

COST Action IS1106: Offender Supervision in Europe

Working Group on Experiencing Supervision

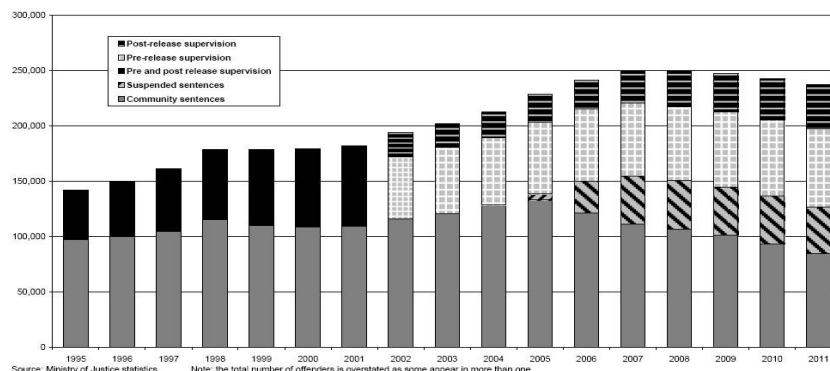
Country Report: England and Wales

Lol Burke and Wendy Fitzgibbon

1. Country overview

There are approximately 243,000 individuals under probation service supervision in England and Wales of which 141,000 were under a court order and 102,000 were under licence following a period of imprisonment. Approximately 88% of those under the supervision of the probation service were males (Ministry of Justice, 2010). The use of community sentences by the courts increased by 28 per cent between 1999 and 2009 (Ministry of Justice, 2010). A key driver behind this expansion has been the desire to use community sentences as a mechanism for controlling the prison population but the reality has been one of unprecedented penal expansionism in both the use of imprisonment and community sanctions. England and Wales, at 153 prisoners per 100,000 of the general population, had the eighth highest per capita rate in the EU as it existed prior to the 2004 and 2007 enlargements, after Spain with rate of 164 prisoners per 100,000 (Ministry of Justice, 2010).

Figure 1.3: Number of offenders under Probation Service supervision (at end December), 1995-2011



The Criminal Justice Act 2003 legislated for a new framework for the delivery of community sentences. The existing community sentences were replaced with a generic community order. This allows sentencers to 'mix and match' the sentence to the individual requirements of each case from the following 12 possible requirements:

- Unpaid work (40-300 hours)
- Supervision (up to 36 months; 24 months maximum for a SSO)
- Accredited programme (has to be combined with a supervision requirement; length as number of sessions)
- Drug rehabilitation (6-36 months; 6-24 months for the SSO; consent required)
- Alcohol treatment (6-36 months; 6-24 months for the SSO; consent required)
- Mental health treatment (up to 36 months; 24 months maximum for the SSO; consent required)
- Residence (36 months maximum; 24 months for the SSO)
- Specified activity (up to 60 days)
- Prohibited activity (36 months maximum; 24 months for the SSO)
- Exclusion (up to 24 months)
- Curfew (maximum of 6 months, between 2-12 hours per day; if a community order or SSO is made up of only a curfew requirement, there is no probation involvement)
- Attendance centre (12-36 hours with a maximum of 3 hours per attendance)

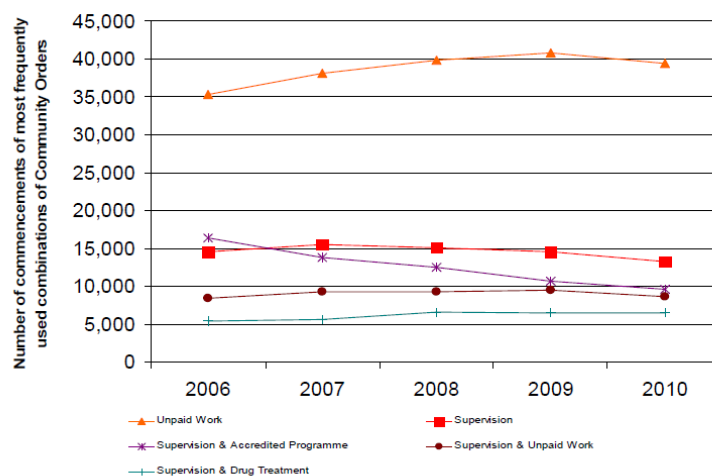
According to the offender manager caseload statistics (Ministry of Justice, 2012a) just five requirements account for 90% of those used by the courts.

| Requirement | Community Order |
|---------------------|------------------------|
| Supervision | 34% |
| Unpaid work | 33% |
| Acc. programmes | 10% |
| Drug treatment | 5% |
| Curfew | 7% |
| Specified activity | 6% |
| Alcohol treatment | 3% |
| Prohibited activity | 1% |
| Other | 1% |
| Total No | 231,444 |

At the same time, a suspended supervision order (SSO) was introduced with the same 12 requirements. The SSO, however, is, in a legal sense, a custodial sentence and is intended to be used when the court is considering the imposition of a sentence of imprisonment. These new orders were intended to increase the credibility of community sentences; the pursuit of credibility was seen as requiring that they would be more punitive and demanding than their predecessors. It was also intended that they would give sentencers greater flexibility and also rationalise what was perceived as being a confusing array of penalties that had existed beforehand. Although the number of offenders starting court orders has continued to increase, the average sentence length of Community Orders has reduced year on year since 2005 meaning that individuals spend less time on probation caseloads. It is possible that SSOs have drawn in some of those who would have previously received longer Community Orders or be suggestive of sentencers opting for a shorter sentence but with a greater mix of requirements (Ministry of Justice, 2010).

The ‘shape’ or content of community sentences has also changed in England and Wales. There has been a decline in the use of supervision and accredited programmes (both measures aimed at facilitating the rehabilitation of offenders) within the orders (*see Table 1*).

