

# Submission

## HMI probation consultation on standards and ratings for inspecting probation services

### Introduction

Unlock welcomes the opportunity to provide a short written submission to HM Inspectorate of Probation's consultation on standards and ratings for inspecting probation services.

Unlock is an independent award-winning national charity that provides a voice and support for people with convictions who are facing stigma and obstacles because of their criminal record, often long after they have served their sentence.

Unlock is recognised as a leading charity in criminal records and disclosure. Alongside providing support and advice to individuals through a national helpline and a range of websites, we train practitioners (such as resettlement officers, careers advisors and employability professionals) on criminal records, the rules and policies that can create obstacles, and best practice in disclosure.

As an independent charity that focuses primarily on people in the community as they are trying to move on in their lives, we are able to listen and learn about the support that they have (or have not) received. Given that we do not deliver contracted services, we are able to speak freely about the gaps that currently exist, and provide impartial recommendations to solve these.

We work at a policy level with Ministry of Justice, Her Majesty's Prison and Probation Service (HMPPS), prisons and Community Rehabilitation Companies (CRC's) to improve access to accurate and reliable advice and guidance in understanding their criminal record and how to overcome the barriers that may be caused as a result, as well as working to encourage employers to provide opportunities to people with convictions.

### Our response

Much of this submission is focused on the practical activities and inputs that need to be provided, particularly by CRC's. We recognise that this does not directly correlate to the approach you have taken with your consultation, but we hope that by outlining these in the way that we have, it will be helpful in ensuring that the standards and ratings that you are developing are able to look at how well these are happening in practice when inspecting probation services.

Two key points about our response is that:

1. We have chosen to not respond to the consultation on standards and ratings for inspecting youth offending services, as we note that you will consider all responses together, and we believe that this submission equally applies to youth offending standards/ratings.

2. Although our submission is informed by what we learn from people who have used probation services, we have been unable to directly consult across our network to gain the personal views and experiences of these people, however this is something that we would welcome the opportunity to look at if you were minded to do this.

## Expectations of probation services

We believe that everyone serving a sentence in the community should:

- a) Understand their criminal record and the impact this will have
- b) Understand the impact of the Rehabilitation of Offenders Act 1974 and how it impacts on them
- c) Be confident in if, what, when and how to disclose to employers
- d) Be provided with details of those in the community that can provide further help in securing employment
- e) Be clear who is able to help them find employment on release and how
- f) Have received help before their release in finding employment on release
- g) Be aware of other ways in which their criminal record might cause them problems and how they can overcome these – such as house insurance and car insurance.

For those released from prison, some of this work may have taken place in prison, and for all of those serving a sentence in the community, it may be that another agency takes the lead. However, probation services need to make sure that their service users either receive them directly or get access to them from elsewhere.

## Skills of practitioners

Unlock runs a helpline that deals with over 6,000 people every year. The majority of these enquiries are from people with a criminal record in the community who do not understand how to deal with a particular problem they are facing as a result of their convictions. Research by Unlock and Prison Reform Trust suggested only 2% of people in prison understand the Rehabilitation of Offenders Act. There are many examples of people we have helped on our website. For those that have been to prison or on probation, we should expect statutory agencies and providers to be in a position to support these individuals, yet this is very often not the case.

The majority of people serving a sentence in the community will turn to their probation officer for advice, yet there is limited knowledge amongst staff of the specialist help needed to support people with convictions. Some of these examples are below:

- *“I’m on life licence, so I just use my probation officer. But, they tend not to know very much about longer term issues. Even so, I just rely on what they say, as if I get it wrong, I can just say, “My probation officer told me”*
- *“Everyone says “you don’t have to disclose if you don’t ask”, but I’m being told by MAPPA that I must disclose. Everyone I speak to says there’s nothing I can do about this – surely that’s not right?”*
- *“I want to be a taxi driver, but not sure whether it’s the best career move because of my convictions. I’d quite like some specific careers advice based on my convictions”*

Instead, probation services inappropriately rely on charitably-funded services like Unlock's helpline to plug this gap. As Unlock do not take formal referrals from these agencies (as we do not seek to deliver services on their behalf), we provide training to probation officers, careers advisors and others whose role should involve providing support around criminal records. David, a project manager of a charity based in London, said of our training:

*"I had to write in and let you know how I appreciate the criminal record disclosure training I attended earlier this year and how it's improved the information I can provide my clients regarding their criminal convictions. As an ex-offender myself, I have always had to disclose my convictions due to my job role (working with vulnerable adults). I thought I had a good grasp on the ROA 1974 until I attended the training.*

*The amount of new information I learned on the day was extensive and extremely thorough. It was presented very clearly and you made some difficult parts easy to understand. I can honestly say that I normally struggle in this type of environment but found the day fly by. I thoroughly recommend service providers who work with ex-offenders to attend this training day as we owe it to the people we work with to provide accurate and up to date information."*

As part of the delivery requirements of CRC's, in Schedule 8 – "Service delivery proposal", providers should have "procedures for ensuring that Contractor Personnel have the necessary skills to act as officers of the Contractor for the provision of probation services". We believe that every probation office should have a specialist worker trained in dealing with criminal record and disclosure matters. All advisors should have a basic awareness and be able to make internal referrals to the specialist where appropriate.

