

Offender Management Bill - House of Lords Committee - May 2007

DUTY TO CO-OPERATE

AMENDMENT

After Clause 1

BARONESS LINKLATER OF BUTTERSTONE

LORD DHOLAKIA

LORD WALLACE OF SALTAIRE

Insert the following new clause –

“Duty to co-operate

The Secretary of State, local probation boards, the Prison Service and such other persons or organisations as the Secretary of State may by order designate (a "designated body") shall co-operate with one another in carrying out their respective functions, in so far as those functions relate to the purposes identified in section 1 of the Criminal Justice and Court Services Act 2000 ("the 2000 Act")."

COMMENTARY

In England and Wales, the Offender Management Bill was published on 23rd November 2006. Its Second Reading in the House of Commons was on 11th December and it was discussed in Committee during January 2007. The Bill received its Third Reading on 28th February. It was amended by Government, and court work is now exempt from the provisions of the Bill. However, Clauses 2 to 5 still open up the work of Probation to market forces and privatisation. The National Probation Service itself is abolished. The fragmentation of Probation will, in Napo's view, lead to less co-operation between agencies and a greater risk to the public. Despite the controversy, there has been no business case published to justify the introduction of competition and the market. The Bill was read in the House of Lords for a second time on 17th April and is now in Committee.

A recent consultation document *Restructuring Probation to Reduce Re-offending*, was published on 11 October 2005. In it the Government proposed to abolish the National Probation Service and replace it with a fragmented market of competing providers. Over 740 responses were received, less than 1% of which were in favour of the proposals. Despite the response the Government is pressing ahead to dismantle Probation. This new clause places a duty on agencies in the justice system in England and Wales to cooperate with each other, to reduce re-offending, rather than to compete.

SCOTLAND

In Scotland, a new National Offender Management Service was launched in May 2006. The Management of Offenders (Scotland) Act established new Community Justice Authorities which have brought together local authorities including; England and Wales probation counterparts, the Scottish Prison Service and key partners such as the voluntary sector, to produce an integrated approach to reducing re-offending. Napo believes that this alternative approach could deliver the Government's aims of public protection, reducing re-offending and seamless offender management, in England and Wales, without recourse to breaking up the Probation Service and introducing market forces.

In Scotland local authorities, often working in conjunction with the voluntary sector, are the main agencies managing community sentences and the rehabilitation of offenders into the community. The 1968 Social Work Act for Scotland gave local authorities what was, in effect, the Probation role.

In 1999, the Scottish Parliament published a paper *Tough Options*, which looked into the future of the location of criminal justice services within a social work setting. This led to the establishment of regional consortia. Consortia have responsibility for delivering social work criminal justice services in boundaries that are roughly co-terminus with the Police and Sheriffdoms.

A plan for a single corrections agency in Scotland, similar to the one for England and Wales, was published in the Labour Manifesto for the 2003 Scottish Parliament elections. However, after the election, a Labour/Liberal Democrat coalition led to a consultation paper on reducing re-offending in Scotland. The document asked whether a single agency was the best way forward.

The consultation was widespread, there were 138 written responses, and overwhelmingly the majority of respondents expressed concerns about the establishment of a single agency.

Criticisms included that:

- the agency would not necessarily tackle re-offending;
- it would create additional problems and lead to a loss of links at a local level;
- it would fail to address the complex range of needs of offenders;
- it would reduce the ability to manage risk;
- it would involve bureaucracy, disruption and cost, and would divert resources from service provision.

As a result the Scottish Executive dropped the proposal for a single agency and instead introduced the Management of Offenders (Scotland) Act in November 2005. The main clauses of the Act place a duty on the criminal justice agencies in local government to co-ordinate with the Scottish Prison Service, to share information, to prepare and submit annual plans and to involve others in planning the new Community Justice Authorities.

It also legislates to allow partners to be consulted on area plans and places a duty on the Community Justice Authorities to establish information sharing networks with partners. The model will be firmly based on partnership rather than market testing, contestability, or privatisation.