Table 1 Volume of community order starts by top requirement combinations



(Ministry of Justice, 2012)

Whatever the purpose and whoever the provider, the intensity and potential intrusions of community sentences – what we could call ‘the pains of probation’ (Durnescu, 2010) -- have also developed considerably in recent decades, moving beyond traditionally rehabilitative supervision to include unpaid work, medical, psychological or substance misuse treatment, mandatory drug or alcohol testing, exclusion orders and residence conditions, curfews, as well as other innovations such as electronic monitoring. The consultation paper on community sentences (Ministry of Justice, 2012a) seeks to further extend the punitive weight and surveillant control of community orders through the harnessing of new location monitoring technologies such as GPS (Global Positioning System) and GSM (Global System for Mobile Communications).

The number of offenders under pre or post-release supervision also increased, from 68,000 to 102,000 between 1999 and 2009, representing an increase of 48% (Ministry of Justice, 2010). According to the Ministry of Justice there are two main factors leading to higher caseloads under pre or post-release supervision. Firstly, there has been a continued growth in the number of prisoners serving custodial sentences of 12 months or more (up 38 per cent between 1999 and 2009) who therefore require supervision on release from custody. Secondly, new public protection arrangements brought in by the Criminal Justice Act 2003 mean that offenders are now spending longer periods on licence after release from custody. Out of a total of 28,638 community orders which were terminated in the quarter ending on 30 June 2012, over two thirds (67%) were successfully completed or alternatively were terminated early for good progress. During the same quarter a total of 4,052 offenders had their licence revoked and were recalled. By 30 September 2012, 3,975 of these recalled offenders had been returned to custody (Crime, Justice and Criminology blog, 2012)

Community sentences in England and Wales are currently administered by 35 Probation Trusts who are wholly funded by central government as part of the National Offender Management Service (NOMS). Ultimately they are accountable to the Ministry of Justice for their performance and delivery. The development of a National Offender Management Model, that can be applied to both adult and young offenders, has been one of the key strands of the emerging National Offender Management Service. The model refers to a single, universal approach in which one person, the offender manager, determines the overall shape and direction of the sentence whilst others deliver specific elements of it, within the framework of a single plan. The notion of ‘one offender, one manager’ draws upon research into case management which stressed the importance of continuity in the supervision process and the failures associated with frequent changes in personnel,

fragmentation of processes, and poor information flows, in those cases where offenders under supervision have gone on to commit further serious offences (Fitzgibbon, 2011). The level of intervention directed towards each offender is based on a 4 - tiered framework (punish, help, change, control) in line with the level of risk of re-offending or dangerousness posed. The offender manager role is not defined by grade or agency but in reality, initially most have been probation officers for Tier 3 and 4 cases whilst probation service officers undertake the management of Tier 1 and 2 cases. As a result, in England and Wales, the rehabilitation of an offender utilising the skills of a qualified probation officer is no longer the primary task of the service (Mair and Burke, 2012). Much of the service's work with offenders is now carried out by Probation Service Officers. A snapshot of recent changes to probation personnel reveal that professionally qualified staff rose by 12 per cent, PSOs rose by 53% (Oldfield and Grimshaw, 2008).

Overall, probation staffing levels grew by two-thirds between 2000 and 2006 although they have fallen since by a fifth (Garside and Mills, 2012). Women constitute 71% of the probation workforce. The percentage of probation posts held by female staff has remained steady (hovering around 70-71%) since 2009, notwithstanding a 7% drop in the overall number of probation posts during this period. In terms of race and ethnicity, 14.1% of probation staff were from a Black, Asian and Minority Ethnic (BME) background on 31 December 2010. Probation staff from a Black ethnic background represented 8.3%, those from an Asian background represented 3.5%, those of Mixed background were 1.8% while those of Chinese or Other background represented 0.5% of the service (Crime, justice and Criminology blog, 2012)

Probation in England and Wales has traditionally drawn upon social work values and practice and this was reflected in its training arrangements. Prior to 1998 the Diploma in Social Work (DipSW) / Certificate in Social Work (CQSW) were the route by which staff trained to become probation officers. This involved university based education through face to face teaching focused on probation studies, as well as areas of personal development, social work practice, and the social environment. Probation staff trained as social workers and became probation officers once appointed to post within a probation area. However, to secure the status of probation as a tough provider of 'punishment in the community' and enhance the service's credibility with the general public and credentials as a criminal justice agency delivering 'punishment in the community', the Diploma in Probation Studies (DipPS) replaced the former social work based training arrangements

and became the qualification route for probation officers. The new qualification was focused much more directly on risk and public protection reflecting what were perceived as the primary functions of the probation service by the government. Staff employed by probation areas as trainee probation officers attended university half of the time and for the remaining period trained in the workplace taking up probation officer posts after qualification. Post 2010, the Probation Qualifying Framework (PQF) is the primary route to becoming a probation officer/offender manager. It is primarily e-learning university education combined with 'on the job'. Staff undertaking the training are employed as Probation Service Officer (PSO) Learners. They can enter the training at different levels depending on previous academic experience and this determines the time it takes them to qualify which can vary from 15 to 36 months.

2. Experiencing supervision – the offenders account

As insightful as the statistical trends outlined in the previous section are in terms of highlighting the scale and scope of supervision, they do not provide an insight into the process as a lived experience. All too often in the past supervision has been framed as something which is *done* to individuals (either for humanitarian concerns or more recently as a form of community punishment). As such, the views and narratives of those subject to these state imposed sanctions have in the main been unheard or remained passive. It could be argued that this has resulted in an incomplete understanding of the 'dynamics' of the supervision process which are equally, if not more so, about how it is perceived by those on the receiving end of it as by those responsible for its delivery. In this section we consider some of those studies, drawn from published sources in England and Wales, which have attempted to uncover *what works* and *what matters* from those subject to supervisory measures and other stakeholders. We have deliberately omitted the perspectives of practitioners as this is covered by the 'practicing supervision' strand of this action. We do not claim that it represents an exhaustive review of the available material and although we have structured the section developmentally (in an attempt to place the research into the broader policy and practice concerns of the times) it is acknowledged that a short review such as this inevitably belies the complexities involved.

a) *Early optimism*

The Post-World War Two Probation Service in England and Wales derived its penal ideals from liberal humanism – the belief that, through education and/or treatment and therapy, and the incremental achievement of social justice, the character and behaviour of most individual offenders could be improved (Nellis, 2007: 239).

