

Social Justice and Regeneration Committee

SJR (2)-07-06 (p.6)

Date: Thursday 4 May 2006

Time: 9.30am to 12.30pm

Venue: Senedd, The National Assembly for Wales

Topic of paper: Restructuring of the Probation Service

Purpose

To provide a paper on proposals to restructure the probation service to accompany a presentation on this and the new National Offender Management Service.

Summary

The paper outlines the Home Office's consultation exercise on the restructuring proposals; the Welsh Assembly Government's response and the summary of responses document.

Background

In October 2005, the Home Secretary launched a consultation document 'Restructuring Probation to Reduce re-Offending' which set out the UK Government's proposals to introduce commissioning and contestability into the provision of probation services and organisational consequences that will flow from that. These provisions require legislative change but had to be dropped from the current Police and Justice Bill; it is still proposed to introduce these provisions during the present Parliamentary session.

The consultation proposed fundamental changes to the way the probation service is configured and how probation services are delivered. Key to the proposals was that the Home Secretary will be given the duty to make provision for probation services so that he can, over time, contract with a range of different providers rather than necessarily continuing to fund local probation boards to deliver services. It was suggested that this would improve effectiveness and value for money through greater use of competition from private and voluntary providers. This is set against the new National Offender Management Service (NOMS) which will mean that every offender is individually case managed from the beginning to the end of their sentences, both in and out of custody. The main proposals in the consultation included:

- moving towards a world where tendering for all offender management services, including interventions and custody, are the norm;

- removing the exclusive duty to deliver probation services from probation boards to the Home Secretary who would make provision by making arrangements with others to provide those services;
- the National Offender Manager for Wales and 9 Regional Offender Managers, acting on behalf of the Home Secretary, will be able to contract directly for both prison and probation services with a range of providers from the private, not-for-profit and public sectors;
- existing probation boards will be abolished and smaller, more business focused bodies will be created. Instead of carrying out a statutory duty to provide probation services, they will become one of a number of possible providers of those services under contract to the Secretary of State. Initially, these new bodies will hold all the contracts to ensure a smooth transition, but a phased programme of market testing will follow and these bodies will only continue to exist if they contribute to the reduction of re-offending and thereby win business;
- co-terminosity with the 42 Local Criminal Justice Boards would be preserved;
- the implications for a range of the probation boards' statutory duties in relation to victims; children; community safety partnerships; MAPPA and YOTs are recognised.

I formally responded to the consultation on behalf of the Welsh Assembly Government in December and pointed out that it is vital that the re-structuring and the transition to NOMS are delivered in such a way as to make a significant impact on re-offending rates and the joint aim of improved community safety. Specifically, I said that it is important that the re-structuring results in a good fit with the police service when it is reconfigured. I also asked that the Welsh Assembly Government be given a say in the appointments to the new local boards.

I pointed to the fact that certain of the implications for the way services are commissioned and provided will be challenging in Wales and that in certain areas contestability may prove to be a problem as there are so few local providers. I emphasised that we set great store by local provision so it would be worrying if this forced the boards into arrangements with service providers with limited or no local knowledge.

I emphasised that it will be important to ensure that when the new arrangements impinge on devolved functions there is thorough consultation and that relationships are encouraged between officials and service providers to ensure the optimum results. I re-iterated all these points to Home Office Minister Baroness Scotland during a telephone conversation on 18 January. Baroness Scotland agreed the points being made and said that she was keen to ensure that the interests of Wales are taken into account, including the Welsh language. It was agreed that officials should keep in close touch as this agenda develops.

I wrote to the Chair of the Committee in October to appraise her of the consultation exercise and suggested that the Committee might invite the Director of NOMS in Wales to discuss the proposals. This was all covered in my report to Committee on 9 February. Following discussion, I undertook to consult the Home Office on the timing of the proposed legislation. It was also agreed that a presentation on NOMS should be arranged for Committee.

When I met Baroness Scotland in Cardiff on 9 March she said that she hoped to get a legislative slot for the Bill dealing with restructuring at the end of the current Parliamentary session. She said that no decisions had been made about the handling of appointments to the new local bodies. On the issue of contestability, she noted my concerns especially in terms of the lack of capacity in Wales

Summary of Responses to the Consultation

On 30 March the Home Secretary published a summary of responses to the consultation on restructuring the probation service.

I was one of 748 responses. Ten responses were received from Wales, other than from probation interests, and these were largely opposed to the introduction of contestability and favoured responsibility for the probation services being devolved to the Welsh Assembly Government. Many echoed arguments made by others against competition and also made the point that contestability does not sit well with the Assembly's policy agenda of encouraging greater partnership working.

The document summarises the responses to each consultation proposal and provides the UK Government response. It is clear that many who responded from within the probation service were opposed to change and resented the implication that their performance stood in need of improvement. The UK Government's response to this is that re-offending rates are still unacceptably high.

The UK Government accepts the need for a good fit between the new structure and the reconfigured police service and final outcomes on police force boundaries will be awaited before decisions are taken on how many probation areas should relate to them.

Concerns about too much change over a limited timespan are also accepted and evidenced by a phased introduction of contestability. There will be a phased programme of competitions for prison and probation services - on the probation side focusing on interventions in the first instance - and a prospectus for this will be issued in May 2006. The prospectus will be updated annually and will set out the Government's intentions for commissioning with contestability over the next 5 years.

On the proposed move from probation boards to trusts, both positive and negative views were expressed. The response reiterates that new local trusts are central to the new approach and repeats that final decisions on probation areas will await the police re-structuring. One of the Welsh Assembly Government's main points of interest is whether we will have a say in appointments to the trusts in Wales but detail of the appointment process is not touched upon.

It is still planned to introduce the necessary legislation to effect these changes as soon as Parliamentary time allows.

The next steps, apart from producing the Contestability Prospectus, and an Estates Prospectus, in May, include an enhanced performance regime for probation. Over the next 12 to 18 months this will involve rigorous performance assessment/inspection of each probation service area. Those of an acceptable standard will see the public sector being awarded a contract to deliver offender management services in the first instance. Where there are failings support will be given to raise performance but if improvement does not follow the work will be put out to competition. Interventions will be progressively competed once the new trusts are in place.

Financial Implications

There are no financial implications. Responsibility for the probation service is not devolved and no Welsh Assembly Government budgets will be affected by the proposed restructuring.

Action for Subject Committee

To note this paper.

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