepared to act as all-rounder as at times the volume of work necessitates their 'back-up' to the specialist teams in preparing pre sentence reports or running a programme etc. The overall strategy is one of separation of tasks. The rationale is quality of work.

An example is work with violent and sexual offenders. In Belfast a specialist team was created to provide the management of persons within this category. One outcome has been the establishment of a higher degree of expertise within this dedicated group of staff who have been used to share and cascade knowledge and skills to staff in the rest of the organisation and associated agencies. It has also allowed for the setting aside of the time necessary for more intensive supervision as well as networking with agency partners and community groups. A dedicated team within Belfast also carries out delivery of the menu of programmes available to a generic group of probationers and released prisoners. Training of staff to meet programme approval criteria is exclusive and expensive. Once trained it is important to use that expertise. Outside the main urban centre Greater Belfast there is a core of specialisation but the geographical distribution of clients requires a more flexible and often more generic approach.

4.3.3.2 Community service order

(CJO 1996 Article 13) is the other main community order within the community sentence range. On 31 March 2007 it was a component of 29% of the community orders being supervised. In addition to the usual requirements to be considered before a court makes a community service order it should be satisfied that provision can be made by PBNI for the offender to perform unpaid work, that the offender is a suitable person to perform such work and that he or she consents. Induction and a updating of the risk assessment are referred to specialist staff within the team. The worker is then issued with work instructions to commence within 10 days of sentence. Average work rate is set of at least 5 hours per week. The level is to be sufficient to complete the stipulated hours within 12 months. 76% were achieving the necessary work rate during 2006.

Community service work is arranged with voluntary organisations that are prepared to meet health & safety regulations, to comply with PBNI service requirements and confirm that work undertaken would not otherwise be completed by paid employees. Such organisations are also subject to an approval process. Work may be supervised by staff from the voluntary organisation (host placement) or by PBNI employees. PBNI supervisor/worker ratio should not normally exceed 1-4. The nature of the placement and the degree of oversight is determined by the risk assessment. Host placements, which have a higher satisfaction rating from offenders, constitute 44%. Wherever the placement, the community service officer is responsible for day-to-day oversight of the Order. Probation officers are required to carry out the initial assessment and any subsequent court interventions.

4.3.3.3 Combination order

(CJO 1996 Article 15) combines elements of community service and probation order into one integrated community order. Probation supervision can range from 1-3 years and community service hours from 40-100. Persons aged 16 and upwards are eligible. Reparation plus rehabilitation and reduction of likelihood of re-offending are the essential elements and aims. It is used once in every four community service orders but has proven less effective in terms of re-offending. A community service officer will take responsibility for the management of community service work placement while a probation officer, allocated to supervise the probation element, has responsibility from the management of the whole order.

4.3.3.4 Fines

On finding of guilt for an offence all courts can impose a monetary penalty providing that account is taken of the offender's financial circumstances and the seriousness of the offence. In 2003 fines constituted 66% of all sentences. Usually the court will allow time for payment. A court has had the power to assist this process through the appointment of a supervising probation officer but it has not been used. Failure to pay may result in a warrant of committal to prison being issued. Court staff and police do exercise discretion in allowing more time but the defaulter may be committed to prison without a further court hearing. Between 1997-2006²³, fine defaulters have made up 2-3% of the daily average prison population. The volume of the problem is disguised by the brief duration of their residence.

4.3.3.5 Custodial sentences²⁴

There are four kinds of custodial sentences available to the courts when sentencing adults and young offenders, i) indeterminate, ii) determinate iii) suspended iv) a determinate period of custody followed by a probation order. (A custody probation order). The court is obliged to seek a Pre Sentence Report before making such sentences unless it is of the view that it is unnecessary and gives its reasons for this. (CJO 1996 Article 21) Seriousness of offence is the threshold for custody. The length should be proportionate / commensurate with the degree of seriousness. If of a sexual or violent nature, the court is encouraged to make a sentence longer if that is necessary to protect the public from serious harm.

- Indeterminate sentence – life imprisonment for adults or sentence at Secretary of State's pleasure for under 18 year olds. Indeterminate sentences may be mandatory or discretionary. Mandatory sentence is principally reserved for the offence of murder. Higher courts have discretion to make an indeterminate sentence in respect of other offences such as manslaughter and rape. The court when sentencing must state a tariff or minimum period of custody before consideration for release on licence.

²³ NI Prison Service Annual Report 2006.

²⁴ Allen, M.J. and McAleenan, F 1998. Sentencing Law and Practice in NI, SLS (NI), Belfast – A comprehensive guide to sentencing.