One of the earliest published attempts to ascertain the views of those under supervision in England and Wales was undertaken by Davies (1979). As part of a staff development programme, fourteen probation officers were asked to select up to five individuals' subject to probation supervision. Interestingly, as part of the study those interviewed were asked to compare their probation officer to another occupational professional. Given the dominance of the liberal social work values as the practice base for probation work, as outlined by Nellis above, it was perhaps unsurprising that the majority of those interviewed in Davies study identified their probation officer most closely with social workers although a quarter of respondents thought they were more akin to the teaching profession. Although they clearly viewed their supervising officer as an authority figure this was not necessarily someone who was directly a part of the criminal justice system as very few of them identified their probation officer with police officers. The relational aspects of supervision tended to be viewed positively by those interviewed, with the majority expressing a view of their supervisor as a 'friend and very few as a stranger or busybody' (Davies, 1979: 85).

From the outset probation officers in England and Wales have had to reconcile the 'caring' (exemplified in the notion of 'advice, assist and befriend') with the control aspect of their work (in terms of the exercise of authority). But as Canton remarks:

Few people asked service users: when probation strove to 'care' was it experienced as caring? When it tried to 'control' was it felt to be controlling? (2011: 24)

Those probationers interviewed in Davies study appeared to find little ambiguity in terms of the balance between the 'caring' and 'controlling' aspects of probation work leading the author to conclude that:

From this, we obtain a picture of probation officers who are thought of as being concerned, essentially non-directive counsellors, with a respect for the independence of the client, but who are nevertheless perceived as having an unambiguous identity with the moral (or legal)

order. The probationers see no logical or pragmatic conflict between the ethical imperatives reflected in the probation officers' efforts to encourage good behaviour and the heavy emphasis laid on the client's responsibility for his own performance' (Davies, 1979: 86).

Where there was a divergence of opinion amongst those interviewed in the Davies study (1979) it was generally mostly about how far the supervising officer should actively intervene in the individuals' lives in terms of respecting the principle of client self-determination within an essentially authoritarian court mandated relationship. The appropriateness of the therapeutic interventions employed by some probation officers was also questioned. Social casework (involving investigation, diagnosis and treatment) had become the dominant method to affect change through the casework relationship.

In terms of their perception of the purpose of probation, 67% of those questioned in the study by Davies believed that it was to prevent reoffending, 49% thought it was to provide some practical assistance and 22% saw it as a form of counselling (p.87). The mechanism for achieving these purposes was primarily through one-to-one office based interviews with the probation officer. The focus of these discussions was identified as being mainly around use of leisure time, employment prospects and their home circumstances. A direct focus on their offending behaviour was far less prevalent and there was little evidence of probation officers intervening in the environments of those under their supervision (p.86). Two-thirds of those interviewed believed that being on probation had had a positive impact upon them but the vast majority were sceptical of its impact upon offenders in general. A later study by Day (1983) also found that the care and control aspects of probation work were compatible so long as the advice given was perceived as positively helpful. Within the sample of 100 respondents, only 17 reported being uncertain or hostile towards their probation officer and nearly a third of them described positive changes in their behaviour and attitudes towards others (p.62). In what could be seen as an early example of 'pro-social modelling' (Trotter, 1999) those respondents in Day's study seemed to view the probation officer as a role model and appeared to imitate certain features of the supervisors behaviour outside the probation setting (p. 62).

Both of these studies contained a number of methodological limitations. The fact that the sample in Davies study was selected by the probation officers themselves (although drawn from an office other than the one in which they themselves worked) meant that there was the potential for selection bias and the fact that the interviews were conducted by the probation officers themselves may well have influenced the responses obtained and the interpretation of them. Both studies report high levels of satisfaction regarding the approach taken by the supervising probation officer. Of the 100 probationers canvassed by Day (1983) using a postal questionnaire, 83 respondents believed that probation was about giving them direction about their behaviour and helping them with personal and social problems (p.61). Mantle (1995) likewise surveyed a 100 users of the probation service using a postal questionnaire followed up by 24 personal interviews. Two-thirds of respondents reported that being on probation had reduced their chances of re-offending, very much' or 'considerably' and around 70% felt that their contact with probation had been 'very helpful' or 'helpful'. Less than 10% reported the experience of supervision as 'completely unhelpful (p. 162). Mantle and Stephens-Row (1995) highlighted some of the issues involved in conducting consumer research within the probation service. Highlighting potential issues around independence and choice, whether participants should be paid for their involvement, and the personal safety of the researcher, they also questioned the use of postal questionnaires based on concerns that this research method potentially excludes participants with literacy difficulties (p.161).

Of course these findings do not evidence whether or not the individuals' concerned actually re-offended or that the help given translated into positive improvements in their circumstances. Indeed as Rex (1999) notes, based on our understanding of recidivism rates; 'How can we be sure that probationers mean what they say? Even if they do, do they themselves understand the circumstances in which they will or will not offend again?' (p.369). Clearly caution needs to be exercised in interpreting these early findings which could be seen as indicative of a greater deference held towards authority figures and inhibited by the fact that they were undertaken under the control of the probation officer. Mantle and Stephens-Row note that 'the relationship between officer and offender is not one of "equals" in terms of power and offenders may feel pressurised to participate in the study' (1995: 160). Moreover, as Day concedes 'it is also inhibiting if clients are asked to comment on a social worker who they regards as a likeable and well-meaning person but whose efforts to 'help' are seen as useless' (p. 63). As such these early studies cannot be viewed as truly evaluative, but they nevertheless provide an early insight into how the interpersonal relationships with their probation officer was viewed by the small sample of those under supervision

and highlights their awareness of the complexities and competing objectives which were evident, and remain, in probation practice.

