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Inspecting ‘Transforming Rehabilitation’: The pitfalls of an austerity managerialist approach to offender supervision

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Introduction

This chapter is about the recent partial privatisation of the probation service in England and Wales with an analysis of the government’s inspections of the privatisation endeavour so far. First, it is necessary to provide a brief history of both the changing nature of the probation service and the philosophy of rehabilitation to understand the conditions in which the probation service became partially privatised in 2015 (for a much more comprehensive history, see Burke and Collett, 2015). The following section tracks the rise and fall of both rehabilitation, as a rationale for addressing offending behaviour, and the probation service, as an organisation that addresses offending behaviour. Since the 1970s, rehabilitation has not been the focus of government ideologies, policies or practices. Instead, a much more punitive (and expensive) stance to tackling crime has been adopted, the latter which has been paradoxical with, firstly, Thatcher’s and then subsequent governments’ quests to reduce public expenditure. It is within this political and socio-economic backdrop that the focus of the chapter is on a critical discourse analysis of the government’s inspections carried-out so far on the privatised Community Rehabilitation Companies (CRCs) and the state-controlled National Probation Service (NPS). The question asked of the analysis is: how have the organisations performed? The chapter begins with the history of rehabilitation and the probation service, followed by the methodology, an analysis and discussion of the findings, concluding with the implications of the research.

The Politics of the Probation Service and Rehabilitation

In the Beginning – the Needy Offender: 1876 – 1960s

Raynor and Robinson (2009:5) state that the history of the probation service begins in 1876 with the Church of England Temperance Society’s decision to create a missionary service because ‘active and caring human contact was necessary to persuade sinners and unfortunates to reform’. The focus was on individuals’ spiritual welfare and saving their souls to produce a respectable and abstinent citizen. Such missionary work was understood as the natural

remit of Christians for whom charitable work was important. Governments, on the other hand, focused on securing the conditions for creating wealth through economic development. However, thirty years later, the Probation of Offenders Act 1907, which provided the foundations for the probation service, gave probation officers a statutory role ‘to advise, assist and befriend’ offenders on probation orders (Whitehead and Statham, 2006:27). By the mid-20th Century, the early work of the missionaries to redeem offenders by saving their souls (Raynor and Robinson, 2009) was supplanted by the need for probation officers to normalise offenders, ‘straighten out characters and to reform the personality of their clients in accordance with the requirements of ‘good citizenship’’ (Garland, 1985:238). During this time, in the mid-20th Century, governments were increasingly intervening into the social and economic lives of citizens, and ‘citizens had learned to work together’ for the common good, increasingly expecting governments to develop answers to social problems (Raynor and Robinson, 2009:6).

Thus rehabilitation was viewed as ‘state-obligated’ – offenders had the right to be offered opportunities for reintegration into society as law-abiding and useful citizens (Rottman, 1990 cited in Raynor and Robinson, 2009:12). As such, Burke and Collett (2015) argue that offenders must have access to personal, social and economic resources; offered in a professional relationship where there is a belief and commitment to offender change; and recognition that rehabilitating offenders may be a long process. This is what Deering and Feilzer (2015:2) defined as the ‘probation ideal’ – the purpose and values of probation, however they have been characterised as ‘moral arguments about what society ought to do’, rather than what society can actually achieve (Raynor and Robinson, 2009:5). They are symbolic gestures, of accepting, allowing and re-instating a law-abiding citizen as a member of a community (Robinson and Crow, 2009). Contemporarily, in such communitarian justifications, rehabilitation is seen as more than ‘simply as meeting offenders’ needs or correcting their deficits, but as harnessing and developing their strengths and assets’ (Raynor and Robinson, 2009:13). This ‘strengths-based’ approach, found useful to help offenders desist from crime (McNeill, Farrall, Lightowler and Maruna, 2012), justifies rehabilitation on the basis of the contribution the rehabilitated offender can make to the community (Raynor and Robinson, 2009).