- Determinate sentence – When sentencing for a statutory offence the court will be limited to a maximum period. A magistrate’s court is further limited to 2 years. A prisoner can benefit from remission for good conduct of up to half the sentence length. Release takes place without supervision but if the ex-prisoner is found guilty of a further offence before the previous actual sentence period has been completed he/she can be sent back to undergo the remitted part of the sentence.
- Suspended sentence - Having decided that the offence is serious enough to warrant a custodial sentence the court may feel that ‘exceptional circumstances’ justify suspension for a period between one and five years. There is no supervision element. The prison sentence will not be activated unless convicted of an imprisonable offence during the operational period. This is operated for 17% of disposals for indictable offences. (See Annex 1).
- Custody probation order (CJO 1996 Article 24) - A radically new type of sentence that provides the benefits of structured support with consent post-release and places the control with the court rather than a tribunal or commissioners. It reflects the need for transparency at the time of the ending of the civil conflict. When a court decides that a custodial sentence of 12 months or more is appropriate it can still reduce the sentence and substitute a probation order for the period of reduction. Because of the one-year minimum it is predominantly a sentence of the Crown Court. Nevertheless it has attained such popularity with Judges that it assumes 38% of the probation order caseload.

Prisoners sentenced to any form of custody, on arriving in any one of the establishments, will be offered service from the PBNI staff team within. First contact with probation staff in prison will be at a committal interview within the first 2 days. This is a chance to deal with any immediate issues arising from loss of freedom. All contact with probation in prison is of a voluntary nature. The prisoner is not compelled to meet with the probation officer.

Those prisoners who are liable to PBNI supervised period of licence on release – custody probation, sex offender licence and life sentence – will also be allocated a probation officer from his or her home area at an appropriate time during sentence as prescribed by standards. Assessments carried out in the community are transferred into the prison setting and updated. Probation officers in prison and prison service psychologists are providers of assessment. Probation activity is designed to fit into the process of sentence and resettlement planning as organised by the prison service. The first phase of the joint NIPS/PBNI resettlement strategy, launched in 2004, has brought better focus to the many strands of planned work and activities that take place within the three institutions. An audit has produced a much clearer picture of the composition and needs of prisoners. Seven pathways have been laid out – accommodation, employability, mental and physical health, substance abuse, finance, families and attitudes/thinking. Co-ordination of the activities of the various disciplines has improved and this is no mean feat within such complex institutions. Enthusiasm is high among the more specialist members of staff. However, resettlement is not grounded among the generic front line prison staff and there are still too many prisoners who do not receive opportunities.

Indeterminate sentenced prisoners, who do not have a release date, have high priority for the opportunities that are available. Prisoners sentenced or awaiting sentence to this category have reached 12% (and rising) of the population. An external body, the Life Sentence Review Commission, takes the decision on release. The Secretary of State for NI has appointed Commissioners who, since 2001, have statutory authority to release life sentenced prisoners while taking into account the protection of the public from harm and securing the rehabilitation of the prisoner. Decisions have been taken out of the hands of a politician and placed in a body of persons, from NI and beyond, with expertise in law, psychiatry, psychology, and treatment of offenders.

In order to provide the necessary information to the Commissioners, a separate structure has been set up within the prison as an extension of the partnership between probation and the prison service. A multi-disciplinary panel, containing relevant personnel from prison, such as psychologists and educationalists, and the key probation worker and manager, will meet on a regular basis chaired by a specialist Governor. That group oversees the assessment, planning and review for each life sentenced prisoner. Four years prior to tariff date an external probation officer will be allocated. That probation officer will be given the task of reviewing the assessment and preparing a report from the probation perspective for the Commissioners. From that review the Commissioners shape hearing the timetable. A menu of programmes and activities, which facilitate the action steps within plans, is available within the main prison. Trained staff from prison and from probation facilitates these. Constraints are imposed by the limitations of the secure establishment in which the life-sentenced population is housed and by the rising prison population. In parallel with the Prison Service, PBNI has set up a separate specialist unit to oversee its work in this field. A life sentence manager has responsibility for the work carried out by the PBNI staff, both in prison and externally. Staff, involved in report writing and supervision, is given additional training in order to work to the required NI standards that govern this area.

4.4 Post-release phase

Determinate sentenced prisoners are eligible to apply for temporary home leave during the last year of their stay. The number of days varies according to length of sentence and status within the regime. Their application should propose some purposeful activity related to their release. An assessment is prepared by a prison-based probation officer prior to a decision by the prison authorities. In the case of a prisoner who is on custody probation order an appointment is likely to be made with the home based probation officer during the leave. The prisoner remains under the authority of the prison.