b) Acknowledging differential treatment

Most of these early studies tend to present those subject to supervision as a fairly homogenous group and there is little attempt to consider the impact of gender and race in their analyses. However, in the 1980s, liberal social work values were somewhat dramatically reconfigured into anti-discriminatory and anti-oppressive values, in order to challenge the structural injustice and institutionalized discrimination faced by social work clients (Nellis, 2007) and this was reflected to an extent in the tone of subsequent research studies. In response to concerns that minority ethnic groups tend to be subject to treatment, at all stages of the criminal justice process, that is disadvantaging even if it does not constitute overt racist discrimination, Calverley *et al* (2006) sought to collate systematic information on the criminogenic needs and problems of Black and Asian offenders and to explore their experiences of contact with the probation service. Focussing both on the interviewees' experiences of supervision and the content of programmes they interviewed 483 Black and Asian offenders across 17 probation areas in England and Wales. The majority (77% of the 99% who answered the question) said that they had had sight of a supervision plan (this compared with 66% in an earlier study by Mair and May (1997)). Only 57% of those interviewed said that their views had been taken into account when the plan was drawn up (compared with 75% of those interviewed in the study by Mair and May. Despite this, 86% felt that they had been 'treated fairly by their supervisor: they were treated with respect, and as a "normal" person; their supervisor was someone they could talk to, who listened, and who was helpful' (Calverley *et al*, 2006: 33). Although the majority of those interviewed were more likely to favour a minority ethnic supervisor, only 3% defined a 'good supervisor' in terms of ethnicity. Being a good listener, understanding and sympathetic were identified as positive characteristics of supervisors regardless of their race. Generally speaking, the interviewees believed that they had been treated fairly on programmes, the purpose of the programme had been explained to them, and that the programme had changed the way they thought about and approached problems (Calverley *et al*, 2006: 34). Overall, the interviewee's accounts of their experiences of probation were positive. 63% of the 96% who responded described their contact with the probation service as helpful with only 16% describing it as unhelpful (p. 34). Based on their findings the authors concluded that there needed to be a

balance between services designed to change attitudes and beliefs, and services designed to meet needs and alleviate problems (p. 35).

Research has also shown that women who find themselves subject to criminal sanctions often have a range of complex needs which may contribute to, but are not limited to, their offending behaviour or their routes out of offending (Malloch and Mclvor, p.340). This means that the efficacy of community disposals and how they are experienced by women and workers is always, to some extent, determined by other circumstances. Whilst it would seem that women are certainly more likely to raise these issues with workers and to seek help in dealing with them, a traditional focus on offending behaviour alone is likely to be insufficient and it cannot be assumed that what works for men will also be suitable for women. Calls for a more holistic and responsive approach to women's needs and risks has led to a number of initiatives prompted by the findings of the Corston Report. One of these the *Together Women* project [footnote] was evaluated by Hedderman, Gunby and Shelton (2011). Two rounds of interviews were conducted with those referred to Together Women during its first round of operation. Consent was obtained from the service users by the *Together Women* key workers before the evaluators were allowed to approach them. Clients rarely described having only one or two problems and their problems tended to be severe, interrelated, complex and often long-standing' (p.8). A dominant theme to emerge from interviews was that workers were perceived by those service users interviewed as being personally interested in them, and having a long-term commitment to seeing them through, rather than seeing them as 'cases' to be resolved as quickly as possible (p.10). As the researchers note; 'The relationship of trust is fragile and important. For the professional concerned, failing to deliver on a promise may be a single slip, but this is unlikely to be the way a client perceives it' (p.10). The belief that the workers were genuinely interested in their welfare also meant that service users tended to perceive home visits, telephone calls and reminders to prompting them to attend Together Women and of missed appointments as help rather than surveillance or enforcement (p.11). Indeed some of those interviewed described how the feelings that they "owed" their key workers led them to attend when they would otherwise not have done (p.11).

This sense of personal loyalty towards their supervisors was replicated in an earlier study undertaken by Sue Rex (1999) where she found that supervision was most successful where the probation officer was able to combine 'an appeal to a sense of responsibility (sometimes to

conscience) with a demonstration of concern and respect for the person' (p.377). Rex sought 'to move beyond the rather narrow and technical focus of the effectiveness literature and to stimulate interest in what a wider criminological perspective can tell us about the processes by which people stop offending' (p.366). The fieldwork, which was part of the author's doctoral thesis comprised of semi-structured interviews with 21 probation officers and 60 of their probationers. Approximately a quarter of the sample were women and half were 30 years of age or over. Most of those interviewed considered probation to have assisted in the process of their desistance from offending. A commitment to supervision and to desist from criminality appeared to be generated by the personal and professional commitment shown by their probation officers whose reasonableness, fairness and encouragement seemed to engender a sense of personal loyalty ('what they saw as a display of interest in their well being'). Providing encouragement and sustaining engagement were seen as the qualities most valued in a probation officer. 52 (87%) probationers referred to the need for probation officers to demonstrate empathy, and 39 (65%) commented that their supervisors' ability to listen, and to show interest and understanding, enabled them to talk. (p.372). Whilst the commitment, both personal and professional, shown by probation officers was vital in generating engagement and positive changes, it was accepted that this had to be balanced against a certain amount of professionalism and formality. Most of those interviewed acknowledged the more formal aspects of supervision 39 (65%) and 35 (58%) wanted to be treated with respect in the sense of not being judged or patronised (371).

In terms of what they hoped to gain from supervision, those interviewed in Rex's study appeared to gain most from a problem solving approach to the practical problems they faced (such as debts and accommodation) and helping them to develop better insight into their relationship difficulties or addictions. However, they did not expect the probation officer to necessarily 'solve' their problems for them and there seemed to be an acceptance that this was something they had to do for themselves (p.374). Effective supervision was very much framed as a negotiated process but the findings suggested 'that probation officers may be hampered by their own tentativeness about engaging probationers fully in the making of plans to tackle the issues underlying their offending' (p. 380). Similar findings were found amongst the 199 probationers in the study by Farrall (2002). Although assistance in identifying employment opportunities and mending damaged family relationships appeared particularly important to those being supervised, paradoxically, it was these areas that probation staff were most wary of intervening in. As a result, desistance could be attributed to specific interventions by the probation officer in only a few cases.

c) *The ascendancy of risk management and 'what works'*

From the mid-1990s onwards there was an increasing emphasis on probation (in common with most public sector services in England and Wales) demonstrating the effectiveness of its interventions in terms of reduced re-offending. The reconfiguration of probation practice along apparent 'what works' lines was characterised by an emphasis on 'managerialism', 'centralised control' and a performance culture based upon national standards for supervision and targets set. According to Nellis (2007) it also meant that probation's 'humanistic sensibilities' were eroded somewhat. It could be argued that the priority given towards risk management and public protection and a move towards accredited programmes as part of the 'what work's initiative, also further served to diminish the service users voice in probation policy and practice. This was reflected in the language used as the term 'offender' became the most widely used term to describe those under supervision replacing the 'softer' language of 'client', 'probationer' or 'service user'. Fitzgibbon (2011) makes a pertinent point about the challenges of a rehabilitative approach in such an environment. The ascendancy of public protection over rehabilitation legitimises the deconstruction of the client into a bundle of risks. (2011: 140).