However, the post-war building of communities and economic growth did not eradicate crime. Psychological and sociological positivistic theories gained prominence to explain the

persistence of crime (Hudson, 1987). At a time when the government was nationalising major industries and utilities (Mair and Burke, 2012), prisons evolved as sites of treatment and sentences of probation were common. Much value was placed in casework, psychotherapy and counselling (Brody, 1976), and a more therapeutic or treatment approach to rehabilitation was adopted, which addressed so called personality deficits, such as poor mental health, substance use, anger and aggression (Brooks, 2012). The role of psychology in explaining the causes of crime was overriding (Mair and Burke, 2012), and interventions addressed individual pathology as the cause of crime rather than addressing the social causes of crime (Raynor and Robinson, 2009).

The 'New Right' and the Rational Offender: 1970 - 2000

Whilst rehabilitation reached its hey-day during the 1960s in England and Wales (Burke, 2012), by the mid-1970s, Britain was in economic, social and political turmoil and crime continued to rise (Mair and Burke, 2012). Left-wing critics questioned the role of the state to intervene so intrusively into the lives of individuals and right-wing critics argued that rehabilitation was a soft approach to crime and punishment (Burke, 2012; Hudson, 1987). The emerging political so-called 'new right' wanted to reduce public expenditure. They also 'rediscovered' the rational actor – offenders chose to commit crime out of free will (Burke, 2012). This individual focus on the responsibility of the offender for crime is the result of an individualistic culture of blame for one's actions, a neo-liberal economy and withdrawal of state services. For these reasons, neo-liberal states are more punitive imprisoning higher proportions of their populations, to censure them and hold them accountable for their actions, compared to other types of political economies, such as social democratic states (e.g., Cavadino and Dignan, 2006). These latter states are more inclusionary providing protection for citizens against a range of misfortunes, stemming from economic, social, and physical factors (ibid, 2006). They also tend to acknowledge the structural causes of crime, for example, Cavadino and Dignan (2006) argue that failure to provide for individuals who are adversely affected by unregulated market economies is likely to result in more crime.

Yet, there were growing concerns over the lack of an evidence-base justifying using rehabilitation to reduce crime (Brody, 1976). This lack of an evidence-base, together with left and right-wing arguments about civil liberties and harsher punishments, respectively, and the view that offenders choose to commit crime, led to the demise of rehabilitation as a form of therapy and treatment to reduce crime (Hudson, 1987), and arguably began the demise of

the 'probation ideal' (see Deering and Feilzer, 2015). During the 1980s, Conservative governments of the 'new right' aimed to shrink the state and public sector. The Financial Management Initiative, began the quest in 1982, to deliver efficient and effective public services at low cost (Fowles, 1990; Worrall and Hoy, 2005) and the probation service was made to demonstrate its accountability and its cost effectiveness (Burnett and Roberts, 2004). The government increased its control over individual probation services by introducing *National Standards* in 1989 and the *Criminal Justice Act 1991* aimed at standardising practice and toughening-up the view of the organisation, respectively (Hedderman and Hough, 2004; Worrall and Hoy, 2005). Underlying the Act were economic concerns: to reduce spending in prisons (Rex, 1998).

During the early 1990s, then, partnership initiatives between the probation service and the voluntary sector aimed at rehabilitating offenders grew to address the growing gaps in probation services (Dominey, 2012). Governments promoted the voluntary sector as being able to provide more flexible services 'closer to the needs of local communities' (Burke and Collett, 2015:124). Indeed, the early 1990s saw a 'renewed commitment to rehabilitative work with offenders' (Burnett and Roberts, 2005:3), driven largely by academics in the field and the probation service being influenced by the publication of research reviews suggesting that interventions with offenders worked to reduce re-offending. This is best exemplified in what has become known as the 'what works' debate. It was implemented in the late 1990s as the effective practice initiative (Robinson, 2001), under the then New Labour government, (Spencer and Deakin, 2004). This initiative set out a number of best practice guidelines in the supervision of offenders, including offender assessment and management, and delivery of programmes (Chapman and Hough, 1998). However, Spencer and Deakin (2004) argue that the 'what works' agenda and its related policies and practices also aimed to reduce expenditure on the prison and offender management.