When that prisoner leaves prison at the end of sentence the probation order activates and he/she will be supervised in the community as per the standards. Temporary leave for indeterminate sentence prisoners involves the commissioners as well as the prison and probation authorities. Recommendations in those cases are based on assessments compiled in the inter agency group. Assumption of responsibility is limited until the latter stages of sentence. Then a prisoner can be moved through a graduated release programme

to reach a prisoner assessment unit. At these stages he/she will be assigned a probation officer who will keep contact while in the community and still under the authority of the prison. On the release date set by the commissioners a licence is issued and authority for supervision passes to PBNI who manage the case as per standards similar to those for custody probation orders. 60% sentenced prisoners leave prison under some form of PBNI supervision. The Secretary of State can release sentenced Prisoners on special grounds. PBNI has no formal role in this process.

4.5 Care and after care outside the criminal justice system

In a period of budgetary constraint priorities have been set to determine the services to be made available to offenders who are not subject to a community order or supervised post-release licence. Those who are deemed to be a high risk of harm to others or persons who are at risk of being harmed themselves have precedence. Sexual offenders are clearly within this priority group. Services can be offered on condition that they agree a contract of work through which the risk is manageable. Supervised and supported accommodation plus participation in a relevant programme may be the conditions put forward by PBNI and its partner agencies. Any agreed plan would be subject to scheduled review.

In the final review, prior to the ending of a community order, future support needs are considered. If required, staff will attempt to arrange any support through a referral to another agency. Similarly, in the sentence planning process prior to release a prisoner not destined to be on supervision will be encouraged to create a post release package with connections to relevant home based services and to prevent homelessness on release. Voluntary agencies, dealing with substance abuse and employability in prison, offer follow up into the community.

PBNI do not allocate the resources to co-ordinate on a NI wide basis. There are significant deficits in service for offenders who have completed their sentence, particularly for those who are not high risk. Many of these have a high likelihood of committing further offences within 12 months.

5 FINANCES, REGISTRATION, EVALUATION AND OUTSIDE OPINION

5.1 Finance

The Northern Ireland Office is the primary funder of the Probation Board. PBNI also receive money from other sources. NIPS recompense for probation staff providing social welfare services in prison establishments though this money comes indirectly from NIO. PBNI does not seek payment for services provided to courts or commissioners such as reports. Normally offenders are not charged any fees. A course for persons disqualified for driving while under the influence of alcohol is the exception. In general the NIO does not stipulate how the money allocated is spent but de facto has a considerable degree of control e.g. if PBNI wished to appoint a new grade of staff, it requires Northern Ireland Office agreement to rates of pay, conditions etc. For the first 20 years of the Board's life NIO stipulated a ring-fenced amount of money which was to be spent on grant aid to voluntary and other organisations to assist in the supervision of offenders and the prevention of crime. This amounted to as much as 20% of budget in some years. However, since 2005 NIO has not set that stricture on the community development budget. It is now a matter for Probation Board as to which percentage is allocated in this manner.

Table 2
2005/2006

	Probation Services	Prison System
Total current yearly expenditure	£17m	£131m
Average number of employed staff	348	2095
Daily average number of offenders/clients dealt with	3709	1433

5.2 Accounting

Under the financial arrangements agreed with the funding department the chief management officer is designated as Accounting Officer. He reports to his Board, on a monthly basis, on expenditure against budget for the year to that date together with details of variances and pressures/easements anticipated during the rest of the year. Copies of these reports are sent to the NIO sponsoring division within central government. The financial services division of the NIO also receive monthly reports under headings set out by them. These reports go to the NIO Board where pressures/easements are noted. The six and nine month stages in the financial year are monitoring points where PBNI can look at projected spend against budget and put in a bid to the NIO for additional funding if necessary. In the same way it can also signal up an under-spend against budget.

The Northern Ireland Audit Office is responsible for the audit of the annual accounts. This task is normally contracted out to an accounting firm and that audit is reported back. The accounts are ultimately signed off by the Comptroller

and Auditor General of the National Audit Office in London. PBNI also contracts with an external company to take responsibility for the internal audit function. This company is appointed after tender action and carries out systems and value for money audits based on an agreed programme throughout the year.