In the last 3 years, we have delivered criminal record disclosure training to over 700 practitioners, the majority of whom are delivering probation services in the community. This training, accredited by the Probation Institute and the Institute for Employability Professionals, has been rolled out across certain CRC's as a core part of the training for those providing through-the-gate and/or employment support. However, such training and skills are not recognised as a core requirement nor are CRC's measured against this.

In their response to the Work and Pensions Committee inquiry in 2016, Seetec stated that "disclosure support must be a key element of employability provision for this cohort to ensure that offenders are able to highlight their strengths and skills to employers and overcome objections to their criminal record, particularly in sectors where there are known skills shortages at entry level e.g. construction." We have worked specifically with KSS CRC, part of Seetec, although it is unclear how other CRCs are taking on their responsibilities in this regard.

**Recommendation: HMI Probation's standards should incorporate a way of measuring the progress of CRC's towards ensuring their staff have the skills to advise individuals on criminal record related matters.**

## Services being delivered

The consultation states that the reason for changing the way you inspect is to do more to drive improvements. It is clear to Unlock that there are a number of areas, in relation to services being delivered, where the standards need to reflect the services that *should* be being delivered, so as to drive improvements where these are either not being delivered or where they are not being delivered to a good standard. This is especially the case given that HMI Probation is focused on inputs and activities.

Section 1.3 of the standards (Services) should be clear about core elements of a probation service that you expect a provider would provide. This would enable this to be measured on inspection and to provide transparency as to what is and isn't being delivered.

As part of the delivery requirements of CRC's, in Schedule 7 – Services Output Specification, under "Rehabilitation", it states:

- *The Contractor shall conduct an assessment of rehabilitative needs in accordance with Schedule 8 (Service Delivery Proposal) in respect of each relevant Allocated Person.*
- *The Contractor shall in accordance with the outcome of the assessment deliver the rehabilitative services set out in Schedule 8 (Service Delivery Proposal).*

**Recommendation: It is important the HMI Probation standards enable inspections to properly assess what services are and are not being delivered.**

We have focused the rest of this section on services on four key areas:

### 1. Advice and support with disclosing criminal records

As part of the delivery requirements of CRC's, in Schedule 7 – Services Output Specification, under "Sentence Delivery and Planning" in Service Output Group 7, it states that *"The Contractor shall take reasonable steps to ensure that the Allocated Person is aware of the need to disclose offences to potential employers in accordance with the Rehabilitation of Offenders Act 1974."*

A common feature of any community-based support for someone with criminal convictions should include an assessment of their situation under the Rehabilitation of Offenders Act 1974, advising of when the conviction becomes 'spent', and where they stand in relation to disclosing their conviction to employers, insurers and others, being confident in if, what, when and how to disclose to employers. We have explained above how this relates to the skills that individual probation practitioners have.

**Recommendation: HMI Probation's inspections should look at what advice individuals receive on the Rehabilitation of Offenders Act 1974, covering if, what, when and how to disclose their criminal record to employers, insurers and others.**

## 2. Employment support and developing opportunities with employers

In a HMI Probation report on 'Through the Gate' in 2016, not a single prisoner, of a sample of 86 cases, had been helped into a job on release by the CRC. The same was found in a similar report published in 2017.

Around three-quarters of people leaving prison do not have paid employment to go to after release. There is a range of national-level services that, to varying degrees, support people in the community and post-release into employment. These include CRC providers, careers advisors (through National Careers Service (NCS) provision), Job centre advisors, work programme providers and NOMS Co-Financing Organisation (NOMS CFO) provision (joint NOMS-ESF funded support for people further from the labour market).

Unfortunately, on a practical level their respective roles (and responsibilities/accountability) are often unclear. Through providing training to a range of these providers on providing advice/support in criminal record disclosure, the question of "who is responsible for doing this" often comes up. Delivery arrangements tend to rely on regional and local working arrangements which are often inconsistent with other areas, and this results in gaps, confusion and poor service. The changes to support as a result of the Transforming Rehabilitation have added to the confusion (which existed before those reforms) about who is responsible for providing support to people in the community.

An individual preparing for release asking the question "who can support me with employment?" will often struggle to find the answer. We regularly receive calls to our helpline from people who have been referred to Unlock by their probation officer or jobcentre advisor when they said they are struggling because of their criminal record. As Unlock does not take formal referrals from these agencies, our role in these situations is to advise where we can and then signpost appropriately, but it is often impossible for us to know precisely where we can point them to as there is a lack of transparency.