During the early 1990s, also, debates, fuelled in part by the rising prison population, continued about whether crime could be prevented (Worrall and Hoy, 2005). Feeley and Simon (2003), writing from an American context in the early 1990s, examine the emergence of a 'new penology': a managerial perspective to deal with 'the increased demands for

rationality and accountability coming from the courts and the political system' (Jacobs, 1977 cited in Feeley and Simon, 2003:435). It was argued that the 'new penology' did not seek to eliminate crime but, through community sentences (which are cheaper, shorter and less intrusive) acting as mechanisms of control, to manage offenders, according to risk profiles. Probation orders thus became part of 'the continuum of control for more efficient risk management' (Feeley and Simon, 2003:439). Prisons, which are more expensive, seek longer-term control to manage high-risk offenders. Central to this discourse, then, is a managerialist approach of allocating scant resources to the most risky offenders (Feeley and Simon, 2003). Teague (2016) argues this quest to allocate resources efficiently to save public money, has been justified to change the nature of the probation service in England and Wales. As such, the rhetoric of 'what works' was about a 'new rehabilitation' (Robinson, 1999:430; 2002) where interventions are 'increasingly inscribed in a framework of risk rather than a framework of welfare' of the offender (Garland, 2001:176). Perpetrator programmes are used to 'treat' offenders and are deemed successful in so far as they protect the public, reduce risk, and are more cost-effective than other punishments. Rehabilitation is thus a way to manage risk (Garland, 1997; 2001; Robinson, 1999) rather than normalise the offender (Feeley and Simon, 2003). Additionally, rehabilitation is reconfigured as being socially useful to protect the public (Burke and Collett, 2015; Robinson, 2008): 'it is future victims who are now 'rescued' by rehabilitative work, rather than the offenders themselves' (Garland, 2001:176). 'Notions of welfare and care' (Robinson, 2008:436) of offenders have disappeared to be replaced with rhetoric about public protection (Worrall and Hoy, 2005).

The New Millennium

At the turn of the century, central governmental control increased, as the probation service became a national service badged as a tough law enforcement organisation. In keeping with this image, probation areas were incentivised to enforce the orders of the court (NPS, 2001), largely around offender attendance at probation and behavioural compliance with their court order (Robinson, 2014), for example, 40 per cent of their budget is allocated on this premise. Areas that fall short of the minimum *National Standards* risk losing money from their centrally financed budgets (NPS, 2001). This public protection rhetoric facilitates a vision of a legitimate criminal justice organisation that is politically and publicly accountable (Robinson and McNeill, 2004) yet enforcing orders has unintended consequences (Robinson,

2014). Desistance from offending, i.e., offenders ‘going straight’ (Maruna, 1997) and offender compliance are compromised when community punishments are harsh (Burke and Collett, 2015). Raynor and Robinson (2009) argue that individuals are more likely to comply with the law if they view the administration and enforcement of it as just, fair, with a respect for rights, and experience a preparedness to be listened to and helped when needed. Similarly, Dominey (2016) found it was the care and interest given by supervisors and other keyworkers, which low or medium risk offenders considered the important part of the community sentence. Irwin-Rogers’ (2016) ethnographic research of Approved Premises, support these arguments, too. He found that building quality relationships between supervisors and licencees are best achieved when supervisors treat licencees with dignity, listen to them, and provide them with timely and accurate information. These strategies are likely to lead to important outcomes, such as gaining suitable accommodation and improving the licencee’s relationships with their friends and family. Building personal relationships with offenders then is fundamental to facilitate a process of personal change (Canton, 2012) that includes focusing on key factors that can help offenders desist from offending (see Farrall, 2002).

The Privatisation Years: 2013 - 2017

Since the rise of the ‘new right’, there has been an increasing political consensus that privatisation and competition are the best ways to increase efficiency (Burke and Collett, 2015). In 2013, Nick Clegg’s announcement that ‘the coalition government is driving a rehabilitation revolution’ in the way offenders are managed illustrates this consensus (Clegg, 2013:unpaginated):

The majority of community-based offender services will be subject to competition. [...]. Providers will be commissioned to deliver community orders and licence requirements, and will be incentivised to reduce reoffending. They will be paid by results according to achieving reductions in reconviction rates. [...] (Ministry of Justice, 2013:10-11).

