



National Audit Office

Report

by the Comptroller
and Auditor General

National Offender Management Service

Probation: landscape review

Key facts

35

probation trusts provide a range of services to offenders and the courts in England and Wales

£853m

was spent by the 35 probation trusts in 2012-13

208,000

offenders being supervised by probation trusts as at 31 March 2013

- 7.6 per cent** fall in probation caseload between 2008 and 2012
- 1,629** staff left probation trusts in 2012-13
- £1.338 billion** pension liabilities for probation trusts as at 31 March 2013
- 75 per cent** of work undertaken by probation trusts deemed sufficient to keep individual's risk of harm to a minimum
- 36 per cent** adult reoffending rate for those with custodial sentence of between 12 months and 4 years
- 59 per cent** adult reoffending rate for those with custodial sentence of less than 12 months
- 21** proposed Community Rehabilitation Companies

Introduction and summary

Background

1 In 2012, the Comptroller and Auditor General (C&AG) took responsibility for auditing England's 34 probation trusts (the Wales Audit Office audits the Wales Probation Trust). The 2012-13 financial year was, therefore, the first for which the C&AG audited the financial statements for each trust. Previously, the work had been undertaken by the Audit Commission. During the course of the year, the government held two consultations on reform of the probation sector, and in May 2013 introduced the Offender Rehabilitation Bill to Parliament. The Bill includes provision for the extension of licence supervision to offenders receiving custodial sentences of under twelve months. The government aims to have made its changes to the way probation is organised by the end of 2014.

Scope

2 This report summarises the arrangements for probation that were in place during the first year of the C&AG's audit. It also summarises the main elements of the reform currently under way and identifies the key issues now facing those involved in probation. The report is a landscape review, intended to inform Parliament about developments and advance its understanding of them. It is not an evaluation of progress in implementing the Transforming Rehabilitation policy. It is based on our audit of probation trusts, analysis of documents published by the Ministry of Justice (the Ministry) and other relevant bodies, and our ongoing contacts with the sector.

3 The report covers:

- the current probation system (Part One); and
- proposals for reforming probation (Part Two).

Key issues

4 **In general, the probation sector has been performing effectively.** Our audit of the accounts of probation trusts for 2012-13 found no fundamental or material weaknesses in the accounting or internal control systems, and the C&AG issued unqualified certificates for all 34 English trusts.¹ In addition, HM Inspectorate of Probation has identified much good practice among trusts. In her 2012-13 annual report, the Chief Inspector reported that around three-quarters of work undertaken by trusts was of a good standard: sufficient, for example, to keep the individual's risk of harm to a minimum. Assessments by the National Offender Management Service (NOMS) under its trust rating system awarded Rating 4 (exceptional performance) to five trusts and Rating 3 (good performance) to the remaining 30 (paragraphs 1.17 to 1.26).

1 The Wales Probation Trust is audited by the Wales Audit Office. It also had an unqualified audit certificate for 2012-13.

5 The government wishes to open up service delivery to a wider range of providers in order to achieve efficiencies, encourage innovation and extend rehabilitative provision to more offenders. The government's proposals are designed to address what it considers are key challenges (paragraphs 2.2 to 2.6):

- **High reoffending rates.** Almost half of all adult offenders reoffend within a year of leaving custody, with the proportion rising to three-quarters for those sentenced to youth custody.
- **The high costs to the economy of that reoffending.** The NAO estimates (accepted by the Ministry) that reoffending by offenders sentenced to less than 12 months in prison (not currently covered by statutory provision) costs the economy up to £10 billion per year.²
- **No incentive for service providers to reduce reoffending.** The Ministry wants to use an element of 'payment by results' in future payment mechanisms to give an incentive for providers to reduce reoffending.
- **A lack of diversity in current service provision.** The Ministry's procurement exercise aims to attract new providers into providing rehabilitation services, creating opportunities for greater innovation.
- **The need to fund new services.** National commissioning; introducing an element of payment by results; and removing administrative costs through abolishing probation trusts are all designed to help fund the new rehabilitation services for offenders sentenced to less than 12 months in custody.
- **The public finances.** The Ministry is committed to making annual savings of over £2 billion by 2014-15 and a further 10 per cent in real terms between 2014-15 and 2015-16.³ Although the government's objectives for the programme do not include significantly reducing costs, reducing reoffending rates will lead to a reduction in costs elsewhere in the criminal justice system.

6 New structures and organisations to provide rehabilitation services will operate from 1 June 2014. Probation trusts will cease operation at 31 May 2014 and will be wound up completely shortly afterwards. A new National Probation Service (NPS) will deal with high-risk offenders and provide services to courts. The government will own 21 local Community Rehabilitation Companies (CRCs), but it plans to sell these by the end of 2014. The NAO's future work programme will test progress and the key enabling services and structures, that are designed to support and deliver these major reforms. An end-state governance diagram is shown in Figure 6 (paragraphs 2.7 and 2.8).

2 Comptroller and Auditor General, *Managing offenders on short custodial sentences*, Session 2009-10, HC 431, National Audit Office, March 2010.

3 National Audit Office, *Departmental overview: the performance of the Ministry of Justice 2012-13*, October 2013.

7 The Ministry needs to develop effective contracting arrangements that encourage innovation and value for money. In December 2013, the government announced that 30 bidders had passed the first stage of a competition to win rehabilitation contracts. Bids have been received from partnerships, with more than 50 organisations represented. A complex reform programme of this ambition and scope inevitably involves managing generic risks inherent in such a programme. Based on past experience, these include (paragraph 2.34):

- **Encouraging the development of suitable market capacity to deliver the new services.** Extending rehabilitation services to a new cohort of offenders will require increased capacity; fulfilling the government's desire to see greater innovation in provision will require new and different providers. In seeking to foster conditions to encourage development of new capacity, the Ministry must be mindful of relevant public sector procurement expectations.
- **Using a commissioning approach that ensures the objectives of the government are met consistently by providers.** Extending service provision and seeking innovation require effective commissioning. The Ministry will need to identify and retain, and if necessary develop or acquire, knowledge of the service area being commissioned, as well as commissioning skills themselves.
- **Having sufficient, appropriate skills in place to manage suppliers of rehabilitation services so that contracts deliver both the benefits anticipated for taxpayers and value for money.** Recent difficulties reported in the management of government contracts with the private sector, including the electronic monitoring of offenders for the Ministry of Justice, provide useful learning that should be applied to the management of the contracts for rehabilitation services.
- **Managing the risk of market failure.** Placing any service into the private sector successfully depends on there being appropriately qualified providers willing to carry out the work at the right quality and price. This is challenging when the service is being put to the market for the first time, as potential investors or suppliers will have limited data on which to base their decisions. Moreover, plans need to be devised to ensure there is always a provider of last resort in the event of an unsuccessful procurement exercise.
- **Managing the risk of supplier failure.** The management and supervision of offenders is a crucial public service that cannot be interrupted for any reason, including supplier failure. Managing such contracts will inevitably need appropriate capacity and regulation to ensure any early signs of supplier failure are detected and acted on. Plans need to be in place to ensure there is always a provider of last resort to ensure service continuity.

8 A recent report by the Justice Committee also identified similar issues as areas that would require careful management as the programme was implemented.⁴ The Committee also raised issues in connection with four broad areas to which it intends to return in its final report:

- the rationale and evidence base for the reforms;
- the transition from trusts to CRCs and the NPS;
- the proposed payment mechanism; and
- the creation of the market.

4 Justice Committee, *Crime reduction policies: a co-ordinated approach?*, Twelfth Report, HC 1004, 22 January 2014; available at: www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/publications/