



# **The diminishing voice of the probation service**

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## Introduction

In the past twenty years, the probation service in England and Wales has undergone four large-scale reforms, placing the service in a near-constant state of flux as it adopts to a revolving door of top-down re-organisations (Mair and Burke, 2013). Indeed, probation has recently emerged from the near 'death knell' (Newburn, 2013) of the failed *transforming rehabilitation (TR)* reforms and has since been reunified into one National Probation Service (NPS). However, the NPS faces a renewed set of challenges as it adopts to its increasingly centralised role within the civil service structure and subordinated role within HMPPS (HM Prison and Probation Service).

This article will briefly outline three current challenges probation is facing, including: the straight-jacket imposed by a monolithic civil service culture; the further domination of prisons arising from the 'one HMPPS' leadership restructuring, and; the diminishing voice of probation in court work and parole hearings. These three challenges demonstrate concerns that a vital service is losing its independence and critical voice on a local and national stage. These challenges will also be assessed in light of the negative media reporting regarding probation's role in a number of recent serious further offences (SFOs) (Editorial, 2023). This article will conclude by suggesting a potential pathway to ensure the distinct voice of probation continues to be heard.



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## The diminishing voice of the probation service

The first concern relates to the current management structure of the NPS. When the *TR* reforms were brought to an end, the newly reunified service was subsumed into the civil service structure. Concerns related to the unsuitability of civil service management for probation have been outlined by academic research, probation union representation and penal reform charities.

For example, preliminary findings outlined by Tidmarsh (Webster, 2022), concerning professional identity, culture and practice in probation since the collapse of *TR*, explains that despite staff welcoming the opportunity to be working once again as a single public sector organisation, there was widespread disquiet that the probation service is not a 'good fit' with the 'grey, faceless bureaucracy' of the civil service, which doesn't allow for the flexibility and dynamism that is central to effective probation practice. Furthermore, Carr (2022) notes that as civil servants, probation staff are now bound by the civil service code and will face restrictions on their ability to speak publicly about their work - restricting their voice and ability to articulate concerns. Recent high profile SFOs and accusations that probation officers have been pressured to downgrade risk assessments (Editorial, 2013) help articulate the importance of staff being able to articulate concerns when they arise.

The National Association of Probation Officers (NAPO) have also published their opposition to the suitability of a top-down command and control ethos of the Civil Service to probation practice, describing this move as "a disaster for the profession" (NAPO, 2022). Francis Crook (now retired) chief executive of the Howard League for Penal Reform argues that the nationalised structure of the NPS under the reunification of probation, has "nationalised not localised" (Crook, 2021) the service and the civil service structure will leave probation with no autonomy,

independence or local voice. Indeed, Crook outlines concerns that the centralised structures of the civil service will damage local visibility and accountability.

The second concern relates to a more recent re-structuring of HMPPS, titled the 'one HMPPS' programme (Ministry of Justice (MoJ), 2022a). The last thirty years of probation reforms have witnessed a number of attempts to amalgamate prison and probation services, despite longstanding concerns that they inhabit very different cultures (Cracknell, 2021). The one HMPPS programme is the latest attempt and involves the creation of two new leadership roles; a chief executive officer of HMPPS and a director general of operations. These roles replace the previous structure, which had separate director generals for the prison and probation functions. This means that the leadership structure for HMPPS oversees both prisons and probation, instead of separate oversight of each organisation. The MoJ claim this will help promote a more joined-up framework and enables a 'whole sentence' approach to sentences (MoJ, 2022a). Although any attempts to help ensure continuity in resettlement processes should be welcomed, substantial concerns have been highlighted by this change of leadership structure. This includes critiques by the Probation Institute who hold serious concerns that the integration of prisons and probation at senior management level "will quickly lead to the disappearance of a distinct Probation Service" (Probation Institute, 2022).

The Institute outlines six ways where prisons and probation have very distinct and incompatible working practices, and how these practices might be damaged by this leadership change. This includes:

- **Profession:** The probation service requires a professional qualification at higher education level, whereas the prison service has no such requirement.
- **Purposes:** The probation service prioritises risk management and rehabilitation work, and is closely aligned with a social work ethos. In comparison, prisons prioritise safety, security and fairly run prisons and thus have a different underlying ethos.
- **Culture:** The two services have vastly different cultures, with probation embedded in the community and concerned with societal influences of offending, while prisons have different attitudes and behaviours towards the underlying causes of offending and are not community-based.
- **Size and funding:** The size and funding of prisons vastly overwhelms probation, dominating budgets.
- **Leadership:** Prisons have a clear command and control structure, while probation work demands more autonomy and in this respect it would be difficult for a prison practitioner to lead a probation service.
- **Training:** Probation training consists of a two-year higher education course, while prison training is 6 weeks long and is focused on security.

