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Article

Whose confidence? Regional leaders' perspectives on building confidence in a reconfigured probation service

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Abstract

The idea that the institutions of criminal justice should command the confidence of the public and other stakeholders is a taken for granted 'good', but one which has rarely been considered from the perspectives of operational leaders within those institutions. We also know little about what

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happens at times of crisis, when claims are made about the erosion of confidence and leaders are charged with rebuilding it. In this article, we seek to engage critically with the idea of confidence in one criminal justice institution – the Probation Service in England & Wales – at just such a time. Drawing on original empirical research with the 12 leaders of the recently unified service, this article focuses on the question of whose confidence matters and considers some of the challenges associated with confidence-building work from the perspectives of these leaders. Our research revealed that the stakeholder groups whose confidence most concerned them were sentencers and other partner agencies; government ministers; and their own staff within the unified service. We introduce the idea of ‘domains of confidence’ to highlight the importance of understanding perspectives on confidence (and efforts to strengthen or rebuild it) in a relational space in which the particular positionality of actors in the criminal justice field must be understood.

Keywords

Confidence, legitimacy, positionality, probation, sentencers

Introduction

Our criminal justice system works to make us all safer by reducing crime and, in turn, the number of victims. It serves to punish those who have broken the law in a meaningful and proportionate way and supports offenders to turn away from crime. The role of probation is crucial in delivering this and it is essential that we have a probation service that is stable *and commands the confidence of the courts and the public* as a safe and viable alternative to custody.

—David Gauke (2019: 3; Secretary of State for Justice, emphasis added).

The idea that the institutions of criminal justice should command the confidence of the public and other stakeholders is a taken for granted ‘good’; but it is one which has rarely been considered from the perspectives of operational leaders within those institutions. We also know little about what happens at times of crisis, when claims are made about the erosion of confidence and leaders are charged with rebuilding it. In this article, we seek to engage critically with the idea of confidence in one criminal justice institution – the Probation Service in England & Wales – at just such a time. The ‘crisis’ in question arose from the failure of the *Transforming Rehabilitation* reforms introduced in 2014–2015 by the Conservative-Liberal Democrat coalition government (Ministry of Justice, 2013).

The *Transforming Rehabilitation* reforms had several elements, but principal among these was a reconfiguration of probation services with a view to enabling innovation and competition between a new range of providers. The reforms thus inaugurated a bifurcated probation service which retained a public sector tier¹ but saw the contracting out of services for medium- and low-risk offenders to 21 new Community Rehabilitation Companies (CRCs), incentivised by a ‘payment by results’ mechanism (Ministry of Justice, 2013; Robinson, 2016a). The reforms necessitated the splitting of a formerly unified staff group between the two tiers of the new service; a development which was experienced by many as divisive and upsetting (e.g. Deering and Feilzer, 2015; Robinson et al., 2016). Following implementation, the reforms became the focus of sustained

critique from a range of key stakeholders and within a few years a growing collection of reports from the House of Commons Justice Select Committee (2018), HM Inspectorate of Probation (2019) and the National Audit Office (2019) suggested that the reconfigured service was foundering. This was evidenced in a number of ways, including the failure of Community Rehabilitation Companies (CRCs) to reduce reoffending or meet other key targets; limited evidence of innovation; underinvestment in staff and poor morale across the workforce; the injection of millions of pounds of extra public investment to prop up struggling CRCs; and reputational damage including a purported loss of confidence in probation among sentencers in particular. By 2019, just 5 years after the implementation of the *Transforming Rehabilitation* reforms, the Chief Inspector described the model as ‘irredeemably flawed’ (HMIP, 2019: 3), while the House of Commons Public Accounts Committee concluded that the reforms had left probation services ‘underfunded, fragile (and) in a worse position than they were in before the Ministry of Justice embarked on its reforms’ (House of Commons Committee of Public Accounts, 2019: 3; see also Beard, 2019).

In 2018, a consultation on the future of probation services was launched. Entitled *Strengthening Probation, Building Confidence* (Ministry of Justice, 2018), the consultation posed a range of questions about the future organisation and performance of the service and emphasised a need to enhance the confidence of the judiciary and the public. Subsequently a decision was taken to reunify probation services in the public sector, creating a new Probation Service for England & Wales (Beard, 2021; Robinson, 2021). This involved the unification of staff and caseloads from the former structures (seven geographical divisions of the National Probation Service and the 21 Community Rehabilitation Companies) into a new organisation comprising 12 geographical regions. In this article, we consider the contemporary quest to ‘build confidence’ in probation from the perspectives of the 12 Regional Probation Directors (RPDs) who were appointed to lead the new service. The voices of leaders within the probation service (in its many iterations) have rarely been represented in research (though see Mair, 2004; Millings et al., 2019). They are, however, an important group of actors as far as enabling us to understand the challenges associated with building confidence in criminal justice ‘from the inside’, and (more fundamentally) shedding light on the important question of *whose confidence* matters.