There was a consensus on the shortcomings of the current system, particularly on the need for a more seamless experience for offenders, especially at the transition points between the custodial and the non-custodial parts of the system; the need for better sharing of information between all parties; and the need for better planning. Ministers were persuaded by responses to the consultation exercise that there were other ways to address these problems than by a single agency, particularly by setting down a legislative duty on all parties to work together cooperatively to reduce re-offending.

Community Justice Authorities, which will be made up of locally elected councillors, will be required to produce area plans on how this cooperation will be realised, and funding for criminal justice social work will in future be channelled through them. Ministers believe that this mechanism will provide for their aim of securing increased national direction in criminal justice social work, whilst maintaining its local delivery.

CREATING CHANGE

The Scottish Executive stated in May 2006 that to deliver such a wide range of service improvements required time. Their strategy proposes that services should be developed under five inter-linking themes.

- Setting priorities
- Working together in new ways
- Developing and supporting the workforce
- Communication
- Measuring, learning and acting.

The Scottish Executive has set itself the vision of stronger, safer communities where ordinary people can live their lives free from the fear of crime and where the rights of all members of the community are respected and upheld. Their current target is a 2% reduction in reconviction rates in all types of sentence by March 2008. The Executive has stated that over the next financial year it will work with a new national advisory body to set targets for 2008 onwards. Chief Officers have now been appointed and Shadow Authorities are in place, and the operation was launched on 1 April 2007. All Areas have now produced one year plans and key stakeholders, including the voluntary sector, are involved intricately in planning. Community Justice Authorities are also in the process of producing a very detailed three-year plan for 2007 to 2010. Members of local authorities and representatives of the voluntary sector believe that developments so far have been extremely positive.

The Offender Management model in Scotland has been praised by Labour Scottish Justice Minister, Cathy Jamieson. On 3rd April 2006 she said: "Community Justice Authorities will play a key part in our efforts to reform the way councils, the Scottish Prison Service and other local partners work together to drive down the unacceptably high rates of re-offending across the country."

Locally they will take the lead role in ensuring that all partners work together in drawing up plans to ensure the better joint management of offenders.”

On 23rd May last year, Cathy Jamieson added: “The criminal justice system is undergoing the most radical, comprehensive series of reforms in a generation. The Management of Offenders (Scotland) Act is a key part of that – providing the framework to end the revolving door of re-offending, challenge offenders to return to a law-abiding lifestyle, and create safer, stronger communities.”

Scotland’s first national strategy on offender management will support those efforts by giving direction to all agencies who work with offenders, in particular our new Community Justice Authorities who will be responsible for working with local authorities, the Scottish Prison Service and other partners to deliver the results that hard pressed communities have a right to expect.”

By 31st October 2006 she was able to say: “Three years ago when we made our case for substantial change to the offender management system I heard views that the existing one would deliver results – it just needed more time. Today’s figures simply prove we were right to make tough decisions and drive through our reforms... We must ensure they (prisons) are not full of less serious offenders whose behaviour could be better addressed through tough community sentences”.

Reducing this churn of short-term prisoners will ensure time and resources can be better focussed on tackling more serious offenders. Our vision ... has three main elements. First, the delivery of reforms which will improve the management of offenders in prison and in the community and ensure that all local agencies work more effectively to reduce re-offending.”

Finally, on 30th January this year, the Justice Minister for Scotland said: “The challenge for everyone involved in the delivery of community options is to allow sentencers to be confident that these are credible sentences – well resourced, operating to high standards, and rigorously enforced. Confidence is clearly growing with more and more use being made of the penalties available – but we still have a long way to go.”

CONCLUSION

In Napo’s view, the changes underway in Scotland have been driven by a concern to increase the effectiveness of all services in reducing re-offending, but in England there is a real risk that structural changes based on the creation of a purchaser provider split and competition will be counterproductive, overly bureaucratic and will not have the impact that the Government desires. Napo therefore supports the New Clause “Duty to Cooperate” tabled by Baroness Linklater of Butterstone, Lord Dholakia and Lord Wallace of Saltaire.

Harry Fletcher
Assistant General Secretary

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