

Offender Management Bill - House of Lords Committee – May/June 2007

Local Commissioning

AMENDMENT 34

After Clause 2

BARONESS ANELAY OF ST JOHNS

Insert the following new Clause –

"Power for probation boards and probation trusts to make arrangements for provision of probation services

- (1) This section applies to any probation provision which the probation boards and probation trusts consider ought to be made for the purposes mentioned in section 2(1)(a) and (b).
- (2) Probation boards and probation trusts may make contractual or other arrangements with any other person for the making of the probation provision.
- (3) Arrangements under subsection (2) may in particular authorise or require that other person—
 - (a) to co-operate with other providers of probation services or persons who are concerned with the prevention or reduction of crime or with giving assistance to the victims of crime;
 - (b) to designate individuals as officers of a provider of probation services;
 - (c) to make contractual or other arrangements with third parties for purposes connected with the probation provision to be made, including, in particular, contractual or other arrangements—
 - (i) for provision to be made, or for activities to be carried out, by third parties on behalf of that other person; or
 - (j) for individuals who are not members of that other person's staff to act as officers of a provider of probation services.
- (4) Probation boards and probation trusts may not make arrangements under subsection (2) unless a plan has been prepared for that year.
- (5) In this section a "plan" means a plan prepared under section (Requirement for probation trusts and probation boards to prepare plans)."

COMMENTARY

This Clause will ensure that commissioning of probation tasks will only occur at local Board or Trust level.

a) Local Accountability

Under the terms of the Bill, local accountability will be eroded. The Probation Service was last reorganised in 2001 when it was hoped that the Boards which were created would be closer to local communities. Contrary to most of Government policy, which is about devolution, the Offender Management Bill centralises the provision of services.

The Probation Boards' Association has pointed out recently that crime is predominately a local phenomenon, with local causes and solutions. A recent poll by YouGov demonstrated that the public views local, rather than national services, in a particularly positive light and looks for public agencies to cooperate. The PBA also noted in June 2006 that successful commissioning in any commercial venture or public sector activity is always 'close to the business' where operational matters are concerned.

It is essential that Probation works flexibly and responsively with the police, local authorities and other agencies. Napo is deeply concerned that moving to a regional or national model will undermine important public protection work with significant partners such as the courts, police, health services and local authorities. Indeed the work of the Smith Institute during 2006 has highlighted the need for greater local devolution. Along with other public sector services, the Probation Service has an overriding need to involve local communities in its work if public confidence is to be a priority. Instead of a 'centralise and control' model, Napo believes that the future direction of policy for Probation must be a shift to local accountability and local communities, through partnership and commissioning.

Napo believes it is critical that the membership of Probation Boards or Trusts represents the whole community and not just business. To that end the Boards should contain locally based individuals; partnership agencies, particularly the police, courts, local authorities, and health services; sentencers, both magistrates and judges; the voluntary sector, particularly victim support; and local community and council representatives.

Napo welcomes the concession that Boards will reflect local communities. However, a Statutory Instrument, tabled in November, removed the statutory need for Board's to contain local councillors and magistrates. This Statutory Instrument, therefore needs revising.

b) Justification

Ministers have justified the introduction of national and regional commissioning, first on the grounds that Probation's performance was poor and secondly by saying that re-offending rates were unacceptably high. Neither of these arguments is backed up by evidence.

i) Performance

The latest Home Office figures (March 2007) show that the Service is performing better than ever against its 30 Government targets. On 'enforcement', 92% of relevant cases were enforced within 10 days, which was in accordance with targets. A new compliance target was introduced in 2006/7, measuring the proportion of appointments an offender attends in the first six months of the licence. The target was 85%, and 82% was achieved during April to December 2006. The Service was set a target that 70% of orders would reach the halfway point without breaching. That was achieved in 72% of cases. There was also a target to complete 90% of risk of harm analyses within the required time. That target is now being exceeded. Targets for completions of assessments on prolific offenders were also exceeded.

Last year the Probation Service was supervising 14,000 individuals where the risk to the public was considered high or very high. The latest statistics show that 0.44% in that category were charged with a further serious offence. Given the characteristics of the group, the offences they have committed and the fact that the vast majority are on parole, this is a surprising low statistic.

ii) Re-offending Rates

Home Office Ministers then claimed that re-offending rates were unacceptably high. Indeed in a private letter to Labour MPs dated 8 November 2006, the Minister, Baroness Scotland, claimed that nearly 60% of offenders on probation were reconvicted within 2 years. This it was claimed was similar to jail. This argument is now being used to justify privatisation.

In fact these figures are not true. Home Office statistics, reported in The Times on the 10 November 2006 showed that 65.8% of offenders released from jail were reconvicted within 2 years, compared to 53% on community penalties.

The latest home office statistics (Home Office Statistical Bulletin 06/07 March 2007) show that re-offending rate for adults, aged 18 and over, on community sentences was 50.5% in 2004, the most recent year for which full figures are available. The comparable figure in 2004 for those who had custodial sentences was 64.7%. In 2004 the actual rate was lower than in 2000, when it was 53.2%. Also the cohort of offenders in 2004 was on balance more likely to offend than in 2000, with a predicted re-offending rate of 54.1. The combination of a lower actual rate and a similar predicted rate has led to progress against the target of 5.8%.