5.3 Registration systems and evaluation procedures

In 2001 the Northern Ireland Social Care Council (NISCC) was established with the aims of developing codes of practice for social care workers and their employers and to set up a registration system for such workers. This had immediate implications for PBNI and for probation workers. Probation Board has required all persons appointed to probation officer posts to have social work qualifications acceptable to the Central Council for Education and Training in Social Work. In the past the employer was the only arbiter of acceptable behaviour. The new council has transformed that situation. All persons in designated social work posts such as that of probation officer are required to register. Registration obliges adherence to a Code of Practice. The employer is expected to complement that code of practice with written policies and procedures. His/her conduct, therefore, may not only be a matter for the employer but also for NISCC which can also set up proceedings to review the worker's registration.

All probation officer grades have now been registered and any new staff recruited to such posts in future will be expected to meet the requirements of registration. The registered probation staff member is required on a regular basis to show evidence of continuing professional development while PBNI must show that appropriate support in that regard is being provided.

NI standards require PBNI and its staff to maintain case records on all persons who are made subject of supervised orders. Since 2006 this has been held on a computerised data base, PIMS, devised specifically to hold personal information and reports, record of contact and collate overall information about adherence to standards, achievement levels, objectives and key performance measures. The information contained is subject to the same restrictions and definitions of confidentiality as applied in relation to paper files. (See section 6 below). Information in relation to performance against standards, service requirements, key targets and objectives are used on an ongoing basis by front line staff and management and are summarised in the Annual report.

The next phase of computerisation of systems is the connection to a data exchange system²⁵ incorporating the main criminal justice agencies. This is a rolling programme to speed up the administration of justice and to assist management through the provision of accurate and reliable statistics. Each organisation in the collectives continues to own their own data. When one wishes to share with another it can do so electronically and safely. The first stage has seen information sharing between the police, public prosecution and forensic science. The first benefit for probation and defendants has been the availability of criminal records securely and in time to use in preparation of pre-sentence reports.

²⁵ The Causeway Programme.

PBNI has a very limited in-house research resource. It is pre-occupied with measuring against targets as above. It relies on the availability of research carried out by NIO to examine longer-term effectiveness. In 2007 NIO has made available the two-year reconviction study²⁶ for adults given community based disposals or released from custody in 2003. Those released from immediate custody had a 51% reconviction rate compared to 38% for custody probation, probation and community service orders. This community order figure represents an almost 17% reduction on the predicted figure.

5.4 Societal support and client's views

In 2005 PBNI commissioned consumer research²⁷ into the views of persons subject to statutory supervision. Key objectives were to establish a range of indicators for measurement of service users' experience and to produce a baseline of those experiences. 142 offenders covering a range of orders were involved. Satisfaction levels with probation officers and the service delivered were reported as high. The highest rating was reserved for probation officers. 63% respondents perceived the experience as exceeding any expectations that they had in the beginning. The researchers remarked that one could normally expect lower satisfaction ratings where consumers feel an element of compulsion. This finding may underline the significance of consent that is still an element in these orders. There were deficits in recall or awareness of assessments, supervision plan and confidentiality that will be a test for the impact of the updated standards package that has been introduced in the meantime. For comparison some questions core questions were extracted from previous Home Office research. Responses indicated that PBNI users were more positive than their English counterparts. This report reaffirms previous impressions of PBNI as exercising social control with respect.

NIO has also organised feedback from Judges and Magistrates as to their views of the service they receive from PBNI. That has also reported high satisfaction levels. On an annual basis the government organises a citizen feedback survey but that has not recently has questions in regard to probation. Informal feedback depicts a service that is not well known or understood.

6 PROBATION CLIENTS' RIGHTS

In day to day service terms anyone who is not satisfied with the manner in which he or she has been dealt with by PBNI staff can make a complaint to the manager or the complaints officer. The complainant is kept informed of the process of investigation and of the outcome plus any action that is being taken as a result. If remaining dissatisfied the subject can make a complaint to the NI Ombudsman. This is a free service from an appointed person independent of government and the public bodies. In his last Report²⁸ the Ombudsman does not record

²⁶ Statistics and Research Agency 2007 Reconviction in NI, Research bulletin 3/2007.

²⁷ PriceWaterhouseCoopers, 2005, PBNI Service User Evaluation.

²⁸ NI Ombudsman, 2005/6 Annual Report, The Stationary Office, Belfast.

processing any complaints in relation to PBNI. There is a specific Ombudsman for Prisons but he has no jurisdiction over decisions taken by PBNI staff that work in custodial institutions.