As mentioned earlier, increasingly supervision became framed as something which was done *to* rather than *with* the offender (Burke and Collett, 2010). The 'customer' of probation intervention became central government rather than the service user.

'Offenders can scarcely be considered the customers of the probation service ... Offenders are instructed to comply. They constitute the material on which the service works. If the probation service can be said to have a product, it is 'changed' or 'controlled' offenders' (Morgan cited in Mantle and Moore on p.306).

These developments led to considerable limits in the boundaries of professional discretion available to probation officers (Canton, 2011). Studies into the effectiveness of programmes tended to focus on the issue of compliance rather than the quality and impact of the supervision. However a study into compliance by Pamela Ugwudike (2011) found that the two were very much inter-related and that the continued adherence and commitment to the social welfarist principles that historically underlined probation practice could still be observed in frontline practice despite the ascendancy of a risk-focused discourse. In Ugwudike's study data was generated from qualitative semi-structured interviews with 25 probationers in Wales and from systematic observations of interactions

between officers and clients and an analysis of a cross section of 15 case records. 10 female and 15 male probationers serving a range of orders were interviewed at varying stages of their orders. The researcher found that the welfare of the probationers often assumed priority over risk-focused ideals particularly where the officer has developed a good working relationship with the probationer and was also aware of the presenting problems (p.250). Moreover, 'The opportunity to discuss problems and possible solutions with a person in authority was considered a therapeutic aspect of supervision' (p.253). As a result, practitioners appeared to take an individualised enforcement approach taking into account the adverse social conditions that affect many probationers and were conscious of the need to sustain good working relationships with those under their supervision.

However, recently the probation service's role in public protection has been brought into question particularly in relation to the issue of recalls back to prison. As Padfield (2012) notes, recalled prisoners have very little input in the decision to impose licence conditions and those with a strong reluctance to comply often displayed a lack of understanding about the restrictions imposed. Despite the dramatic impact recall stands to have on the lives of those affected, offender perspectives or experiences have rarely been considered. In an attempt to address this, Leon Digard (2010) interviewed 20 recalled prisoners who ages ranged from 24 to 66 years and had committed a variety of offences including rape, indecent assault of a minor, sexualised child cruelty, grooming and other non-contact offences. The sample was taken from one Category C male prison and included offenders who had been recalled from a range of locations across England. Participants were selected at random from a list of prisoners who met the inclusion criteria. Many of those interviewed faced considerable periods of incarceration following even relatively minor licence violations and often viewed the official criteria for recall as being highly subjective. Many saw their offender manager as largely responsible for their imprisonment and as such a deep mistrust of them was developed. This, for nearly half of the participants [nine], progressed into an overwhelming animosity towards their probation officer'. According to Digard:

The belief that their treatment lacked procedural fairness led many offenders to conclude that they were being excluded not just physically, but symbolically, from the community with which they were hoping to reintegrate; it was not simply their imprisonment which excluded them from society, but also the way in which it was delivered (p.54).

One of the most critical voices regarding the changing role of probation was from a serving prisoner who described probation supervision as 'a deceptive substitute for real contact' (Keeler, p.311). The author argued that contemporary practice developments have undermined the supervisory relationship and prospects for positive reform. He contends that an over-emphasis on risk and control within a performance culture has resulted in a lack of time, emotional and intellectual space to deliver interventions grounded in humanity. It has resulted ultimately in objectifying and alienating not only those subjected to them but also the workers involved in delivering them. He points to references to probation officers by prisoners in *Inside Times* (a national prisoner's newspaper) as 'the filth, the odd lot, and the Gestapo' (Hanson, 2009) derogatory terms which were previously much more likely to be aimed towards the police and at odds with a traditional conceptions of probation.

More positive findings regarding the experiences of probation supervision were recorded in the study by Mair and Mills (2009) into the impact of the Community Order and Suspended Sentence Order which were introduced in 2003. Virtually all those interviewed expressed the view that their probation officer was easy to talk to, understanding and helpful with their problems (p.37). Although the researchers acknowledge that their findings were based on a small snapshot study of a selective group and the methods employed may have resulted in a bias in favour of those who are compliant, supervision was generally seen positively as an opportunity to "get things off your chest" (p.32). The positive features of supervision highlighted by respondents generally related to receiving help, having someone to talk to, and some felt their probation officers had gone out of their way to help or gone beyond what they had to do, particularly when brokering contact with support services. There appeared to be little resistance or concern about the surveillance or controlling role of a probation officer. Indeed many implied that because they were aware of the boundaries in terms of compliance, their probation officer became more of a supportive guidance figure than the authoritarian law official some had expected. Indeed some seemed surprised by the lack of coercion in their interaction with probation officers as encapsulated in the following response:

'He [probation officer] stated the obvious that you'll go back in front of the judge being charged and that, but he never, he wasn't dictatorial, you know what I mean, beating me with a stick all the time ... he come across more of a counsellor than a probation officer, because the probation officers I've heard about in the past do not sound, they've sounded like they're doing a policeman's job and that was, and with that authority sort of thing' So he was alright, he didn't come across – I'm not saying he hasn't got the authority, he didn't come across like that, he didn't portray that' (p.38).