These new providers are known as Community Rehabilitation Companies (CRCs) and there are 21 of them in England and Wales owned by eight ‘profit-driven organisations’

(McDermott, 2016:194), as of 1st February 2015 (Strickland, 2016). The NPS retains responsibility for supervising high-risk offenders (National Audit Office, 2014:24), (approximately 20% of supervisees in the community), whereas the CRCs supervise the rest (National Audit Office, 2016), who are assessed as low and medium risk offenders. The latter are sourced-out to the competitive market of the CRCs and the ensuing ‘supply chain’ (National Audit Office, 2014:28), for example, CRCs subcontract work to other organisations (Strickland, 2016). The CRCs receive funding in two-parts: i) a fee for some services, such as delivering the sentence of the court – the funds will depend on the number of offenders being supervised on court orders; and ii) ‘payment by results [PbR] for achieving statistically significant reductions in re-offending’ (Strickland, 2016:3). The latter has been termed as ‘additional income’ (HM Inspectorate of Probation, 2016a:12). The first re-offending data was anticipated from October 2017 (Criminal Justice Joint Inspection, 2017), but it was not available at the time of writing.

Methodology

Rushton and Donovan (page no) write in the introduction to this book, ‘given that organisations – particularly those of private contractors – have to offer value for money, and will have made promises on winning the contract, the delivery of the service will be under continual and detailed scrutiny.’ Yet the market and applying PbR in criminal justice terms is complex and untested (Burke and Collett, 2015). For these reasons, this chapter analyses the government’s inspections carried-out so far on the privatisation of the probation service.

There are seven NPS divisions: London, Midlands, North East, North West, South East, South West and Central, and Wales; and 21 CRC areas (GOV.UK, 2017). HM Inspectorate of Probation is responsible for inspecting both the CRCs and the NPS and the quality of the work they provide. At the time of writing, there have been twelve government inspections of ‘probation’ work done by the NPS and the CRCs, as table 1 shows.

NPS and CRCs	Date Published
York and North Yorkshire	August 2016
Durham	August 2016
Derbyshire	September 2016
Kent	October 2016
North London	December 2016
Staffordshire and Stoke	January 2017
Greater Manchester	February 2017
Northamptonshire	April 2017
Gwent	April 2017
Suffolk	June 2017
South Yorkshire	June 2017
Gloucestershire	August 2017

Table 1 NPS and CRCs Inspected to date

Many of the CRC areas are left uninspected, at the time of writing. Most of the divisions of the NPS have been inspected with the exception of the South West.

Critical discourse analysis (CDA) was the approach used to analyse the Inspections. As van Dijk (1995:18, original emphasis) states ‘CDA specifically focuses on the strategies of *manipulation, legitimation, the manufacture of consent* and other discursive ways to influence the minds (and indirectly the actions) of people in the interest of the powerful’. CDA thus implies an oppositional and critical stance against ‘*the powerful and the elites*’ (van Dijk, 1995:18, original emphasis). CDA is set against the backdrop of ‘theorising about the political or social nature of the world in which the utterance [text] refers’ (Antaki, 2008:436). Hence, the purpose of the (brief) history of the changing nature of rehabilitation and the probation service at the beginning of this chapter to outline the theoretical and socio-political backdrop in which to situate the analysis of the inspections. It is important to use CDA to analyse the government’s probation inspections because dominant social groups may exercise control over such texts, driven by their own interests. This elite control over important and influential institutional and/or public discourse ensures such discourses are sustained and reproduced, thereby upholding the social and institutional power of the elites. This illustration of power and control might be found in the ‘setting of the agenda’ (van Dijk., 1995:21). For example, the HM Inspectorate of Probation (2016b:48) aims ‘to report on whether reoffending is reduced, the public is protected from harm, individuals abide by the sentence’, thus providing three key outcome measures. As such, the agenda seems set for the assessment of:

- enforcement by implementing orders of the court;
- risk assessment/management to protect the public; and
- rehabilitation to reduce re-offending – the less dominant agenda of the government post the 1960s.

These areas should not be seen as mutually exclusive as they often overlap, but the inspections have enabled them as exclusive categories for assessment. The analysis assesses both the NPS and the CRCs along these dimensions, identifying key enablers and barriers in the inspections that have led to the inspectorate’s branding of each of the three key outcome measures as good, acceptable, poor, and so on. Unfortunately, the first two inspections on York and North Yorkshire, and on Durham, did not use any quantifiable measure of success when assessing the three outcome measures, and are therefore omitted from the analysis. Standard quantifiable measures need to be consistently applied to aid comparisons between areas, organisations, and over time. In analysing barriers to effective ‘probation’ work with offenders, who and what is being held accountable for these are explicated. For CDA, it is important to examine texts because the less powerful may be restricted in their use of discourse (van Dijk, 1995). That said, the inspectors spoke with service users, partners, key staff and managers to construct their inspection reports (see for example HM Inspectorate of Probation, 2016a).