The article begins with a critical analysis of the idea of ‘confidence’ in criminal justice, and in the institution of probation in particular. In this first section, we open up questions about how confidence has been understood and operationalised in the criminal justice context, and about *whose confidence* is thought to matter, both in the criminal justice field and in probation specifically. We then move on to introduce our research, and the population of RPDs on whose experiences we focus in the remainder of the article, prior to presenting our findings. Regional leaders recognised a need to re-build confidence in probation, but the stakeholder groups on whose confidence they were focused did not align neatly with either political rhetoric or what the extant literature suggests. The focus of regional leaders’ attention fell to three distinct groups: sentencers and other partner agencies; government ministers; and their own staff within the unified service. In our analysis we introduce the idea of ‘domains of confidence’ to make sense of RPDs’ reflections on whose confidence mattered to them. We use this term to highlight the

importance of understanding confidence (and efforts to rebuild it) in a relational space; a space in which the particular positionality² of RPDs as leaders in the criminal justice field must also be understood. This article therefore not only contributes new knowledge about the ‘confidence building’ agenda in probation at a key juncture in its history, but it also offers new insights into how and why positionality is important in making sense of different perspectives on confidence, in probation and beyond.

Constructing confidence in criminal justice and probation

Like many popular concepts in the social sciences, *confidence* is a social construct which has no fixed or objective meaning. In academic literature, ideas around confidence in criminal justice have tended to be discussed alongside allied concepts of *trust* and *legitimacy*. There is now a burgeoning literature in this area, with strong theoretical and empirical strands and a particular focus on policing (e.g. Crawford and Hucklesby, 2013; Tankebe and Liebling, 2013; Tyler, 2007). It has been noted that while the concepts of trust and (in particular) legitimacy are broad and contested and can be difficult to operationalise, the idea of ‘confidence’ in institutions arguably has more intuitive appeal. For example, discussing the concepts of trust and confidence in criminal justice, Bradford et al. (2009) suggest that ‘confidence seems more of a “system-level” institutionally-based attitude towards the activities of the criminal justice system. It is, we propose, something closer to a “job rating” of the police and other agents of criminal justice’ (p. 2). This helps to make sense of why it is this concept which has been mobilised by politicians and in the last 30 years or so, in the context of the rise of managerialism, and in particular its ‘consumerist’ dimension (Bottoms, 1995). Confidence is thus a concept which now features regularly in policy statements, strategic documents, commissioned reports and surveys in the public domain. In the UK context, the Labour government established key performance indicators relating to confidence in justice in 1998 (Allen, 2008), and since then we have seen a number of initiatives aimed at enhancing community engagement with various aspects of the justice system (e.g. Casey, 2008), as well as the commissioning of regular surveys designed to measure levels of confidence in criminal justice. For example, the Crime Survey for England & Wales has included questions about confidence in the effectiveness and fairness of the criminal justice system since 2007/2008 (Jansson, 2015; see also Bradford et al., 2009), and the Sentencing Council has commissioned a series of surveys centred on public confidence in sentencing and the criminal justice system since its creation in 2010 (Archer et al., 2022).

To a large extent, then, confidence in criminal justice has been understood in terms of *public confidence*, and researchers have tended to operationalise this by asking survey respondents to rate their confidence in the effectiveness and/or fairness of the various elements of the criminal justice system, with ratings sometimes contextualised in relation to personal experiences of contact with the agencies concerned (e.g. Archer et al., 2022; Bradford et al., 2009). Probation has featured in these surveys, alongside the police, the courts, the CPS, prisons and other criminal justice services, such that the importance of public confidence in probation seems to be taken for granted.

However, Morgan (2003) questioned the idea that the public’s relationship with probation services could or should be likened to that of other agencies of criminal justice,

such as the police; or indeed other public services such as education and health. He observed that, in contrast to the aforementioned services, far fewer people come into contact with probation services, and members of the public are highly unlikely to ever face a *choice* about whether to engage with probation.³ From the perspective of the general public, he argued, the probation service is just ‘part of the background fabric of the state’ (Morgan, 2003: 9): largely hidden from view, unnoticed and unlikely ever to have the salience for the public that the police typically have. More recently, Mawby and Worrall (2013) have argued that probation can be understood as a type of socially tainted, ‘dirty work’ that members of the public are happy to know little about, so long as they are not exposed to harm from people under probation supervision. Other researchers have noted that the public’s lack of knowledge about probation is compounded by a lack of representation of probation in popular media, including TV documentaries and dramas, movies and fictional literature (Robinson, 2016b).

These ideas have been borne out in a raft of research which has indeed shown that few members of the public have had direct contact with probation services,⁴ and the majority admit to knowing very little about this part of the system (see Allen, 2008; Allen and Hough, 2007; Maruna and King, 2008). Thus, when surveys have recorded low levels of confidence in probation, researchers have acknowledged that this is more likely to reflect a lack of personal contact with (and knowledge about) the service than negative interactions with it (e.g. see Archer et al., 2022). This is not however to diminish the potentially negative impact of exposure to media coverage of serious further offences (SFOs) by people under probation supervision; nor the fact that probation has been subject to a great deal of scrutiny in light of a number of recent high-profile SFOs⁵ (e.g. Carr, 2023; Fitzgibbon, 2011; HMIP, 2023a).

