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Probation reform, the RAR and the forgotten ingredient of supervision

Introduction

In the hubbub of the *Transforming Rehabilitation* (TR) reforms, the longest standing element of community-based sanctions and measures - latterly known as the *Supervision Requirement* - was quietly extinguished. Based on the idea of forming a purposeful working relationship between supervisor and supervisee, supervision had been the foundation of probation practice in England & Wales for more than a century (Vanstone 2004; Robinson & McNeill 2017) and research conducted over many years has established its importance as a key ingredient of effective one-to-one work with offenders (e.g. Robinson 2005; Shapland et al 2012; Robinson et al 2014; Smith et al 2018; Dominey 2019). In this comment piece, we argue that the current proposals for a further wave of probation reforms in England & Wales (Ministry of Justice 2019a) present an opportune moment to revisit the evidence base that underpins effective rehabilitative work, reinstate supervision as the bedrock of effective probation practice and do away with the failed *Rehabilitation Activity Requirement* (RAR) which replaced it. We further argue that where supervision is ordered as part of a Community Order (CO) or Suspended Sentence Order (SSO) this should be delivered by the case manager[1] situated in the National Probation Service (NPS): supervision should not be part of a package of intervention that is contracted out to another provider.

Farewell to supervision: a RAR is born

In February 2015, the Offender Rehabilitation Act 2014 (ORA 2014) removed both the S*upervision Requirement* and the A*ctivity Requirement* from the menu of options that could form part of a CO or SSO. The Act replaced both options with a new *Rehabilitation Activity Requirement*. As intended, the RAR quickly became popular, featuring in 29% of COs and SSOs in the first year, rising to 39% and 41% for COs and SSOs respectively by the first quarter of 2019 (Ministry of Justice 2019b: Table 4.4).

The reasoning behind the introduction of the RAR was never terribly explicit, but its creation was intimately entwined with the bifurcation of probation services under the TR reforms (Ministry of Justice 2013). Expressed only as a 'maximum number of days' (ORA 2014), the RAR was designed as a shell for rehabilitative interventions, the precise nature of which is determined - and amended as necessary - after sentencing by the allocated case manager. Following the TR reforms, sentencing advice is provided in court by staff employed by the National Probation Service. The NPS is also responsible for managing individuals assessed as posing a high risk of harm, whereas those assessed as posing medium or low risk are managed by Community Rehabilitation Companies (CRCs). CRCs are responsible for more than 80% of COs and SSOs (Ministry of Justice 2019b: Table 4.8). In this context, the RAR was conceived as an enabler of flexible – and potentially innovative - rehabilitative work amenable to delivery in a fragmented and marketised world. The precise detail of the RAR would not need to be planned or outlined by NPS court staff in their pre-sentence reports (HMIP 2017) and thus, their use was an act of faith: both sentencers and NPS court staff

[1] The case manager is the worker responsible for assessing the service user, drawing up a sentence plan, reviewing progress and taking action in the event of non-compliance. Ministry of Justice documents often refer to this worker as the offender manager or Responsible Officer.

had to trust that the CRC case manager (in consultation with the service user) would populate the time allotted to the RAR appropriately and then undertake the planned work robustly.

Alas, an inspection of the implementation and delivery of RARs published in early 2017 offered little in the way of reassurance (HMIP 2017). In the sample of cases inspected, HM Inspectorate of Probation found very few examples of innovation and an overall lack of momentum and direction in the delivery of RAR days. Only 22% of the required days had been completed after 9 months, there was a lack of purposeful activity and inspectors found that staff were allowing too many missed appointments. Service user engagement in planning RARs was found to be generally poor and disrupted in some cases by changes of case manager. Furthermore, service users struggled to understand the terms of their RARs, and practitioners expressed confusion both about what could be 'counted' as part of such a requirement, and about the distinction between RAR activity days and RAR appointments. Finally - but arguably not surprisingly in light of the above - inspectors found early signs of a reduction in sentencer confidence. RARs, then, were some distance from realising their potential to 'liberate probation services' to do rehabilitation in new and creative ways (HMIP 2017: 4). Their shortcomings appeared to arise from the organisational divide between NPS and the CRCs along with confusion about the purpose of the requirement and insufficient resources to deliver the intended work.

Proposals for reform: ambiguities and missed opportunities

The Government is proposing another shake-up of probation services (Ministry of Justice 2019a). One element of these plans – the bringing together of all case management under the single organisational umbrella of an expanded NPS - has attracted much attention as it goes beyond the 'tweaking' of existing provision set out at the start of the consultation and entails the demise of the CRCs. But an important aspect of the proposals which has attracted little to no attention is the specification of the case management role that will fall to probation workers employed by the NPS. This role, on our reading, appears to be purely managerial/administrative, and fails to give due consideration to either the relationship between case manager and service user, or (importantly) the legal mechanism needed to underpin a meaningful supervisory role. The proposals are also ambiguous about the future of the RAR.