Although many of those interviewed appeared to have a 'good' relationship with their probation officer, the researchers found that in terms of what was actually occurring in supervision, 'on the surface, descriptions of supervision were often suggestive of a somewhat vague conversation rather than being explicitly task-focused' (p.32). Although the individuals were seemingly complying with their orders, there was evidence of what Bottoms (2008) terms 'compliance based on habit and routine' in which the individual merely goes through the motions of compliance in an unreflective manner:

'I think they [probation officers] do what they feel like they have to do, or what they think they can do to help you, as in kind of agencies to get a job. But ... I feel like I go through the motions when [I] come here, say what you've got to say, what's expected of you and sort of leave ... I feel like it's all a bit of a con. Not a con, a charade, so maybe that's just the impression I get. Maybe it's just me but you just say what you say to get out' (p.39).

Unlike some of the other studies discussed here, which tend to focus on the process of supervision, the evaluation by Mair and Mills (2009) focussed on the impact of the different requirements contained within the order. Generally speaking the researchers found that those subject to various requirements were similar to those subject solely to a supervision requirement in that they appeared to find the structure and discipline of having to attend appointments generally beneficial (p.32). Even the more demanding requirements such as the Drug Rehabilitation Requirement (DRR)ⁱ were generally viewed positively with only one of those interviewed stating that they had found keeping various DRR appointments a bad point about the order. As the authors note, this may at first glance seem surprising, particularly given the high number of DRR appointments and the chaotic nature of the lives of many of those subject to this order but this appeared to be compensated for where the overall package of the DRR was considered to be helpful. Similarly, unpaid work was seen as an inconvenience by some of those sentenced to this requirement but again 'this was seen as the intention of this requirement rather than as an issue they had had with it' (p.36).

Four interviewees of those interviewed by Mair and Mills were required to carry out an accredited programme. While no issues were raised about the content of accredited programmes, some respondents said their initial attitude towards this requirement had not been positive because they were reluctant to talk about their past or to address their drug use in the initial part of the order when their programme began (p.36). Other negative points were raised in terms of frequent

changes in people attending the course in the first few weeks, inhibiting group rapport, and that missing one session resulted in re-sitting a whole module (p.36).

d) A return to engagement?

Prompted by the literature into desistance there has recently been something of a rediscovery of the importance of the relational aspects of supervision in England and Wales. Through its Offender Engagement Programme, NOMS is currently looking at how to promote the quality of engagement in one to one supervision, and overcome the barriers to effective engagement, in order to increase the effectiveness of community orders in reducing reoffending (NOMS, 2011). This includes a number of pilots, which aim to promote engagement. As Hughes (2012) notes:

‘The intuitively sensible assumption underpinning such developments is that the impact of any intervention is enhanced, when it is delivered with the consent of the service user, and where the service user has been involved in the identification and agreement of objectives, and the means of achieving them’ (p.51).

However, Hughes also evidenced tension between organisational requirements to meet risk and undertake professional assessments on the one hand, and being offender led on the other. Despite staff identifying interpersonal relationships skills as the central factor in securing compliance and engagement they did not generally feel this was supported by organisational demands involving completing sentence plans by target dates. Hughes, who was a probation officer himself when conducting the research, found that practical assistance to address employment and accommodation were the most welcome form of intervention but there was a level of frustration expressed by those probationers interviewed that this was not as forthcoming ‘although in some cases there were unrealistic expectations’ (p.63). Only two of the 12 service users interviewed in Hughes’ study were aware of a sentence planning document having been completed, and for both of these there were no positive experiences associated with it (p. 60). Two of those interviewed identified frustration as a result of appointments not having a clear purpose.

One in particular stressed her frustration with having to balance work and travel commitments to make sure she made it to appointments, only to be signed in and told she

was doing well. She said she would welcome a more structured approach to supervision based on clear activities' (p.63).

Whilst again acknowledging the small numbers sampled, Hughes contends that there needs to be a desire to move away from standardised approaches to assessment, planning and targeting based upon a 'one size fits all' mentality. Whilst there is undoubted utility and potential value in using standardised programmes and exercises these are unlikely to have a positive impact on all. Ultimately, whilst it appears that planning is an important component of effective and engaging practice:

... this is understood in a diversity of ways by service users and a variety of approaches will be required to promote engagement. There is a need to develop and employ practice which is more responsive to each service user's circumstances, and informed by recent research regarding desistance. This prompts being attentive to the concerns which service users perceive as the most pressing, as well as adopting a more exploratory approach with resistant service users, in which goals and relationships are developed over time (p.64).

Studies such as those undertaken by Hughes highlight the need for further enquiry into the perceptions and experiences of those subject to supervision from a range of different perspectives. It remains to be seen how far the current '*rehabilitation revolution*' in England and Wales, promoting the delivery of offender services by a range of contracted providers with a much reduced role envisaged for the probation service, will impact. How the voices of those subject to supervision will be heard in an increasingly fragmented set of arrangements? Will the potentially critical voice of those subject to supervision be used to develop more responsive services or is it more likely that they will be suppressed by providers keen to promote and sell their services when competitively retendering for contracts with the state? Perhaps co-production and personalised budgets offer a way forward (Fox, Fox and Marsh, 2012). This involves tailoring responses to the needs of the individual service user and putting them in control of the services they receive. At present, as Stacey (2012, p.8) notes:

... there is a huge gap between the funder (NOMS, or others) and the customer (people serving a sentence), which is being filled by intermediaries with an agenda. It is important that these intermediaries are there to deliver, but they shouldn't be the ones that are defining need, that's for the funder and the customer to decide together.