van Dijk (2002 cited in Antaki, 2008:444) writes ‘articles should provide a detailed, systematic and theoretically based analysis...it is insufficient to merely quote, summarise or paraphrase such discourse’. As such, all 12 HM Inspectorate of Probation inspections, detailed above, were imported into NVivo, a computer assisted data analysis software, to analyse the data. The basis of Strauss’ and Corbin’s (1998) progressive coding framework of open, axial and selective coding was borrowed to organise categories. This is so that findings can be backed-up with ‘evidence grounded in the words used or warrantably not used’ (Antaki, 2008:444). The quotes/case examples presented in the following section are indicative of the general comments found in the inspection reports.

Findings

The Mixed Market Economy: The winners and losers

Senior (2016) states that the part-privatisation of the probation service is all about saving money by the marketization of public services, where offenders become commodities: akin to Feeley and Simon’s (2003) ‘new penology’ where scant resources are reserved for the most risky offenders in order to manage risks rather than to alter individual destinies. The analysis carried out on the 10 inspections of the NPS and CRCs lends support to the existence of a managerialist approach. Generally, across all three outcomes measures of public protection, enforcement - i.e., abiding by the sentence - and reduction in re-offending, the CRCs performed poorly compared to the NPS. Where quantifiable outcome measures were stated (in 10 out of 12 inspections), *all* NPS performed to acceptable standards or above, whereas only four CRCs did (see table 3), for abiding by the sentence. The table 2 below shows the performance of the NPS.

NPS	Protecting the Public	Reducing Re-Offending	Abiding by the Sentence
Derbyshire	Good	Generally good	Good
Kent	Mixed	Mixed	Acceptable
North London	Mixed	Mixed	Generally good
Staffordshire and Stoke	Acceptable	Generally acceptable	Good
Greater Manchester	Good	Generally acceptable	Good
Northamptonshire	Good	Acceptable	Acceptable
Gwent	Acceptable	Generally Acceptable	Good
Suffolk	Not of sufficient quality	Poor	Acceptable
South Yorkshire	Generally Good	Good	Good
Gloucestershire	Good	Mixed	Good

Table 2 NPS Performance Outcomes

Analysis of the inspections suggests that at the heart of whether an organisation performed poor or good on all outcome measures, was whether they had resources. It follows then, that high scores for all NPS for offenders abiding by their sentence are because these organisations are well-resourced. Since 2001, these organisations were badged as law-enforcement organisations – the accumulation of a raft of changes in policies and practices during the 1980s and 1990s. Back then, organisations were incentivised to enforce the orders of the court (NPS, 2001). This legacy remains. Analysis of the inspections show they have: competent responsible officers (i.e., probation officers/probation service officers) well-trained and experienced in the field of enforcement and engaging offenders with the requirements of

the sentence, reviewing cases, and an infrastructure of partnership and multi-agency working with strong relationships to other organisations, including the courts. For example:

Responsible officers completed thorough inductions, setting out the expectations of the sentence firmly from the outset and completing pre and post-programme work to motivate and address barriers to engagement (HM Inspectorate of Probation, 2017d:62).

Table 2 shows that much of the quality of the work produced by the NPS was acceptable. Analysis of the inspectorate's reports shows that the key factors why NPS met acceptable standards in relation to protecting the public and reducing re-offending were largely due to good assessments and good management, for example:

A focus on quality, with good management oversight and staff support arrangements, underpinned effective practice (HM Inspectorate of Probation, 2016a:43).

However, across the two outcome measures of protecting the public and reducing re-offending, three NPS did not meet acceptable standards. Generally, barriers to effective work to protect the public were largely due to: poor assessments and review of cases and competency of staff, as the following quote shows:

Staff were insufficiently alert, or not sufficiently well resourced, to respond to changes in offenders' circumstances. As such, they did not reflect often enough any new or increased risks in assessments, plans and interventions (HM Inspectorate of Probation, 2016d:27).