A response provided by Seetec to the Work and Pensions Committee inquiry into support for ex-offenders, stated that *"availability of support is not currently the issue...however there is too much complexity with a breadth of providers with differing outcome drivers and a lack of structured signposting. Transforming Rehabilitation was designed to provide a consistent rehabilitation journey for offenders from sentencing to prison to the community and include additional support for short sentenced prisoners."* They go on to say that CRCs are *"taking steps to join up provision and provide advocacy to support offenders to navigate services throughout their rehabilitation journey and should be the vehicle to connect up services going forward."* This is an approach that we believe all CRCs should take, and they should be measured against this.

According to the Target Operating Model published by the Ministry of Justice, resettlement services *"must include providing direct support in custody in helping offenders find accommodation, providing assistance with retaining employment held pre-custody and gaining employment or training opportunities post-release."* It is unclear to what extent CRCs are doing this and how. However, in one example that we are aware of, the CRC has subcontracted their broad resettlement intervention to a specialist housing advice provider, to which 'employment support' has been added on, despite a lack of skills, expertise or resources to be able to deliver this significant addition to the contract. Given there are 8 CRCs that operate over 21 areas, it is unlikely that there will be consistency in the employment support people receive on release as each area is likely to commission differently. There is a lack of transparency of supply chain partners in terms of the work they are delivering and how they are being resourced. As a charity that advocates for people with convictions, that makes it challenging for Unlock to determine what employment support is available to people before and after release.

It is not expected that resettlement prisons and probation areas should commission all forms of support themselves. There is necessary cross-over with other commissioners (such as DWP) to avoid duplication. However, often through fear of duplication (or confusion about responsibilities) there are gaps that are left unfilled.

**Recommendation: HMI Probation standards should assess to what extent probation services are providing these employment support directly and how well they are coordinating access to other provision.**

### 3. Support in opening a bank account

Access to a bank account is an important factor in accessing benefits. We have undertaken significant work in this area by establishing schemes that enable people in prison to apply to open a basic bank account before they are released. This was part of a project that Unlock ran until 2014, where we reached the stage of having linked every prison that released directly into the community with a bank. During the course of the 9-year project Unlock helped to set up 74 prison/banking programmes, and by the end of the project 114 prisons had links with a high-street bank, the 'big 5' current account providers (Barclays, Halifax (part of Lloyds Banking Group), HSBC, Santander and RBS) were all actively involved (as well as a significant contribution from Co-operative), and by the end of 2013 all prisons that wanted and needed a basic bank account opening programme had one. We produced a report at the end of the project with a number of recommendations.<sup>1</sup> Unfortunately, as a result of the changes to the delivery of services and support in prisons, we have been made aware of a number of prisons that are struggling once again in this area. This seems to have come as a result of a significant amount of change within the prison estate and once well-embedded arrangements have not been properly taken up, especially by CRC providers.

CRCs in appropriate prisons should be providing support to people in opening a bank account before release. CRCs should be providing support to people serving a sentence in the community to open a bank account.

**Recommendation: HMI Probation standards should assess to what extent probation services are providing support to people in prison and in the community in opening a bank account.**

### 4. Information on insurance

Access to insurance (such as car and household cover) for people with convictions can be very difficult. Although this issue is limited to while a criminal conviction is 'unspent' (under the Rehabilitation of Offenders Act 1974), adults released from a sentence of imprisonment will have at least two years to wait before their conviction can become 'spent' (after which point it no longer needs to be disclosed to insurers).

**Recommendation: HMI Probation standards should assess to what extent individuals receiving probation services are receiving information on insurance as part of their case supervision.**

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<sup>1</sup> Available at <http://www.unlock.org.uk/projects/past-projects/unlocking-banking/>

## Consultation questions

**1. Does the standards framework cover the key areas that contribute to effective service delivery and positive outcomes? If not, what is missing?**

Given HMI Probation's focus on inputs and activities, the standards framework should be more prescriptive in what contributes towards effective service delivery. This will also produce greater transparency on individual inspections as to what is and isn't being delivered.

**2. Are any of the proposed prompts insufficiently linked to effective service delivery and positive outcomes? If so, which ones?**

Section 1.3 (Services) are insufficiently detailed. We have focused on a number of key areas in our submission above.

**8. Is there anything in our proposed standards or the way we suggest we will rate probation services that you think could lead to undesirable behaviours, outputs or outcomes? If so, please tell us.**

We have a potential concern in seeking to incentivise good ratings, given that the proposed standards seek to measure input and activities, rather than outputs and outcomes. It would be perverse if probation services adopted practices and behaviours for the purposes of good ratings, but in a way that didn't achieve improved outputs and outcomes. This could well be addressed in ensuring that the approach to the standards can only be met in a way that achieves improved outputs and outcomes.

**9. Please do provide any further comments on the standards and ratings proposed.**

Our submission above provides further comments.

## More information

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| Written | November 2017                                                                                                                                                     |