Morgan’s analysis identified sentencers as the key constituency for probation services. Sentencers, Morgan argued, are the ‘commissioners’ of probation work, and thus control demand for probation services via their sentencing decisions. Although Morgan did not explicitly discuss confidence, it follows that a lack of confidence in probation on the part of sentencers can have the serious consequence of inhibiting the use of community-based sentences, and increasing reliance on other disposals, including sentences of imprisonment (see also Allen, 2008). Second in line in terms of importance, in Morgan’s (2003) analysis, were ministers and civil servants, who ‘exercise some command’ over the service (along with other agencies in their purview) (p. 9). Again, his analysis suggests that the confidence of these groups should matter a great deal to the probation service.

Concerns about sentencers’ confidence in probation services have been at the forefront of critical debate about the impact of the *Transforming Rehabilitation* reforms (see Beard, 2019 for an overview). The bifurcation of probation services which characterised these reforms saw responsibility for the provision of court services (including the provision of pre-sentence reports) fall to the National Probation Service, while responsibility for supervising the majority of community orders fell to the 21 Community Rehabilitation Companies. The latter did not have an audience in court and thus were unable to explain the details of their provision or their failure to effectively enforce community orders in relevant cases (HMIP, 2018; Woolford and Salami, 2019). One well publicised report published by a criminal justice thinktank suggested that an ongoing decline in the use of

community sentencers since 2011 had almost certainly been exacerbated by an erosion of sentencers' understanding of and confidence in probation since the implementation of the TR reforms (Centre for Justice Innovation, 2019). It is no surprise therefore that judicial confidence features explicitly in both the recent consultation documents and the blueprint outlining the process and desired end state of unification (HMPPS, 2021; Ministry of Justice, 2018, 2019). Judicial confidence (as measured by an annual survey) has also been introduced as a key performance measure for the service since unification (HMPPS, 2021).

Meanwhile, Morgan's observations about ministers and civil servants – made some two decades ago – arguably understate their importance today, as the probation service has come under increasing degrees of central oversight and control. In the early 2000s, the probation service comprised 42 probation areas, which were accountable to government via the Home Office, but whose leaders (Chief Probation Officers) enjoyed relative independence. Subsequently, probation has moved ever closer to government, first via its transition to 35 probation trusts that were brought under the umbrella of a National Offender Management Service (NOMS) in 2013; and then via the *Transforming Rehabilitation* reforms, which saw the public sector arm of probation move into the civil service. The unification of probation services, in June 2021, has brought the whole of the new Probation Service within the civil service structure, under the umbrella of HM Prison and Probation Service (HMPPS), which replaced NOMS in 2017. The Regional Probation Directors appointed to oversee the service's 12 regions are thus senior civil servants, accountable to HMPPS via a Director General. This positionality is important because it suggests less autonomy than was enjoyed by their predecessors: their remit is to lead regions through various stages of transformation towards an end-state set out in a blueprint that emphasises consistency and standardisation (HMPPS, 2021). It also provides important context for their perspectives on the confidence-building agenda, including whose confidence emerged as most significant to them, and the challenges they faced in each of the domains of confidence we will go on to identify.

The research, the RPDs and their inheritance

This article draws on qualitative data collected as part of a 3-year longitudinal study which commenced in January 2022. Funded by the ESRC, the study has a variety of strands which together seek to understand unification from a variety of perspectives, including those of probation staff, service users, policy actors and external stakeholders. In this article, we consider the perspectives of the operational leaders within the unified service – Regional Probation Directors (RPDs) – as conveyed in interviews with members of the research team between mid-March and the end of May 2022: just under 1 year after unification.

At the time of the interviews, the RPDs (eight women and four men) had been in their current roles for between 2 and 3 years, and thus all had overseen much or all of the period during which preparations were being made to transition to the new service. Seven came to their current role from positions as former Divisional Directors in the National Probation Service (NPS); four had led one of the 21 Community Rehabilitation Companies (CRCs); and one came from a role in HMPPS, but with prior experience as a

senior probation manager. Indeed, the majority had prior experience in senior management roles in Probation Trusts (prior to the TR reforms), and in some cases also within the probation areas which preceded those.

The transition to a unified service meant that each of the 12 new regions inherited staff and caseloads from the NPS and at least one (and up to three) of the privately owned CRCs. The RPDs thus had to grapple with much that was new to them: as well as possibly transitioning to employment in the civil service and/or physically relocating, their new roles would entail bringing together staff from a range of organisations with different practice cultures and in some cases no experience of working with a mixed profile of people under supervision. Furthermore, probation had been operating according to an exceptional delivery model designed to cope with conditions created by the pandemic, which added another layer of complexity (HMIP, 2020). And, at the point of unification – when it became clear for the first time just how many staff each region would inherit – it transpired that all 12 regions would be commencing operations with significant numbers of vacancies at the front line. Moreover, the service was experiencing upwards trends in both staff sickness absence and leaving rates among permanent staff (Ministry of Justice, 2022).