Despite the fact that the probation service has a long history of work with the voluntary sector there have been few published accounts about the experience of probation service users within partnership projects. An exception to this was the study by Gibbs (1999) that involved interviews with 20 users who were attending a variety of partnership projects including motor schemes, sports projects, specialist drugs counselling provision and self-help women's groups. The researcher found that service users' experiences of partnership projects tended to depend both on the philosophy and aims of the partnership project and on whether the projects had originated from probation or voluntary sector efforts. A number of motor, sports and drugs projects which had been established by the probation service tended to emphasise control, surveillance and structured activity for the user (p.287). Those interviewed expressed varying degrees of satisfaction with the partnership projects with which they were involved and this reflected both their own capacity to make the most of the opportunities offered to them and the partnership projects' attitude and philosophy towards users generally (p.291). The specialist assistance provided by some partnership projects was especially appreciated by service users when it was practical, relevant and tailored towards meeting their wider needs, as opposed to a specific focus on their offending. Having the chance to work alongside non-probation users enabled them 'to feel non-stigmatised and like other "normal people", secondly to learn from non-offenders, and thirdly to make their own specific contribution' (p291). This raises the issue as to whether offenders should have rights and obligations as both citizens generally, and consumers specifically, of probation. While the active involvement of citizens in developing more relevant local public services is also at the heart of the government's Big Society agendaⁱⁱ offenders and (ex) offenders have been largely absent from this activity. It is only recently that efforts in the criminal justice system to promote and develop offender involvement in the services they engage with have begun to be identified. Organisations such as 'Unlock' and 'User voice', which are led by reformed offenders, are becoming increasingly important in promoting and ensuring that service users' voices are heard. Innovative projects such as peer mentoring and user-led community councils provide the opportunity for involving those most directly involved (the service user) in the design, delivery and evaluation of services provided.

3. Experiencing supervision- Third parties

As important as the relationship between the supervisor and supervisee is to the efficacy of community sanctions, this doesn't of course occur within a vacuum. There are a number of other

'interested' parties (victims, sentencers, government, other criminal justice agencies, the public, other service providers) whose experience and perceptions of community sentences are also important. As McNeill & Robinson (2012) suggest, the very nature of community sentences raises particular legitimacy challenges:

First, their purposes are perennially contested, and are often cast somewhat differently in pursuit of external legitimacy (for example, with sentencers, the public and politicians) and in pursuit of internal legitimacy (with those subject to such sanctions). For the latter 'audience', the fluid or liquid legitimacy of community sanctions is a function of their changing forms and shapes; of the ways in which they are negotiated, constructed, contested and reconstructed by the actors involved (cited in McNeill and Farrall, *forthcoming*).

Since the late 1980s/early 1990s, successive governments in England and Wales have accused probation of having lost the confidence of sentencers and the public (often as a prelude to organisational change). As community sanctions have become more prominent in law-and-order rhetoric so perceptions of them have assumed greater significance. Research however would suggest something of a dissonance between perception and reality.

A research study undertaken by the Home office Research and Statistics Unit in 1995 (HORS 144) attempted to ascertain the satisfaction levels amongst court personnel with the work of the probation service. Using a postal questionnaire, 498 magistrates, 97 justices' clerks, 28 stipendiary magistrates, 27 judges, and 18 chief clerks were surveyed. Three-quarters of sentencers thought that their local probation service kept them very/quite well informed about its work. 80% found Pre-Sentence reports consistently/usually useful in helping them to shape their sentencing decisions. 57% of lay magistrates, 36% of stipendiary's, and 37% of judges thought the quality of supervision for probation orders was very/quite good. 60% of lay magistrates, 36% of stipendiary's and 45% of judges thought that the arrangements for ensuring compliance were very or quite satisfactory. Similar findings were recorded when canvassed about community service orders and combination orders. A subsequent study of magistrates following the creation of the National probation Service similarly found that the service was viewed positively by sentencers. Sentencers said that they felt pressurised by the media and felt that they were receiving 'mixed messages' from government about the use of imprisonment. For much of its history, the probation service has been

virtually invisible in the media in England and Wales. However, probation has received a great deal of damaging media coverage in the past few years for its alleged failures in a number of high profile murder cases committed by individuals under its supervision (Fitzgibbon 2011). Such a level of publicity and its resulting negativity is not something that the probation service has been used to and has found difficult to respond to positively (Mair and Burke, 2012).

Public perceptions of probation have tended to be less positive. In 1998, the Association of Chiefs of Probation (ACOP) commissioned an independent market research company (MORI) to carry out a small-scale, qualitative study into public attitudes towards probation. Its main findings were that probation had a low salience with the general public and there was confusion about what the probation service does and therefore it had no clear image. In 2002, MORI conducted a subsequent survey of perceptions of ethnic minority groups of probation following the creation of the National Probation Service. This involved 1,000 phone interviews and 635 face-to-face interviews. Only 2% of those surveyed spontaneously mentioned that the probation service could reduce reoffending and 50% said they knew nothing at all or hardly anything about the probation service. Unsurprisingly therefore, 86% thought that the service could do better and 48% thought it was out of touch with the public. Although evidence is hard to come by, it is likely that public perceptions of probation are lower than they were. Recent data from the British Crime Survey (BCS) show that only one in four (23%) of the public think that probation is doing a good or excellent job compared with 53% in respect of the police. This is essentially the same as opinions on the prison service but considerably less than for the police. Only the Youth Court was thought to be doing less well. Probation was the only criminal justice agency whose rating had decreased since 2002/3 (Smith, 2010). Surprisingly, the lack of knowledge of regarding what is done on supervision and other community sanctions is not confined to those outside of the criminal justice system. For example, a survey of police officers found that 87% did not think that their colleagues understood what community sanctions consist of and all agreed that it would be helpful to have more information (Allen, 2008). However, dissatisfaction with the probation services performance does not necessarily mean that the public were ill-disposed towards probation. Many of those surveyed in the MORI poll, particularly those under the age of 35, wanted to know more about probation, and over three-quarters thought that probation could be more effective than prison at tackling some crimes. Subsequent polls undertaken have found that two thirds of over 1000 people surveyed thought that prisons were universities of crime and 65% thought that they were ineffective in reducing young people's offending. Furthermore 80% backed more use of mental health and drug or alcohol treatments (Allen, 2008).

Roberts and Hough (2005: 83) drew the following conclusions from a review of the literature regarding public attitudes to community sanctions:

- The most popular community sentences are those that require the offender to pay compensation to the victim, or perform work for the community (Maguire and Pastore, 1997).
- The least popular community sentences are those such as probation that in the eyes of the public require the offender to do little more than refrain from further offending.
- Making the conditions of a community sentence salient to the public promotes acceptance of these sanctions increasing public awareness of alternative sanctions also promotes public support of these dispositions .
- Support for the use of community-based sanctions declines as the seriousness of the offence or the number of the offender's previous convictions increases.