A Probation Officer cannot claim legal immunity from answering questions in a court setting. He/she is a compellable witness. There can be no guarantee that information divulged to a probation officer in the course of their duties can be kept confidential. However, PBNI gives commitments about how personal information obtained in the course of carrying out duties and responsibilities will be safeguarded. Persons who have been receivers of service from PBNI can have access to their personal information and some other types of information held.

Personal information is covered by data protection legislation (Data Protection Act 1998). On written request a person can receive a copy of any personal information held and details about the purposes for which PBNI uses the information. Having viewed the information the receiver can ask that incorrect data be corrected. Access to other types of information held is possible. As the request has to be provided in writing and proof of identity offered, staff are instructed to assist applicants with the process. A fee is not normally charged. PBNI allows itself 40 calendar days to make personal information available. In an informal sense the record of contact and the content of reports are made available to persons receiving such services from probation but they would not usually be given a copy.

A leaflet "Your Right to Know" is available. There is also a leaflet on how personal information is handled. PBNI commits to not sharing personal information outside the organisation without consent unless the law requires it, or the law permits and PBNI believes it is important to do so.

7 NEW DEVELOPMENTS

On 8 May a new devolved regional government was established. Nevertheless, criminal justice remains a deferred power to the Secretary of State for NI through the UK government. If the new executive lays stable foundations criminal justice will be transferred in 2008. That would result in a Department of Justice with a Minister appointed from one of the local parties. For the first time in 35 years local political considerations will have greater influence on policy formation. There have been some moments in the history of the last 120 years when policy makers have shaped responses more in keeping with the local situation, culture and history, e.g. legislation following the Black Report, introduction of custody probation orders, the mainstreaming of Restorative Justice in youth courts²⁹, and the transfer of powers to the life sentence review commissioners. Mostly it has been a case of follow England – at a distance. The new arrangements will offer more potential for difference.

The Criminal Justice Review in Northern Ireland had proposed that the non-departmental status of the Probation Board should be changed and that it should

²⁹ Justice (NI) Act 2002.

become a Next-Steps Agency³⁰ (like Prison Service) within the Northern Ireland Office at a time when the organisation of the police was being changed towards a more community-based structure. PBNI was able to generate considerable opposition to these plans. A political decision was postponed to NI Executive after the transfer of criminal justice matters. Whatever new structure is agreed PBNI is likely to be pulled into a much closer relationship with government than the relatively autonomous one it has managed to maintain for the past 25 years.

7.1 Risk and dangerousness in public protection

Issues of risk and dangerousness and public protection have so far, dominated the new century. A high profile case³¹ of a person who committed a murder while under post custodial supervision by PBNI has highlighted these concerns and brought intensive scrutiny upon the agency. The offender was subject to multi-agency risk management and the agreed PBNI standards had been in operation. One outcome has been a government commitment to bring forward legal changes following consultation. PBNI has reinforced its determination to improve its capacity to assess and manage such high-risk individuals. Predictions of future risk and dangerousness bring with them expectations that action will be taken to prevent the dreaded actions. The partner agencies have highlighted the areas in which greater powers and resources are needed if they are to manage more safely. However, new powers may raise expectation about levels of protection that can't be achieved.

The legal proposals are for two new sentences for the more serious violent and sex offences. The first is an indeterminate sentence where there is a serious risk of harm from further offences. The second is for an extended prison sentence for commission of a sexual or violent offence, which carries a maximum penalty of less than ten years. Release will be at the recommendation of a new Parole Board. In both cases the release will be accompanied by an extended period of supervised licence of up to ten years.

A new form of custody probation order is suggested for sentences of 12 months or under. The consent element will be removed and an executive recall unit attached to the department of justice and not the original court will deal with non-compliance with the order. For sentences less than 6 months the court will have the option to decide that supervision is not considered necessary and to allow the offender to be released at the half point. In addition to the creation of a new parole board and an executive recall unit the authority of the multi-agency management of sex offenders' framework may be extended to encompass violent offenders.

7.2 Forensic services

Such a transfer may be assisted by the possible development of new services directed at the management of persons suffering from mental illness or

³⁰ Next Steps is a Government initiative begun in 1988 to create Executive Agencies to deliver public services.

³¹ In 2006 Trevor Hamilton was found guilty of murder.

personality disorder 'who engage in dangerous, persistently challenging or aggressive behaviour'. Mental health services have been comparatively underfunded. Moreover, many within this category have not received any service as they were defined as untreatable thus leaving criminal justice workers without support in dealing with them. There are proposals for the establishment of forensic services teams³² who would work jointly with criminal justice agencies. In the absence of such a service implementation of the above framework would be much more problematic. It is not clear at this stage whether sufficient money will be found within the mental health budget.