The research was subject to both University ethical approval and the approval of the HMPPS National Research Committee, both of which were secured in late 2021. The participation of individuals in all stages of the research is voluntary, such that RPDs opted in, in the same way as other participants. Care was taken to explain that while every effort would be made to anonymise interview data, the small population of RPDs would render achieving this more difficult. All 12 RPDs consented to participate in the research and, in order to preserve the anonymity of individuals as far as possible, each person has been assigned a number, from 1 to 12 in the analysis which follows. Each interview was conducted by one of the four members of the research team, and lasted between 61 and 150 minutes, with an average length of 96 minutes. All were digitally recorded and transcribed. Transcripts were then checked by the interviewer, and thematic codes (both deductive and inductive) were developed from team discussions based on reading transcripts.

The semi-structured interview schedule we developed for this round of interviews was broad in scope and sought to elicit the experiences and perspectives of the RPDs since the decision to unify the service was announced, in mid-2020. The issue of confidence, or confidence-building in the wake of unification, was addressed explicitly as part of the interview, but the transcripts were coded in the round, such that references to confidence were coded wherever they appeared in the interview. As such, confidence was an inductive code, but discussions of confidence in our transcripts were not confined to only those parts of the interview which addressed this explicitly, nor to discussion of the confidence of external stakeholders. Our thematic analysis revealed that where RPDs talked about confidence, they were focused on three particular groups of stakeholders. Noting that each group occupies a different place/space in the probation field, and the distinct challenges each group presented for RPDs, our analysis led us to develop the idea of ‘domains of confidence’, as spaces of concern, requiring attention and relational work of different kinds on the part of RPDs. In the analysis below, we introduce and discuss each of these three domains, but also consider a fourth domain – that of public

confidence – which was not at all prominent in our data but nonetheless merits consideration, given its prominence in political and policy discourse.

Domain I: Sentencers and the ‘partnership table’

The perception of a need to build confidence in probation was universal. All twelve RPDs acknowledged that the splitting of probation services by the earlier *Transforming Rehabilitation* reform programme had damaged confidence in probation, and that ‘confidence building’ was thus necessary:

I absolutely do. (RPD 1)

Yes 100%. (RPD 10)

Well I think in some places confidence needs to rebuild, but I think it’s too blunt to say that’s across the board. (RPD 7)

The above comment from RPD 7 suggests variability in assessments of the confidence of different potential stakeholders that was reflected more generally when respondents elaborated on the contexts in which building confidence was thought to be most needed. Overall, twelve distinct groups of stakeholders were identified – with some being much more salient than others; but only one group was mentioned by all respondents in this part of the interview, and that was sentencers, who were clearly universally regarded as key stakeholders vis-a-vis probation. Respondents commonly volunteered examples of how and why they thought sentencers had lost confidence in probation in recent years. For example:

The sentencers didn’t know what the hell was going on [under TR]; sentences that were being passed weren’t being delivered. The National Probation Service staff were the reps in court trying to speak on behalf of a private company who hadn’t delivered. Shocking. I can’t tell you what damage that did. So yes, we do need to rebuild confidence. (RPD 4)

The courts – I think judges, magistrates – were distrustful of the private sector. Things like breach reports might say ‘more unpaid work hours’ and their response might well be: ‘But that’s because you get more of a profit from it’. I think there was damage to the system, so it needed to be repaired. (RPD 11)

That sentencers were so consistently referred to is arguably of little surprise, given the emphasis on courts in official discourse around unification, coupled with sentencers’ unique role as commissioners of probation services (Morgan, 2003). But attracting almost as much attention were Police and Crime Commissioners (PCCs) and/or the police, whose status as statutory criminal justice partners was clearly valued highly. Multi-agency partnership forums, prisons, local authorities, HM Courts and Tribunals Service (HMCTS) and the voluntary sector were also explicitly mentioned by one or more respondents as agencies or bodies whose confidence was perceived as important and where efforts were being made to enhance it. Thus, partners in the provision of

probation services, in both criminal justice and allied fields, were at the forefront of RPDs' minds as actors whose confidence in the unified service they wished to enhance.

Reflecting on the need to enhance the confidence of sentencers and partner agencies, RPDs commonly noted that the act of unification had already been a major step forward:

I think our partners are starting to recognise the benefit of the unification. So the feedback from our PCC, from the police, from the judiciary, is that this is very welcome. They are already starting to see the benefit of the unification. Because there is just one probation. One probation. One probation voice. (RPD 9)

[The split] didn't make sense to anybody. So to be able to be a proud stakeholder, sat round a table, leading a single unified organisation, that's the main opportunity. (RPD 4)

However, participants also referred to a number of challenges associated with the strengthening of confidence among external stakeholders, which concerned the size and shape of the reconfigured probation regions. With the exception of two regions (Wales and London), unification has re-drawn the geography of probation, creating challenges around size and boundaries for the majority of RPDs. Although the new regions were designed to be coterminous with local authority and PCC areas, other regional structures (including HMCTS and prisons) do not match probation's new regional footprints. RPDs thus faced some challenges, with most being required to deal with multiple PCCs and local authorities, while also sharing relationships with some other key agencies across probation regions. In this new configuration, RPDs faced inevitable challenges of representation, which had to be carefully managed:

If I were redesigning this, and if my message was building confidence, I wonder if the size of these regions allows that to happen in quite the way the message would want. My capacity to deal with four times everything and manage this service? [. . .] So it's about picking the critical relationships and for me, they have been the Police and Crime Commissioners, the police Chief Constables and the [prison] governors. (RPD 1)

There is that view, isn't there, that when you're at the top of the organisation everybody wants you at their meeting. There's no way I can do that and, actually, it wouldn't be useful because I don't know the ins and outs of what's going on in [town X] [. . .] I do go to criminal justice boards but I don't go to them all because I couldn't service them all. That's what my senior leaders in the [Probation Delivery Units] do. I don't go to the safeguarding boards; they go to the safeguarding boards. I don't . . . I meet with the PCCs but [PDU heads] are the ones that have the stronger relationships with the PCCs. (RPD 6)

As these quotations indicate, RPDs were aware that they needed support to manage all the important relationships in their area, with a view to building confidence, and in this regard, they were assisted by a degree of continuity of relationships at senior levels, with PDU⁶ heads, Heads of Operations⁷ and managers of court teams all mentioned as valuable assets in maintaining a range of relationships. Another positive asset, mentioned by several RPDs, was the newly created role of Head of Community Integration to

oversee the commissioning and co-commissioning of services within each region (HMPPS, 2021: 141). This, coupled with access to a new Regional Outcomes and Innovations Fund (ROIF) (a pot of money intended to help lever investment in non-statutory services, for example, by entering co-funding arrangements with PCCs or other commissioners) was seen as a promising step towards enhancing the confidence of external partners in probation.

Domain 2: Ministerial confidence and the management of expectations

While our specific questioning about building confidence in probation produced a clear focus on sentencers and partners in and adjacent to the criminal justice field, the analysis of interview transcripts *in the round* revealed – in every interview – reflections on relationships with government ministers and their teams, and an overarching sense that ‘we’ve got ministers looking at us’ (RPD 8). In particular, interviewees conveyed a keen awareness of the need to secure the ongoing confidence of ministers and deliver a return on what amounted to significant government investment in the unified service.

Several respondents mentioned particular areas of probation work in which ministers appeared to be particularly interested (including Integrated Offender Management, unpaid work and electronic monitoring), and gave examples of specific encounters or communications with ministers which had reinforced their perceptions of interest and engagement at that level. In the majority of interviews, participants referred to the inclusion of a thematic portfolio within each RPD role (e.g. women’s services; health; young people; accommodation), and how their own or colleagues’ leadership in these areas meant that they might be (and in some cases, often were) consulted with a view to informing ministerial briefings or answers to parliamentary questions relating to their portfolio. More generally, participants concurred that their access to ministerial teams, and their voice in that context, had been strengthened by the positive mediating influence of those at ‘the centre’ (i.e. within HMPPS), with the then Director General of Probation and Executive Director of the Probation Reform Programme both singled out as accessible and powerful allies:

[The Director General] has a lot of influence and sway, I think, with ministers, including Number 10. And absolutely fair play to [them, they have] given a greater profile and respect, I think – brought more respect – to probation than we have probably ever had. (RPD 8)

However, probation being under the ministerial spotlight was viewed as a double-edged sword. On one hand, participants appreciated new investment and interest; but they also expressed concerns centred on the management of expectations ‘from above’, in the post-unification context of severe staff shortages, which they knew would limit performance and potentially undermine confidence:

We’ve all got broadly the same challenges, predominantly around resources. There isn’t a quick path to that resolution. Every week that goes by you feel that there’s more pressure to move things forward; although that should be tempered with – we’ve been quite clear that they’re not expecting us to hit performance objectives yet and suchlike. (RPD 11)

The whole challenge for us, at this moment in time, is about managing expectations. It is enormously difficult. (RPD 6)

In this context, the operational blueprint was acknowledged as a useful political tool (explaining to ministers the unification journey and its various stages); but also as problematic in setting unrealistic expectations around what could be achieved by when. As one respondent put it, there was a risk of ‘over selling and under delivering’ (RPD 12):

All 12 regions, I can say without a shadow of a doubt, are kind of hovering between [the stages of] ‘transition’ and ‘stabilisation’. So there is a lot of stabilisation work that we are still having to do. Because what [the blueprint] assumes is, it assumes you are operating somewhere between 85 to 90% of the workforce you need to deliver the structural change. It is also assuming that you are not trying to recover from a pandemic. (RPD 9)

Also perceived as a potential source of risk to ministerial confidence was the round of independent post-unification inspections which had recently commenced (HMIP, 2022a).⁸ When our research interviews began, reports on inspections of two Probation Delivery Units (PDUs) in Wales had recently been released, and as we neared the end of this round of interviews, the Inspectorate published two further reports from the first English probation region to be inspected. Both English PDUs were rated ‘inadequate’, while the Welsh PDUs were rated ‘inadequate’ and ‘requires improvement’ (HMIP, 2022a, 2022b, 2022c). In this context, while RPDs were generally very supportive of an independent inspectorate and valued its role in (among other things) enabling practitioners to voice their experiences, it was clear that the recent publication of inspection reports had created some disquiet, and there was a dominant view that it could be counter-productive to be conducting PDU-level inspections so soon:

I’ve always worked really constructively with HMIP, and I want to get the best out of when they come and visit, but it does feel like we’re being measured against unrealistic expectations at the moment. (RPD 12)

If you recognise, if you truly recognise that things are going to be in a real state of flux, with some very significant, massive change, then you might come in and do a thematic [inspection] to give us feedback as to how we are getting on. But to start to publish, ‘You are not doing a good job in this PDU, and therefore you are inadequate’ [. . .] They have created a methodology that there is no way, absolutely no way any [PDU] will deliver ‘good’ with that methodology at this stage. (RPD 9)

Several others shared this sense of exasperation about the ongoing round of inspections and were particularly concerned about the impact of potentially poor inspection reports later in the coming months. In the extract below, an RPD speculates about a forthcoming inspection:

If I get three ‘inadequates’ right now, or two, and one ‘requires improvement’ it will be awful, I know it will. But I’d be in line with the ones that have gone before me. But another three [inspections] down the line and, OK, you might still be in line with lots of others, but actually, what is that saying about the whole service? [. . .] Ministers are not going to simply sit and accept this, I don’t think. (RPD 8)

A further risk that RPDs perceived in this domain derived from their experience of ongoing ministerial churn,⁹ and a general disinclination to allow probation some time to settle and stabilise:

I think the foundations are absolutely there. I think the direction of travel is right. With anything, it's about allowing it some time to organically grow [but] ministers generally want change. Obviously, there could be a change in minister any day, and that can change directions, change expectations. (RPD 11)

Domain 3: Internal confidence

As we have noted above, discussions of and attempts to measure confidence in relation to criminal justice have tended to focus on external audiences, with a particular emphasis on the general public as potential users. Little attention has been paid to the confidence of those working within these services; yet this emerged as a prominent theme in our interviews with RPDs.¹⁰

First, our analysis revealed some reflections pertaining to the confidence of RPDs themselves, both as individuals in new roles, but also as a new collective. The 12 RPDs all came to their current positions with considerable experience in senior management roles, which brought a significant degree of self-confidence. Nonetheless, all were new to the specific RPD role, and this was frequently referred to as 'bigger' than previous roles, with larger regions and/or more staff than they had previously overseen, as well as some unfamiliar aspects for each of them. For example, some were less experienced with commissioning; some were new to the civil service environment; and all were well aware of the immense challenges associated with unification. At least one former CRC leader talked about the challenge of 'winning hearts and minds' of former NPS staff; while former leaders from the NPS had had to manage a range of issues related to the termination of CRC contracts on their patch. Some had faced challenges associated with the splitting of the old (geographically larger) divisions,¹¹ which meant having to work hard to forge a new regional identity. So while the challenges varied, no-one's experience was easy.

Moreover, RPD appointments took place very close to the start of the pandemic, which brought a further layer of complexity to the role. As one interviewee put it:

And then obviously throughout 2020–2021, in the throes of COVID, working in most cases from your bedroom, that was it. It was very frustrating. Had my laptop, my phone, at home, having to stand up a region. (RPD 9)

The pandemic also meant that the newly appointed RPDs were not able to meet in person as a group for many months; but all spoke of building strong relationships and supporting each other, and of striving to work together as a collective, especially when dealing with HMPPS, with a long view of instilling confidence in them at 'the centre'. On occasion, this meant presenting a united front and 'holding their nerve' (a phrase which was used by several respondents) in the face of demands or proposed changes that were considered unreasonable or unwise:

I think the only thing that keeps us going is that you're not alone [. . .] I could honestly say that I could phone up any one of them and say 'I'm really struggling with this. I know you're great at this. Can you help?' And we do [. . .] We're also quite a collective, more powerful. So if we all agree. . .if there are specific changes coming down, one size doesn't always fit all, but if we were to challenge the centre or want a different direction of travel, we would do it as a collective. Then, it would be, 'No, none of us want to do that'. (RPD 5)

I think as an RPD group, we've put a lot of time into consolidating our group, so I do think there's a real kind of strength and single view about what we want to see as Probation, I think that's been really helpful. (RPD 3)

RPDs also consistently talked about the confidence of their staff. They were very well aware of the demoralising effects of high caseloads and staff shortages, and of confidence deficits among staff from both 'legacy' organisations (see also HMIP, 2023b: chapter 2; Millings et al., 2023).¹² This was understood not just as a result of the bad press associated with the performance of many of the CRCs but also the skill and experience gaps on both sides of the divide created by TR. The impact of the pandemic, which had isolated many staff in their homes, working remotely with limited support, was also acknowledged. As one RPD observed,

So the confidence people had, or the majority of people had, in doing this work: I think that confidence has been eroded slightly with the pandemic; the confidence that grows from working in an office, learning all the time, to actually spending most of your time in front of a laptop at home. (RPD 9)

Confidence deficits among frontline staff were also attributed to the relative inexperience of a growing proportion of staff; a problem associated with the resignations of significant numbers of probation staff in the last few years (see HMIP, 2023b: chapter 2):