An annual Home Office statistical bulletin published in December 2005 (Offender Management Case-loads 2004) reveals that the probation reconviction rates are unadjusted; this means that they include convictions for offences committed prior to the date of the commencement of the order. The document then says 'unadjusted rates cannot therefore be used to (a) assess effectiveness or changes in effectiveness over time or (b) compare the effectiveness of prison with probation or any other sentence'. The re-offending rates for Probation may well, therefore, be lower than the published 53%.

c) Costs

The cost of administering the corrections services has grown enormously. Figures contained in the Winter Supplementary Estimates for 2006/7 show that the total amount due to be spent on the centralised and regionalised bureaucracy of NOMS was £899 million compared with £832 for the whole of the Probation Service in England and Wales. Indeed, since March 2005 there has been a staggering 556% increase in the NOMS Head Office budget.

Some of the increase is because of the NOMS administrative budget; and some of the increase is because of the transfer of staff and responsibilities out of Prisons and Probation into NOMS but, even taking this into account, the centralised budget has increased by £280 million in just 2 years. Napo believes that most of this has been spent on an IT project which is already delayed, and on consultants, advisers and commissioners. If some of this money were to be diverted to frontline services in the Prison and Probation Services it would resolve most of the current problems.

CRITICISMS

In the last few months a number of informed commentators have criticised the Bill and the proposals for centralised commissioning. These include:

- Lord Dear, ex-HM Chief Inspector of Constabulary, who said in a debate in the House of Lords in February 2007: *"The figures are blurred, with the creation of NOMS which has seen a staggering rise of 1600 new posts created for prison and probation on top of staff who were already in post. All the time the service at the sharp end diminishes ... yet, when resources were adequate and locally directed, the Probation Service in this country was an exemplar for the rest of the world to follow and we were proud of it, and re-offending was minimal."*
- Rowan Williams, the Archbishop of Canterbury, speaking at the Prison Reform Trust Annual Lecture, on 1 February 2007, who said on offender management that he *"was worried by the franchising model"* and that he found *"the constant drift to tendering, competition and privatisation deeply worrying."* He also spoke of the morality of the state's responsibility for its citizens, and his concern at policies that undermined that corporate role.

- Baroness Linklater of Butterstone, who said in the Second Reading debate on 17 April 2007: “The commissioning of services is to be dedicated to probation trusts via 10 ROMs, regional offender managers, who are not actually mentioned in the Bill but will replace the probation boards. These are not primarily locally accountable, but are answerable to the ROM and the Home Secretary. Where is the evidence that that proposed highly centralised Home Office-led arrangement can achieve the stated objective, which we all support, of promoting community safety and reducing reoffending? What are the arguments for the breaking up of an established, essentially locally based and delivered service and replacing it with a multiplicity of services without the basic infrastructure of locally commissioned work? Is this really necessary?”
- Lord Wallace of Saltaire said: Leaving things more at the local level where relations between the voluntary sector and the public sector are often good and close, as I have seen, should perhaps be allowed rather more. One size does not fit all. Patterns of contracting modelled on the oil sector were applied to the rail sector with disastrous results. This sector has a number of special conditions. There is the unavoidable and highly desirable and necessary engagement of many agencies in dealing with offenders, including prisons, courts, police, probation officers, social services, learning and skills councils, hostel providers and voluntary organisations of many types. Interventions have to take account of local conditions and individual needs. There is a limit to how far they can be squeezed into a single national model. When I hear the noble Baroness, Lady Scotland, talking about imposing the same rigorous national standards on all concerned, I am a little worried that we shall impose one single national model on the diverse conditions of local crime and local offending across the country.”
- Baroness Massey of Darwen, Chair of the National Treatment Agency for Substance Misuse, said again in the House of Lords on 17 April: “The proposed commissioning model is heavily dependent on the role of individual regional offender managers working to a national chief executive and the Secretary of State. This appears to run counter to increasing moves to strengthen local accountability and multi-agency working via local area agreements and local partnerships. From the perspective of my organisation, this is important given the emphasis on commissioning wraparound services such as housing, mental health and employment. It is difficult to see how that will be achieved at a regional level. Any loss of meaningful accountability for offender management services may result in those services not being sensitive to the needs and priorities of local communities. A more centralised model of service delivery may introduce inflexibility and hamper responsive partnership working, innovation and sharing of sensitive data at a time when councils, police, health services, employment services and other local agencies are working together closely.”

- Baroness Howe of Idlicote, also on 17th April in the House of Lords, said: “As we heard, some larger third sector organisations are in favour but many voluntary and charitable organisations have expressed considerable concern about this legislation. CLINKS, which represents smaller voluntary sector organisations, is particularly concerned that regional commissioning and competition could squeeze out smaller local organisations that really make a difference at a local level.”

CONCLUSION

Napo believes that the case for local commissioning is overwhelming. If commissioning were to occur at regional or national level it would be remote from local agencies and local communities. There is a real risk that local voluntary sector groups would lose out in the commissioning process to large national organisations. Indeed, the Government’s model for the voluntary sector has been strongly criticised by the Charity Commission on the grounds that charities are being put at risk by growing dependency on poorly funded contracts to deliver public services. Napo, therefore, supports the amendment tabled in the name of Baroness Anelay of St Johns, which would ensure, if enacted, that Probation Boards and Trusts, who have detailed knowledge of local areas, would be responsible for commissioning.

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