7.4 Other sentencing court options

Electronic monitoring could be authorised by legislation to be used for persons remanded in custody for release in the community as bail conditions and for sentenced prisoners as a condition of community supervision. A Bail Information Scheme could facilitate provision of information for bail hearings. Unpaid community work could be substituted for imprisonment in relation to fine default. Drug Testing and Treatment Orders, already authorised by legislation but not available, could be activated. (CJO (1996) Schedule 1 Article 5)

7.5 Implications for probation

The new sentences would implement the statutory supervisory element of the recommendation of the Criminal justice review that PBNI should have a recognised function to provide after care to discharged prisoners and that it should be adequately resourced to do so. It would also mean expanded responsibilities at the pre-trial and the enforcement of court orders. A corollary would be reduction in commitment and funding of community safety and social crime prevention. Nevertheless, a 50% increase in budget could be the result. The organisation would strain to integrate this degree of expansion. Assessment and case management of high-risk offenders could benefit from more of the current staffing skills but after care of the shorter sentenced, persistent and younger offenders suggest other solutions. These could be in tune with the innovative interventions in communities that were a trademark of PBNI in the 1980s and 1990s. One option would be to increase the proportion of the budget allocated to grant aid and purchase many of the additional services. Commissioning could be a new model for doing so but this kind of competitive tendering process carries the danger of excluding the smaller community group in favour of the larger voluntary and private. PBNI has set itself an objective of introducing restorative methods to work with adult offenders. The dedicated victim information unit (Section 2.4 above) offers potential for leading on a project linked to such a model of reintegration into community of some violent offenders.

7.6 Implications for resettlement strategy

³² Department of Health and Personal Social Services, 2006, The Bamford Review of Mental Health and Learning Disability (NI) – Forensic Services.

Such legislative changes would further highlight the need for increasing co-operation between Probation and Prison. CJ Review rejected integration of the two services in favour of closer co-operation. The accompanying research papers³³ pointed out that the values of the NI society and CJ system are not compatible with those in countries where such a marriage seems to be effective.

The second phase of the joint resettlement strategy (section 4.3 above) will be critical. It seems likely that it will have to be robust enough to cope with a further rise in the prison population and in the proportion of prisoners who are serving long term and indeterminate periods. Higher numbers are likely to reinforce the government intention to reduce the cost per prisoner place that is currently the highest in the UK at £86,000. Implementation of the recommendations that will emerge from the 2007 inspection³⁴ will assist. The roll out of the strategy will be more balanced when PBNI has more resources to invest in the post release packages. However success will be limited if Prison Service and PBNI do not generate champions among and get sufficient backing from their non criminal justice partners on the multi-agency resettlement steering group and from the key stakeholders in society such as employers. If PBNI moves closer to NIPS and other criminal justice agencies can it create opportunities for offenders to get closer to their communities? Can it persuade others to share the social control while providing pathways for social functioning?

7.7 Research and effectiveness

These investments in probation would inevitably bring more government effectiveness targets. Political oversight is broadening and accountability is becoming more prescribed. There is already a tendency for effectiveness to be narrowed to re-offending rates. Fuller research results are not getting the same attention except from the few selected staff that are devising the specialist change programmes. Yet, it was a broad evidence based approach that brought about the advances of the last 15 years and is the most obvious key to future progress. In the debate that is to come about how much latitude the government will permit the 'professionals' to influence the 'what' and to shape the 'how' an authoritative and profound knowledge of what works is likely to be essential.

8 IMPORTANT PUBLICATIONS

Irish Probation Journal, a joint publication by the Probation Board for Northern Ireland and the Republic of Ireland Probation and Welfare Service. It is a peer-reviewed publication with articles on practice and effectiveness in probation and the wider justice arena.

Northern Ireland Office, 1979, *Legislation and Services for Children and Young Persons in Northern Ireland, the Black Report*. This Committee of civil servants

³³ Criminal Justice Review (NI), 2000, Blair, C, Prisons and Probation, Research Paper no 6.

³⁴ Criminal Justice Inspection (NI) 2007, Prisoner Resettlement Strategy. Report not published at time of writing.

under the chairmanship of Sir Harold Black looked at the structure of personal social services and recommended that probation should remain a separate service specialising in dealing with offenders and serving the criminal courts. In order to enjoy fully the confidence of the community it further proposed that a board drawn from a wide spectrum of that community should administer the service. It was a visionary document from the midst of conflict.