The views of victims and family members appear to be two areas where there has been a lack of research into the perceptions and experiences of supervision. In respect of the former this is even though since 1990 probation has had a statutory duty to consult and notify victims about the release arrangements of offenders serving 12 months or more for a sexual or violent offence. A telephone poll conducted by MORI in 2004 found that the information provided by victim contact staff was generally welcomed by victims although a significant number of those questioned wanted access to more information about the offender's progress through the system. The absence of family members is also surprising given the findings of desistance literature which suggests that taking account of the family support network around the service user is important since families can provide pro-social role models, stability and resolve accommodation issues. A study by Wing Hong Chui, Tupman & Farlow (2003) reporting on views of young adult offenders, regarding their experience of a police-probation initiative in the south-west region of England found that 'one of the greatest insights from the project has been into the impact of family support upon the participants and the support from the offender's parents and partners was a major source of motivation for change' (p.279). However, the authors acknowledge that the number of participants was probably too small [11], while the time period was also too short to demonstrate the impact of the project on the participants (p. 278).

Conclusion

Many of the studies referred to in this overview attempt to give a voice which is usually silent in probation histories and dominated by the accounts of policymakers, academics and practitioners. However as Bailey (2007) contends, we need to understand the offender's view and the insights provided by the desistance literature which recognises that the meaning and significance that offenders attach to life events or opportunities to desist from offending offer a valuable point of reference and their absence is a potential flaw in probation research that is only recently being redressed. Many of the studies discussed here have some methodological limitations, in that they are often based on small samples and are largely reliant on the respondents' *perception* of events mainly obtained through interviews and questionnaires rather than *observing* the processes involved (see Fergus McNeill's country report for similar findings in relation to Scottish studies). There is also a tendency to represent those subject to supervision as a homogenous group and therefore not be fully engaged with or sensitive to issues of diversity. So what lessons can be learnt from these attempts to throw light on the experiences of supervision?

- Conducting 'consumer' led research with those subject to supervision is not easy but it is worthwhile because it provides a potentially unique perspective from those involved in the process. Policy and practice in England and Wales, particularly since the mid 1990s, has very much taken a 'top down' approach driven by the findings of empirical and apparently value-neutral research primarily concerned with establishing an evidence base for the effectiveness of various accredited programmes to reduce reoffending. But as Hedderman *et al* note 'outcome evaluations which rely exclusively or mainly on information in project databases and criminal records may not capture key elements which make an intervention "work". Neglecting service users' insights may lead to under-estimating resource needs, unrealistic target setting, and the eventual abandonment of promising ideas in favour of the next "new" magic bullet' (2011, p.3). Listening to the experiences of those being supervised and using their insight to shape more responsive practices is intuitively positive but as Hughes notes; 'these must be perceived as sincere. Approaches to seeking service user views, which are based on rigid impersonal processes may reinforce negative experiences' (2012, p.62).
- Despite their differences in approach and focus, there is a remarkable consistency within the available research regarding those values that are viewed positively by those subject to supervisory sanctions. In short, this could be summed up as an encouraging and empathetic

approach taken by the practitioner in the provision of advice and assistance that is viewed as practical and relevant by the individual being supervised. The value of this approach would seem to pertain regardless of broader policy changes aimed at enhancing probation's credentials as a public protection agency and is still evidenced in the practice of many front-line staff (Fitzgibbon 2007, 2011).

- Legitimacy in terms of a personal attachment to a member of staff who in turn demonstrates concern for and personal interest in the individual supervised was seen to be the most effective means of promoting compliance. This would seem to support the assertion by Canton (2007) that 'people are more likely to comply with expectations on them and to accept decisions – *even decisions that go against their own preferences* – when they are persuaded that these are fair (have been fairly arrived at) and are reasonable' (p.57).
- The relational aspects of supervision are at risk of becoming increasingly fragmented in England and Wales as the government intends to accelerate its plans to introduce a mixed economy of offender services involving the transfer of much of the work traditionally undertaken by the probation service to a range of private and voluntary sector providers. This will require more research across a range of providers to ensure that those subject to these services are properly heard and accounted for in terms of designing, developing and implementing services. This also raises fundamental issues in terms of legitimacy.
- There is clearly a need for more research into the lived experiences of supervision to counter some of the misconceptions of community sanctions held by many within society (even those within the criminal justice system). It also involves understanding supervision as a shared process involving a range of actors. Further research can assist in uncovering the 'black box' (Bonta *et al*, 2008) of supervision but it also needs to be sensitive to how supervision is experienced by different groups and the differential impact of the increasing armoury of community disposals.
- There appears to be something of a gap between people's perceptions and the realities of supervision. Whilst public support for the probation service in England and Wales has declined (despite many changes within the organisational structures largely justified on the grounds of enhancing credibility with the public) there is still significant support for the principle of rehabilitation particularly where there is a reparative element. Media coverage of serious offences committed by those on supervision, though rare, has also served to damage probation's reputation. However, as Maruna and King (2008) found in their survey of 1000

members of the public in England and Wales, there was widespread support for the idea of 'redeemability' (ie. The notion that everyone can change their ways and 'make good' can be powerful vehicles for increasing public confidence' (p.344).

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ⁱ The DRR component of such an order will involve a treatment package that will include the following: (1) Treatment by way of substitute prescription (if required); (2) mandatory drug tests per week; (3) an involvement in a structured day care programme of between 8-15 hours per week; It might also include residential rehab. Such a sentence can vary in length between 6 to 36 months in duration, depending upon the seriousness of the offences before the court. For more heavily convicted individuals, the court may also add additional requirements to further 'toughen' up the sentence. These additional requirements could include a Curfew Requirement, an Activity Requirement and in exceptional circumstances an Unpaid Work Requirement. For a Community Order with a DRR over 12 months in length, individuals will also be subject to monthly court reviews, which they have to attend. These court reviews will monitor individual's progress.

ⁱⁱ The Big Society was the flagship policy idea of the 2010 UK Conservative Party general election manifesto. The stated aim is to create a climate that empowers local people and communities, building a "big society" that will take power away from politicians and give it to people. The policy has been criticized for its vagueness. Some commentators view it as a means of empowering communities whilst others see it as a mechanism for further state withdrawal and a justification for cuts in public spending