In the *Draft Operating Blueprint* published in June 2019, 'offender management' is said to 'include managing the sentence specification, risk and need assessments, sentence planning, oversight, enforcement, breach and recall' (HMPPS 2019: 5). Where this role is fleshed out in more detail (on pp. 25-31) it continues to be presented in administrative terms, being made up of 'a sequence of tasks and functions' (p. 25). While it is acknowledged that there is a significant volume of research which 'evidences the importance of the development of positive relationships between the offender and Responsible Officer' in supporting rehabilitation and facilitating desistance (p. 27), the Blueprint more often uses the language of contact, management and oversight than supervision, motivation and support.

Meanwhile, the Blueprint anticipates that 'all key services' – including 'Unpaid Work, the majority of Accredited Programmes' and 'other resettlement ***and rehabilitative interventions***' - are to be purchased from private and voluntary sector organisations

(HMPPS 2019: 6, emphasis added). This implies an intention to include RARs in the significant package of requirements that will be outsourced to providers beyond the NPS and, therefore, delivered by someone other than the case manager.

If our reading is correct, the RAR survives the next iteration of probation reform. While this may provide some continuity at a time of significant and ongoing disruption for probation services, it is hardly evidence-based policy making. Indeed, we argue that retaining the RAR with the associated diminution of the supervisory role of the case manager runs contrary to all that we know about effective probation practice.

The Blueprint describes a clear divide between the management role of the NPS and the intended rehabilitative options delivered under contract by external providers. The task of supervision is now carved up and falls in the gap between the case manager in the NPS and the work forming part of the RAR. This strikes us as unduly complicated and confusing for all parties, not least service users who value continuity and the foundation of a trusting relationship with their case manager and may struggle to make sense of such fragmented provision (Rex 1999: Ugwudike 2010; Dominey 2019). For case managers, it perpetuates the confusion between RAR appointments and RAR activity days as they strive to negotiate a meaningful role across a rigid divide between offender management and externally sourced interventions.

The proposals also erroneously imply that good quality supervision can be reduced to, or expressed in, quantitative terms alone (e.g. a minimum number of face-to-face contacts). Research commissioned by the National Offender Management Service under its own *Offender Engagement Programme* pointed decisively to the reverse: practitioners rejected quantitative measures derived from National Standards as proxies for quality. For them, good quality supervision meant having the time and resources to form positive working relationships with service users (Robinson et al 2014). The link between professional relationships and quality practice is a consistent theme in the probation literature (Shapland et al 2012). Reinstating the supervision requirement would, in our view, be the best way to ensure that this essential foundation for effective probation practice is properly resourced and enabled.

Conclusion

The Blueprint for future probation reform sets out some laudable objectives, which include intentions to keep things simple; to ensure rehabilitation comes first; to follow the evidence base; and to heed lessons learned from probation's history (HMPPS 2019: 13). One way to achieve all of the above, we argue, is to revoke the RAR and reinstate the two requirements which it replaced in 2015: the *Supervision Requirement* and the *Activity Requirement*. Whilst the latter *could* be delivered by an external provider, the former should be the unequivocal responsibility of the case manager – the supervisor – employed by the NPS.

References

Dominey, J. (2019) 'Probation supervision as a network of relationships: Aiming to be thick not thin *Probation Journal, 66, 3: 283-302*

HM Inspectorate of Probation (2017) *The Implementation and Delivery of Rehabilitation Activity Requirements.*

HM Prison and Probation Service (2019) *The Proposed Future Model for Probation: A Draft Operating Blueprint.*

MoJ (2013) *Transforming Rehabilitation: A Strategy for Reform.* London: Ministry of Justice.

MoJ (2019a) *Strengthening Probation, Building Confidence.* London: Ministry of Justice.

MoJ (2019b) *Offender Management Statistics Bulletin, England and Wales Quarterly: January to March 2019*. London: Ministry of Justice.

Rex, S. (1999) 'Desistance from Offending: Experiences of Probation' *Howard Journal of Criminal Justice*, 38, 4: 366-383

Robinson, G. (2005) 'What Works in offender management?', *Howard Journal of Criminal Justice*, 44, 3: 307-318.

Robinson, G. & McNeill, F. (2017) 'Punishment in the Community', in A. Liebling, L. McAra & S. Maruna (eds.) *Oxford Handbook of Criminology,* 6th edition. Oxford: Oxford University Press.

Robinson, G., Priede, C., Farrall, S., Shapland, J. & McNeill, F. (2014) 'Understanding "quality" in probation practice: Frontline perspectives in England & Wales', *Criminology and Criminal Justice,* 14, 2: 123-142.

Shapland, J., Bottoms, A., Farrall, S., McNeill, F., Priede, C. & Robinson, G. (2012) *The Quality of Probation Supervision: A literature review.* Centre for Criminological Research: University of Sheffield

Smith A, Heyes K, Fox C, Harrison J, Kiss Z and Bradbury A (2018) 'The effectiveness of probation supervision towards reducing reoffending: A Rapid Evidence Assessment' *Probation Journal* 65, 4: 407-428

Ugwudike, P. (2010) 'Compliance with Community Penalties: The Importance of Interactional Dynamics' in F. McNeill, P. Raynor and C. Trotter (eds.) *Offender Supervision* Cullompton: Willan

Vanstone, M. (2004) *Supervising Offenders in the Community.* Aldershot: Ashgate.