Northern Ireland Office, 2000, *Report of the Criminal Justice Review Group*. A fundamental review of the criminal justice system arising from the Belfast Agreement. It studies the principles and values that should underpin the system in a post conflict era and looks at new approaches such as restorative justice. Research papers and reviews of international best practice accompany it.

B. Gadd, 1996, *Probation in N Ireland, in Working with Offenders* McIvor G (ed) Jessica Kingsley. London. An exposition by a former Chief Probation Officer in NI on the distinctive features of PBNI in working close to community and retaining credibility in the court.

K. McEvoy, 2001, *Paramilitary Imprisonment in NI: Resistance, Management and Release*, Oxford University Press, Oxford. It examines the issues around imprisonment during the conflict but it has wider relevance in terms of the nature of regimes and on the impact of custody on society.

T. Chapman and M. Hough, 1998, *Evidence Based Practice: A Guide to Effective Practice*, H M Inspectorate of Probation, London. An extremely useable guide to best practice that remains relevant.

Tim Chapman is a former senior manager in PBNI and Hough a prolific researcher. The manual reflects the NI perspective while retaining general applicability.

R. Statham and P. Whitehead, 1992, *Managing the Probation Service*, Longman, Essex, England.

A selection of authors outlines the evolution of management in probation services and issues in corporate management, motivation of staff and managing partnerships.

L. Gelsthorpe and R. Morgan (ed), 2007, *Handbook of Probation*, Willan, Devon, England.

A range of contributors tells the story of probation services in the UK and look at practice and prospects at a time of fundamental change.

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ANNEX 1

Criminal Statistics

1. Offender Statistics

NIO, A Commentary on NI Crime Statistics 2004, Statistics and Research Branch

Table 1.1

TABLE 5.9: All court disposals (percentages) by offence classification 2003

CRIME CATEGORY	Immediate Custody	Suspended Custody	Supervision in the Community	Fine	Conditional Discharge	Other	TOTAL
Violence against the person	19	18	16	33	10	4	100
Sexual offences	52	22	19	5	3	0	100
Burglary	48	14	25	4	8	0	100
Robbery	76	13	10	0	1	0	100
Theft	21	17	21	24	16	1	100
Fraud and forgery	10	26	15	38	11	1	100
Criminal damage	20	14	24	18	22	3	100
Offences against the state	16	26	24	20	12	3	100
Drug offences	16	12	11	51	10	1	100
Other offences	24	24	14	34	3	0	100
TOTAL INDICTABLE OFFENCES⁽¹⁾	23	17	19	25	13	2	100
SUMMARY⁽²⁾	5	9	8	35	12	31	100
MOTORING⁽³⁾	3	3	2	90	2	2	100
ALL OFFENCES	8	7	7	66	6	6	100

- Notes: (1) Includes indictable-only motoring offences.
 (2) Excluding motoring offences.
 (3) Includes triable-either-way and summary motoring offences.
 (4) Percentage components may not add to 100 due to rounding.

Table 1.2: All court disposals (numbers and percentages) by offence classification 2004¹

	Immediate custody	Suspended custody	Supervision in the Community	Fine	Conditional discharge	Youth Conference Order ²	Other	Total
Violence against the person	313	436	302	692	208	4	57	2,012
Sexual offences	71	28	30	3	5	0	0	137
Burglary	272	129	143	26	45	1	4	620
Robbery	126	16	13	0	3	0	1	159
Theft	322	344	395	434	303	7	14	1,819
Fraud and forgery	53	90	43	124	48	0	1	359
Criminal damage	240	146	242	223	211	5	27	1,094
Offences against the state	51	51	52	63	30	0	5	252
Drug offences	84	96	78	286	45	1	0	590
Other offences	16	6	1	18	5	0	0	46
Total indictable offences ³	1,548	1,342	1,299	1,869	903	18	109	7,088
Summary offences ⁴	197	285	288	1,483	425	3	941	3,622
Motoring offences ⁵	507	548	397	15,276	241	0	246	17,215

All offences	2,252	2,175	1,984	18,628	1,569	21	1,296	27,925
Percentages								
Violence against the person	16	22	15	34	10	0	3	100
Sexual offences	52	20	22	2	4	0	0	100
Burglary	44	21	23	4	7	0	1	100
Robbery	79	10	8	0	2	0	1	100
Theft	18	19	22	24	17	0	1	100
Fraud and forgery	15	25	12	35	13	0	0	100
Criminal damage	22	13	22	20	19	0	2	100
Offences against the state	20	20	21	25	12	0	2	100
Drug offences	14	16	13	48	8	0	0	100
Other offences	35	13	2	39	11	0	0	100
Total indictable offences	22	19	18	26	13	0	2	100
Summary offences	5	8	8	41	12	0	26	100
Motoring offences	3	3	2	89	1	0	1	100
All offences	8	8	7	67	6	0	5	100

1. Data are collated on the principal offence rule; thus only the most serious offence with which an offender is charged is included.
2. Refers to the number of youth conference orders completed in the year.
3. Includes indictable-only motoring offences.
4. Excludes motoring offences.
5. Includes indictable-either-way and summary motoring offences.
6. Percentage components may not add to 100 due to rounding.