Barriers to effective work to reduce re-offending, for the NPS, generally, were also due to poor assessments and review of cases, but most notably availability of interventions, as the following quote shows:

There was insufficient progress in delivering interventions (HM Inspectorate of Probation, 2017h:39).

These same reasons, and more, can be found to be barriers to effective work in the CRCs.

The Managerialist Approach: High demand, short supplies

In analysing the CRCs quality and effectiveness of work along the outcome measures of protecting the public and reducing re-offending, only one and the same CRC met acceptable standards for them both. The following table 3 illustrates this.

CRC	Protecting the Public	Reducing Re-Offending	Abiding by the Sentence
Derbyshire	Poor	Poor	Adequate
Kent	Mixed	Mixed	Mixed
North London	Poor	Poor	Poor
Staffordshire and Stoke	Insufficient	Not sufficiently effective	Good
Greater Manchester	Fell short of expectations	Not sufficiently effective	Good
Northamptonshire	Poor	Poor	Unsatisfactory
Gwent	Not of sufficient quality	Not sufficiently effective	Acceptable
Suffolk	Not sufficient	Insufficient	Poor
South Yorkshire	Generally acceptable	Acceptable	Inconsistent
Gloucestershire	Poor	Poor	Poor

Table 3 CRCs Performance Outcomes

The CRCs caseloads comprise low to medium risk offenders (National Audit Office, 2014), yet the effectiveness of such a managerialist approach is in serious doubt, here. Analysis of the data suggests that the CRCs are severely under resourced, and it is this, that is hampering their effectiveness to protect the public and reduce re-offending. Key factors indicating under resourcing were: high caseloads, competency of staff - linked sometimes to lack of or poor quality training, and management oversight. All these factors are equally problematic for protecting the public, ‘with the public exposed unduly to the risk of harm in some cases’ (HM Inspectorate of Probation, 2016e:4):

Eric is [...] subject to an [...] community order for an offence of possession of an offensive weapon. His previous convictions included battery against his ex-wife. [...]. The direction of work was led by Eric and, as such, was not focused appropriately on the management of risk. The responsible officer [...] relied too heavily on self-reported information. When Eric developed new relationships on two occasions, this did not prompt risk-focused home visits, as we would have liked to have seen. The responsible officer confirmed that home visits were carried out simply to aid compliance. There were no efforts to explore who Eric was in a relationship with, if there were any children involved, and why the first relationship had ended when a new one was formed. The case had not been flagged as one involving domestic abuse and there were no victim details recorded, despite some information being available [...]. Overall, the responsible officer had failed to take the initiative to influence the level of risk Eric posed to others. During the course of supervision, Eric was sentenced for a new violent offence against another female, with whom he denied he was in a relationship (HM Inspectorate of Probation, 2017b:27).

The author's previous research, carried out 15 years ago, illustrated then the problematic nature of probation officers assessing risk of domestic violence offenders, subsequently leaving women at risk of harm (Ballantyne, 2013).

Key factors that impeded effectiveness in reducing re-offending were: poor assessments carried out, management oversight, review of cases, and lack of sharing information. Poor quality and lack of available interventions were particularly problematic:

There were long waiting lists and delays in the start for programmes, with no guarantee that all service users would complete their programme requirement before the end of their sentence (HM Inspectorate of Probation, 2017d:46).

McNeill (2013) says that 'Transforming Rehabilitation' is premised upon the notion that offenders who present as low risk of harm but who may be at high risk of re-offending, do not need intensive and skilled support: they can be supervised by less qualified and less skilled supervisors. Yet he argues that for persistent offenders to desist from crime the process is uncertain and complex: 'a long and winding road that requires skilled navigation' (2013:84), and resources, including skilled and trained staff who are appropriately supervised by competent managers. One of the key resources that are in limited supply in the CRCs are people. As evidenced above, desistance (Maruna, 1997, McNeill et al., 2012) and rehabilitation are predicated upon the development of relationships between people including listening to offenders (Canton, 2012; Dominey, 2016; Irwin-Rogers, 2016; Raynor and Robinson, 2009), which in turn rely on seeing offenders:

For the one in four people assessed as low risk, however, their supervision while in the community is scaled back to a telephone call every six weeks [...]. In our view, this means too many people get too little attention. Without meaningful contact, individuals are most unlikely to develop a will to change. [...] (HM Inspectorate of Probation, 2017e:4).