The proportionate weight of experience is changing significantly. [Before] you could go to some teams, not all, and you might say, 'You've got three or four probation officers who've been here more than five or six years'. Now that's not the case, most of these are now in senior. . .We are promoting people into senior probation officer roles who have relatively limited experience because that's the pool we have to draw from. The experience of frontline practitioners is less. (RPD 6)

Some attributed staff departures in the lead-up to unification to a lack of confidence for individuals about how or even whether they would fit in the new organisation – for example, where there was no direct equivalent of their role in the unified service. The particular challenges for incoming trainees were also mentioned, where mentoring and support shortages at the front line, and the experience of completing the majority of their training during the pandemic, would potentially make it harder for them to 'learn their craft'. Fears at the frontline about the potential for, and consequences of, serious offending by people under probation supervision were also acknowledged, as was the potentially demoralising impact of negative HMIP inspection reports. These reflections on

staff confidence led several RPDs to talk about their own role in supporting and ‘holding’ staff through challenging times, and the importance of reinforcing positive practice, and reminding staff that things would improve:

I think what attracted me to the job [. . .] not just myself, I know the other Regional Probation Directors, we’ve all been around for decades. We’ve seen all iterations of small service, big service, PDU, LDU, Trust, not Trust. Actually, having that position, you can hold people and take them through different changes [. . .] I’ve always said to practitioners, ‘Just focus on the service users and let me deal with the rest’. (RPD 2)

We’ve got to lift them [practitioners] up: ‘This is the context. I’m still proud of the work you’ve done’. (RPD 5)

In a way that was reminiscent of research on supporting service users on a desistance journey (e.g. Ainslie, 2021), several RPDs mentioned the importance of building a narrative centred on hope for the future:

So it’s trying to keep it real for [practitioners] and what it means to them and trying to keep them reassured that things are going to get better. And to turn the narrative into hope that we are going to get there and we’re going to do this and we will be fantastic when we’ve arrived. (RPD 4)

Domain 4: Public confidence

What, then, of the general public as a group whose confidence in probation has been central in political and policy discourse? The general public were mentioned in only half of the interviews, and typically in passing; but there was clearly an awareness of this group’s political salience. For example, one participant said,

I think the confidence piece is public confidence and sentencer confidence. And we always have been at the mercy of the – we have 250,000 cases and 0.01% will go on and commit a serious further offence. And they’re the ones that get the headlines. (RPD 4)

This respondent was one of a minority who referred to the general public as recipients of only ‘bad news’ about probation, and/or whose knowledge and awareness was otherwise scant:

Public confidence is always difficult, isn’t it, because I just think half the public don’t even know that we exist half the time [. . .] We get attention when things go wrong, yes? [. . .] I don’t think the public want to know that we have worked effectively with Bill Smith who is a sex offender and has been through his treatment programme, come out of prison, and is now living at 93 Adelaide Avenue. (RPD 3)

The above comment alludes to the idea of probation as ‘dirty work’ that the public would prefer to stay hidden (Mawby and Worrall, 2013). Community service (or unpaid work as it tends to be known today) was the only aspect of probation work that was mentioned as reasonably well understood by the public and a useful means to enhance both

the visibility and credibility of probation with a public audience (e.g. via the distribution of images of completed community projects via social media).

The political emphasis on public confidence was thus not echoed in our interviews. For example, although the public was recognised as one of the potential audiences for the negative press they expected from the ongoing series of inspections and serious further offending reviews, RPDs were much more concerned about the impact of headline inspection findings on the three groups whose confidence mattered most to them: sentencers and other external partners; ministers; and their own staff.¹³

Discussion

The probation leaders whose voices are represented here are a small but important group of actors, whose perspectives are rarely heard. Listening to these voices gives us a direct insight into the messy reality of leading a new probation service out of a period of crisis, and a particular perspective on the confidence-building agenda. Without exception, these leaders acknowledged a need to (re)build confidence in probation in the wake of the failed *Transforming Rehabilitation* reforms, which have left probation severely weakened. Three domains emerged as of primary importance from the RPDs' particular purview, each requiring confidence-building work on their part, with the support of their leadership teams.

The prominence of these domains makes sense when we consider the positionality of the RPDs and their regions within a wider organisational field (see also Robinson, 2021). The attention of RPDs fell to their own sphere of influence, as they perceived this, and to a series of internal and external relationships through which they hoped to build confidence. The first domain, encompassing sentencers and other key partner agencies, can be conceptualised as a set of horizontal relationships across the organisational field, branching outward from each probation region. The prominence of this domain reflects not just the contemporary policy emphasis on judicial confidence but also probation's long history of providing information and advice to the criminal courts, and of working with a range of other agencies in more or less formal partnerships (e.g. see Rungay, 2007). The second domain is better represented as a set of vertical relationships, with ministers, but mediated by influential senior leaders within HMPPS. RPDs were very aware of the power wielded by ministers to 'command and control' probation, and thus the need to earn their confidence. As a group of leaders, they had worked hard to develop collective efficacy (Bandura, 1997), both as a means to build 'upwards confidence', but also to resist unwanted changes and defend some space for a modicum of regional flexibility. The third domain was internal to the new service, and centred on its own staff. This domain of 'internal' confidence has not featured heavily in political or policy discourse but it was a prominent and very real concern for RPDs who were well aware that the confidence of probation staff had suffered, and of a wider sense of ontological insecurity within the service (Giddens, 1990). In this domain they saw their role as shielding or protecting individuals (most notably from their own challenges associated with managing confidence in the vertical domain) and offering reassurance, positive reinforcement and hope for the future.