Table 1.3: All court disposals (numbers and percentages) by offence classification 2005¹

	Immediate custody	Suspended custody	Supervision in the Community	Fine	Conditional discharge	Youth Conference Order ²	Other	Total
Violence against the person	335	384	277	761	155	14	83	2,009
Sexual offences	64	24	31	10	4	0	3	136
Burglary	265	103	138	15	30	5	1	557
Robbery	118	11	3	0	1	0	2	135
Theft	288	345	387	495	270	27	7	1,819
Fraud and forgery	39	81	50	122	37	0	1	330
Criminal damage	210	171	235	278	219	16	39	1,168
Offences against the state	42	57	45	76	37	2	11	270
Drug offences	83	83	75	333	33	1	4	612
Other offences	23	11	5	42	12	0	17	110

Total indictable offences ³	1,467	1,270	1,246	2,132	798	65	168	7,146
Summary offences ⁴	216	352	318	1,593	328	9	759	3,575
Motoring offences ⁵	428	642	456	13,563	228	0	217	15,534
All offences	2,111	2,264	2,020	17,288	1,354	74	1,144	26,255
Percentages								
Violence against the person	17	19	14	38	8	1	4	100
Sexual offences	47	18	23	7	3	0	2	100
Burglary	48	18	25	3	5	1	0	100
Robbery	87	8	2	0	1	0	1	100
Theft	16	19	21	27	15	1	0	100
Fraud and forgery	12	25	15	37	11	0	0	100
Criminal damage	18	15	20	24	19	1	3	100
Offences against the state	16	21	17	28	14	1	4	100
Drug offences	14	14	12	54	5	0	1	100
Other offences	21	10	5	38	11	0	15	100
Total indictable offences	21	18	17	30	11	1	2	100

Summary offences	6	10	9	45	9	0	21	100
Motoring offences	3	4	3	87	1	0	1	100
All offences	8	9	8	66	5	0	4	100

1. Data are collated on the principal offence rule; thus only the most serious offence with which an offender is charged is included.
2. Refers to the number of youth conference orders completed in the year.
3. Includes indictable-only motoring offences.
4. Excludes motoring offences.
5. Includes indictable either-way and summary motoring offences.
6. Percentage components may not add to 100 due to rounding.

2. Probation population statistics

Table 2.1

	2005	2006	2007
Probation Orders	1,253	1,299	1381
Community Service Order	804	942	727
Combination Order	176	234	227
Custody Probation Order	803	986	997
Sex Offender Licence	72	67	72
Life Licence	165	160	185
Juvenile Justice Centre Order	20	21	19
TOTAL	3,293	3,709	3,608

Report Type Completed 2006/7

Table 2.2

Report Type	Number	Percent
Missing Report Type	132	1.3%
Addendum Report	1202	12.1%
Breach Report	512	5.2%
Explanatory Letter to Court (C1)	633	6.4%
Explanatory Letter to Court (C2)	1044	10.5%
Report For The Life Sentence Commissioners	5	0.1%
Progress Report To The Life Sentence Unit	20	0.2%
PSR	6209	62.5%
Report Generic	109	1.1%
Revocation Report	63	0.6%
Total	9929	100

3. Staffing statistics April 2007

Table 3.1

Probation Management		Administrative Staff	
Managers	35	Management	1
Probation Officers	144	Administrative	104
Probation Community Officer	2	Agency/Temporary staff	3
Probation Service Officers	53	Inward secondments/Staff on loan	13
Sessional Supervisors	21		

Overall staff numbers remained similar to the previous year. There was a slight increase in service staff with a consequent decrease in administrative staff.

Staff Turnover: During the 2006/7 year 33 established staff left PBNI employment. That represents 8.8% turnover. Those leaving on a voluntary basis, i.e. excluding retirement, amounted to 5.9% of employees.

Sick Absence: During 2005 the overall sick absence rate was 7.9%. When pregnancy/maternity related and disability related absences are excluded the rate is 4.5%.