Napo (2022) outline similar concerns to the Probation Institute and regard the one HMPPS programme as a risk to the profession – particularly at a time as probation services are still undergoing the turbulence of reunification. Further concerns have been outlined by Justin Russell, the Chief Inspector of the probation

service. Echoing longstanding concerns of the ‘Cinderella service’ (Robinson, 2016) being dominated by its larger partner organisation, Russell forewarns that “the day to day operational and political demands of the prison service can all too easily distract focus from the Probation Service and its particular (and very different) needs” (HM Inspectorate of Probation, 2022) and asserts that the ‘voice of the Probation Service’ must continue to be heard amongst this leadership restructuring. At a time of negative press surrounding recent high-profile SFOs, it’s very important that HMPPS resources and focus are prioritised for the specific needs and issues that the probation service is facing.

The third concern relates to the probation service losing its voice within the important work it undertakes in the wider criminal justice system. For example, pre-sentence reports (PSRs) have been in sharp decline in the past decade (Robinson, 2017). The probation service has been a longstanding key actor in court work, however, a culture in contemporary court work that values speed over quality, means a critical element of probation’s pre-sentencing work is in decline as less PSRs are ordered and probation work is becoming a less visible presence in the court setting. Fast delivery oral reports have seemingly replaced the longer, but more in-depth PSRs (Robinson, 2017), however, there are concerns related to the quality of information provided in these oral reports, and this is potentially damaging the integrity of the probation voice in courts and sentencers trust in the recommendations made by probation staff (HM Inspectorate of Probation, 2020). The decline in the use of PSRs has had serious detrimental impacts on public protection, with their decline cited in a factor in poor risk management practices involving recent high-profile SFOs (Probation Institute, 2023).

A further example of this diminishing voice within criminal justice work, concerns probation's role in the parole process. A recent root and branch review of parole, now mean that probation staff are no longer able to provide recommendations or views on a prisoner's suitability for release or transfer to open conditions in the reports they provide to the Parole Board (Moj, 2022b) (this is currently undergoing a legal challenge). The review also gives further powers for the Secretary of State to provide a 'single view' on a prisoner's suitability for release, leading to ministerial control taking precedence over the professional voice. Notwithstanding evidence that this has led to a significant reduction in prisoners transfer to open estates and an expected increase in the overall prison population (Prison Reform Trust, 2022), this means that another core function of probation work - assessing and managing risk - is becoming eroded. Media reporting on the recent SFOs already calls into question the effectiveness of probations ability to manage risk, and this decision further undermines probation's expertise in this area.

### Conclusion: charting a way back

Despite these above concerns, that probation practitioners continue to operate with such commitment in this difficult climate demonstrates the remarkable durability of probation values. However, three suggestions are outlined below which will hopefully help to sustain these values and amplify the crucial probation voice:

- Remove the NPS from the civil service framework and return to a localised service, where probation is accountable and responsive to its local communities, and practitioners are given the autonomy to operate and articulate their voice.

- Ensure probation continues as a distinct service, and its voice clearly heard within the HMPPS structure, alongside recognition and continued support for its underlying values, culture and training, that are distinct from the prison service. The recent *Target Operating Model for Probation Services in England and Wales* (HMPPS, 2021) provides a helpful guideline for supporting this, with a focus on professionalism and staff development, and seeks to implement Professional Standards alongside a professional register framework of probation practice and renewed training initiatives. Continued commitment to this professionalism agenda will be crucial.
- The targeting operating model (HMPPS, 2021) also emphasises a commitment to improving the quality of advice to courts and PSRs, this has subsequently been re-affirmed by a pilot scheme designed to improve the quality of information presented to court at each of the fifteen pilot sites (Moj, 2021). However, staffing issues continue to hamper probation practitioner's ability to provide their in-depth expertise in the court setting, and this issue needs to be addressed urgently. Recent decisions concerning parole board hearings should also be reviewed and reconsidered, allowing these expert professional opinions to play an important role in these hearings.

Despite the above potentially presenting as another widescale re-organisation, this hopefully charts a way back for the probation service to return to its roots as a service embedded in the local community, with a distinct professional identity, that has practitioners with the skill and knowledgebase to undertake vital work throughout the criminal justice system.

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