But McNeill (2013) argues it is a skill developing relationships of trust with offenders whose relationships with people, particularly authority figures, have been traumatic and abusive. This skill 'is made easier where legitimacy is conferred or more often earned by demonstrating the sorts of human values so important to probation practice' (McNeill, 2013:84; see also Irwin-Rogers, 2016). Thus, if people and a humanist approach (Gosling, 2016) are in short supply, then this negatively impacts upon opportunities for building relationships and reducing re-offending. These problems also inadvertently impact upon protecting the public as the above quote illustrates, too, because offender risk cannot be

monitored properly. Risk is a fluid and dynamic concept requiring ongoing assessment and management (McNeill, 2013).

Reducing Re-Offending to Protect the Public: Rehabilitation by Proxy

Rehabilitation, explicitly, was not assessed as an outcome measure of the inspectorate's inspections, despite many of the organisations inspected in the reports being Community *Rehabilitation* Companies, and despite the government's 'Transforming *Rehabilitation*' (my emphases) agenda being the driver to the partial privatisation of the probation service (see Clegg, 2013; Ministry of Justice, 2013). Rehabilitation work, whatever its social utility (see above) is, in current practice predicated on public protection (Raynor and Robinson, 2009).

Ted had been convicted of drink-driving for a second time. He also had convictions for criminal damage, which may have been related to drunkenness. He was given ten RAR [Rehabilitation Activity Requirement] days and unpaid work. Ted met with his responsible officer on two occasions. These meetings focused on completing his unpaid work, which he did successfully. There was no exploration of the potential problem with alcohol that had been identified in his pre-sentence report, and no assessment of how the RAR days could be used. He had two further telephone contacts with the responsible officer, then his case was transferred to the Operational Hub. No further action was taken on the RAR days, which were said to be complete. [...] (HM Inspectorate of Probation, 2017h:33).

This is rehabilitation as managerial (Robinson, 2008), where interventions are 'increasingly inscribed in a framework of risk rather than a framework of welfare', and as such, 'rehabilitation is viewed as a means of managing risk' (Garland, 2001:176) – in the case example above - by monitoring the offender in face-to-face meetings and by telephone. In the author's previous research, such points of contact provide a space only to assess offender risk, albeit crudely and rudimentary (see also the above case example about Eric), rather than carry out any fundamental work with offenders to challenge and change offending behaviours (Ballantyne, 2004). This supports Feeley and Simon's (2003) arguments that interventions do not seek to normalise or transform the offender, but to seek to control, sort and manage them according to risk profiles. The offender's alcohol problem, which likely underpinned his repetitive offending behaviour, was not addressed through RAR, in the above case example, despite being part of his court order. Generally, there seems little work from the CRCs aimed at tackling the causes of offending, despite the coalition government envisioning them to provide mentors and direct offenders to services for accommodation, addiction, employment

and training (Ministry of Justice, 2013). The next section explores in more detail the crux of this problem.

The Expensive Business of Offender Supervision

One of the reasons why the CRCs are under-resourced is as noted in the Inspectorate's report:

In common with other CRCs nationally, the CRC's caseload is lower than anticipated [...], which has an impact on weighted annual volume and therefore payments. [...] (HM Inspectorate of Probation, 2017h:12).

Nellis (2016) argues offender numbers were purposefully overestimated in order to attract the business of the CRCs, initially and that they have been 'short-changed' by the government. He argues as the CRCs continue to develop and adjust, priority is given to work that is rewarded immediately. The financial rewards from re-offending rates, for example, are far away and they are not necessarily easily influenced - for the better - by the CRCs, as the arguments of this chapter illustrate. As a result, CRCs 'cannot afford to keep their third-sector partners on board' and some CRCs may even break their contracts (Nellis, 2016:unpaginated). Gosling (2016:519) argues that PbR adds to existing 'pressures and strains at the coal face of service delivery' because it 'punish[es] already stretched services' (2016:528). As was noted in one HM Inspectorate of Probation (2017e:13) report, 'payments may be reduced if the CRC fails to meet certain service levels'. Furthermore, the complex infrastructure, which the partial privatisation of the probation service has engendered, may make it difficult to assign responsibility for good results. For PbR to work, Fox and Albertson (2012) argues, the commissioner (i.e., the government) must be confident that the desired outcome was achieved by the actions of the commissioned service provider (i.e., the CRC). One of the problems with PbR is if 'service provision is complex', then rewards are shared across a number of providers (Fox and Albertson, 2012:367), e.g., CRCs and third-sector agencies, who are part of the ensuing 'supply chain' (National Audit Office, 2014:28). Fox and Albertson (2012) also state that another problem, for PbR, is measuring and evidencing 'what works'. Re-offending data was not available at the time of writing. Yet as Burke and Collette (2015) argue such reconviction data is more a measure of individuals' decision-making about whether to report or prosecute crime, rather than a straightforward measure of offender change. For example, commissioned service providers may be rewarded by virtue of working with offenders who are assessed as being at low-risk of re-offending or