Meanwhile, the domain of public confidence, which has tended to preoccupy politicians and researchers, was not a prominent theme in our interviews. There are a number of ways to explain the absence of a 'public' domain in our findings, but once again it is instructive to consider the positionality of our sample. As we have seen, the RPDs were focused on more proximate audiences and relationships which fell within their sphere of influence, and whose confidence was particularly consequential as far as securing stability for the new service at a time of ongoing challenge. In such a context, enhancing public confidence might be considered a luxury on which they could not afford to dwell and to which significant resources could not be devoted: an aspiration for the future, perhaps; but not a realistic objective for the present. It therefore remained in the peripheral vision, while more pressing challenges associated with confidence-building work in the three priority domains were faced.

We can similarly surmise that the absence of service users as a prominent constituency in leaders' reflections on confidence building is explicable with reference to RPDs' particular positionality. Some support for this comes from one of the above quotations, from RPD2, who explained that they remind frontline practitioners to 'focus on the service users and let me deal with the rest'. Our findings, we argue, do not suggest that RPDs are oblivious to or lack concern about service users, their experience of or their confidence in the reconfigured service. Rather, we suggest that this domain of concern is devolved to the frontline, where it can be more directly and effectively managed, in routine and direct encounters with frontline staff (McNeill and Robinson, 2013; Mullen et al., 2022).

Postscript

Since the interviews were completed, a new Justice Secretary has been appointed (in April 2023) and the Ministry of Justice has announced further changes to the configuration of probation services at senior management level, under the banner of its *One HMPPS* programme, which seeks to more closely align prison and probation services (see Carr, 2022). While this development will arguably not have a direct impact on frontline delivery, and is clearly understood by HMPPS as a further step towards achieving stability, our interviews suggest that, within the service, the prospect of further restructuring (albeit at the top of the organisation) presents one more challenge for the service's new leaders as they strive to rebuild confidence in the domains that matter most to them.

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Notes

1. A National Probation Service was created to manage offenders assessed as high risk and to deliver services to the courts, to victims and to the Parole Board.
2. Positionality theory asserts that individuals have a position of subjectivity that impacts how they socially construct the world. It encourages a focus on intersecting identities, power relations and context to make sense of these subjectivities (Kezar and Lester, 2010). In this article, we are particularly concerned with the latter two: power relations and context, in making sense of leaders' perspectives on confidence.
3. While not diminishing their importance as direct users of probation services, Morgan makes a similar case in relation to those under probation supervision and victims of crime, on the basis that they do not tend to engage with probation services through choice.
4. For example, Archer et al. (2022) found that for their survey sample, 49% reported having had some contact with police; 26% with the courts and 11% with probation.
5. SFOs are serious violent or sexual offences committed by people subject to probation supervision. They are relatively rare, constituting fewer than 0.5% of the probation caseload (HMIP, 2023a). The occurrence of an SFO leads to an automatic review of the supervision of the case prior to the offence being committed. Reviews are ordinarily carried out internally by the Probation Service and are not published, but in two recent cases the Secretary of State for Justice requested that the Inspectorate carry out independent reviews. The publication of these reviews in early 2023 has led to increased political and media scrutiny of probation (see Carr, 2023).
6. Probation Delivery Units are local areas within the larger regional structures, each managed by a Head of PDU. There are 108 PDUs across England & Wales.
7. A new role created in the unification process, 'to oversee and provide strategic direction to operational probation delivery on behalf of the Regional Probation Directors' (HMPPS, 2021: 141).
8. A new probation inspection programme for the unified probation service commenced in October 2021, and it involves the inspection of one-third of PDUs per region per year (HMIP, 2022a, Annex 1).
9. For example, the current Secretary of State for Justice, appointed in April 2023, is the 10th person to occupy this role since 2010.
10. The operational blueprint includes just one reference to equipping staff with skills to enable them to 'manage [a] combined caseload with confidence' (HMPPS, 2021: 62).
11. For example, in the new regional structure, Greater Manchester has been carved out from what was the North West Division of the NPS.
12. The recent introduction of a policy on a probation professional register notes the issue of differential qualifications among staff from different legacy organisations. The register itself also explicitly references the need to 'create confidence that the probation service has a workforce who have the required qualifications and capability for their role' (MoJ/HMPPS, 2023: 4). HM Inspectorate of Probation has also published a paper on the topic of 'Professionalism in probation' recently (Tidmarsh, 2022).

13. This finding speaks to a wider contemporary debate about the inspection of public services and the potential harms that can follow from negative ratings (e.g. Waters and McKee, 2023).

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