‘who process as successes those re-offenders who simply keep their heads down for long enough’ (ibid, 2015:117). Moreover, investors in the private sector expect to produce returns in the short-term, yet there are no quick-fixes, if any, in criminal justice, and returns are likely to be garnered over a long-term (Fox and Albertson, 2012). McNeill (2013:85) argues that when private contractors realise there are no quick-fixes to secure PbR outcome measures, service providers will have to generate their own profits ‘by recruiting inexperienced and unskilled staff and by overburdening them so as to drive down costs’ (see also Dominey, 2012). This is evidenced in the Inspectorate’s reports, for example:

Cases were assigned to responsible officers who did not have the necessary skills to manage them effectively (HM Inspectorate of Probation, 2017d:32).

So, CRCs will have to wait for additional income from the re-offending rates. Hedderman (2013) similarly argues that the likelihood of PbR leading to reduced re-offending rates is slim. Yet Raynor and Robinson (2009:5) point out that justifications for rehabilitation should also be based on ‘moral arguments about what society ought to do’ rather than solely based on arguments about what society can do. McNeill (2013:85) supports this arguing that rehabilitation risks becoming a ‘market good’ rather than a ‘moral good’: ‘it is a duty that citizens owe to one another [...] rehabilitation is best thought of as being everyone's concern and no-one's business. Transforming Rehabilitation risks turning it into some people's business and no-one's concern’.

Conclusion

The chapter has analysed the government’s inspections carried-out so far on the CRCs and the NPS, post the partial privatisation of the probation service, along the three outcomes measures of protecting the public, reducing re-offending and ensuring offenders abide by their sentence. Generally, it seems that the NPS is performing to acceptable standards, particularly for ensuring offenders abide by their sentence, whereas the CRCs seem to be performing poorly, generally, across all outcome measures. The crux of the problem is that the CRCs are severely under-resourced particularly in relation to appropriately qualified and managed staff which has negative impacts for offender assessment and management, offender rehabilitation in the community, and, ultimately, public protection.

The funding structure of PbR, provides a partial explanation for the staff shortages because monetary rewards are neither immediately forthcoming, nor sufficient. Nellis (2016) may be right to argue that the CRCs have been ‘short-changed’ by the privatisation strategy. Fundamentally, though, rehabilitation as a strategy to tackle the causes of crime, such as mental health, substance use, unemployment, homelessness, requires substantial resources and access to good quality interventions from a wide-ranging number of organisations in the community. At the moment, this infrastructure of joined-up working by the NPS, CRCs, and third-sector partners, is not supported financially. These organisations, particularly the CRCs and their third-sector partners need an immediate injection of finances to give practitioners the best chances of caring for and helping offenders to change and desist from criminal behaviours. Yet, despite the continued rhetoric of rehabilitation, Teague (2016:133) argues ‘the privatisation of probation is about the deprioritisation of rehabilitation and penal-welfare intervention’. The arguments of this chapter support this claim. If these organisations are to be financially backed by government/s, such government/s must view rehabilitation in practice as a primary strategy to reduce re-offending. Rehabilitation is morally what these organisations ought to do because ‘probation services’ are symbolic ‘of societies that prioritise human welfare and social inclusion’ (Raynor and Robinson, 2009:16). This means that markets must be regulated to promote equality for all so that probation services can thrive (ibid, 2009). There is an important role for the state then in the supervision of *all* offenders in the community, rather than the responsibility of this residing in the private sector and with for-profit organisations (Deering and Fielzer, 2015; Hall, 2015; my emphasis).

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