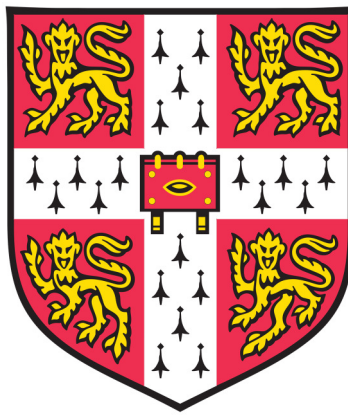


Probation Workers' Practice and Practice Ideals in a Culture of Control



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Declaration

This dissertation is the result of my own work and includes nothing which is the outcome of work done in collaboration except where specifically indicated in the text. It is not substantially the same as any other work that I have submitted or will be submitting for a degree or diploma or other qualification at this or any other university.

This dissertation, including footnotes, does not exceed the permitted length.

Jake Phillips

July 2013

Summary

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This dissertation focuses on the practice and culture of probation workers in two offender management units in England. The PhD asks how broad theories of penal transformation have impacted on probation practice and practice ideals by looking at what probation workers say they are trying to achieve in their work, and how they go about this. I ask what, if any, resistance exists amongst workers to policies that appear to be in tension with the 'advise, assist and befriend' ethos of the Probation Service and examine the impact of managerialism on practice. The dissertation emanates from a disjunction between Garland's (2001a) thesis of a 'culture of control' and traditional notions of probation culture, and investigates this with reference to four key themes: rehabilitation, punishment, risk management, and managerialism.

The opening two chapters explore the concept of late-modernity and discuss other research on probation's values and practice ideals. I describe and critique Garland's thesis, suggesting that probation practice is the product of new policies and politics interacting with 'traditional' methods of practice. I discuss probation workers' values to explore, on a theoretical level, how they have changed during recent years.

The empirical chapters use data collected through a combination of observations and interviews in two probation teams in England. These chapters contrast pervasive managerialism with probation workers' preferred ways of measuring 'success', arguing that there is a need to incorporate the offender into the system. I examine the preparation of pre-sentence reports and the supervision process to explore probation workers' attitudes to punishment and rehabilitation, respectively. Accountability has shifted considerably in recent years and the impact of managerialism raises several issues in regard to the way in which probation workers are held to account. Finally, I explore the impact of managerialism by looking at the exercise of discretion and the recent shift towards compliance, away from enforcement.

In the concluding chapter I present the main findings of this research on probation practice. Following an overview of the main findings, this chapter describes the changes that have taken place since the fieldwork, and shows how the research presents a picture of how probation culture has, and has not, changed in the context of Garland's culture of control. Ultimately, this research is invaluable for Probation Trusts and academics in terms of thinking about how practitioners might react to yet more change and I outline the implications of the research findings for the Government's current proposals to reform community sentences and probation.

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Glossary

ASRO	Addressing Substance Related Offending
CA	Case Administrator
CJA	Criminal Justice Act
CPS	Crown Prosecution Service
GLM	Good Lives Model
KPI	Key Performance Indicator
MORM	Multi-Factor Offender Readiness Model
NOMS	National Offender Management Service
NPM	New Public Management
NPS	National Probation Service
NS	National Standards
OASys	Offender Assessment System
OEP	Offender Engagement Programme
OGRS	Offender Group Reconviction Scale
OM	Offender Manager
OMM	Offender Management Model
OMU	Offender Management Unit
PbR	Payment by Results
PM	Practice Manager
PO	Probation Officer
PSO	Probation Services Officer
PW	Probation Worker
RNR	Risk-Needs-Responsivity
RS	Research Site
SARA	Spousal Assault Risk Assessment
SC	Sentencing Council
SFO	Serious Further Offence
SGC	Sentencing Guidelines Council
SIR	Social Inquiry Report
SPO	Senior Probation Officer
TM	Team Manager
TPO	Trainee Probation Officer
TSP	Thinking Skills Programme
UPW	Unpaid Work

Chapter 1: Introduction

This dissertation explores probation culture in the context of a 'late-modern' penal system in which punishment, risk and managerialism have become increasingly important in policy. I explore the impact of these policy changes on practice through reference to data that were collected via a prolonged period of observation and semi-structured interviews with probation workers¹ (PW) in two probation teams in England. The research was inspired by professional experience in the criminal justice system. Between 2003 and 2006 I worked in a variety of jobs with offenders, the majority of whom were serving Community Rehabilitation Orders or Community Punishment and Rehabilitation Orders (as they were then known). The remainder were either on licence or were not under formal supervision by a criminal justice agency, but were still classed as offenders (or sometimes ex-offenders) in the organisations in which I worked. Besides the fact that my clients were offenders, regular contact with members of staff in the probation service linked these roles.

Whilst working as a Drug Interventions Programme worker in south London I spent lengthy periods of time waiting for drug using offenders to be arrested and 'checked in' to police custody in order to assess their needs and refer them for treatment, if necessary. Many of the offenders who came into police custody were already clients of the service I was providing. During quiet periods I began to think about my role in a criminal justice system which was processing the same offenders over and over again. I now realise that I was witnessing the 'revolving door' of criminal justice. I was working for a charity and was motivated by a simple, and perhaps naïve, desire to 'help' these people. However, I became increasingly concerned that I was more of a complicit agent in a system which did nothing to benefit the offender, nor effect change in the structures of society which I felt were primarily responsible for the situations in which these people found themselves. In an attempt to better understand my own role, and with a view to improving wider understanding of the relationship between criminal justice policy and practice, I resigned from my job and undertook an MSc in Criminology and Criminal Justice at the University of Edinburgh. The intention was to explore the socially constructed nature of drug laws, and thus drug-using offenders, and then return to the 'front-line'. As well as confirming for me that structural inequalities were a considerable factor in the onset of offending (amongst

¹ I use the term 'probation worker' to refer to probation officers and probation services officers. See page 49 for a discussion about the problem of language in probation.

many other things) I found myself absorbed by a perception that certain theories of penal transformation had come to dominate criminology.

I learnt that criminal justice had undergone a punitive turn (Pratt, 2005), that risk had become the key organising principle of criminal justice (Kemshall, 1998), that the penal system was more focused on controlling aggregate groups of offenders than individuals (Feeley and Simon, 1992), and that victims were increasingly influential in a field which had previously been dominated by the professional classes whose power was now diminished (Boutellier, 1996), for example. I was interested in the academic work on penal populism and the interplay between the media, the public and politicians and the impact this might have had on penal policy (Bottoms, 1995; Roberts and Doob, 1990). I read literature on the decline of the rehabilitative ideal and how we are now living in a 'culture of control' in which the public was increasingly being made responsible for protecting itself and offenders were being warehoused in prison by policies of mass incarceration which had replaced the penal welfarism of previous decades (Garland, 2001a, 2001b).

However, I could not help but think that the probation officers I had met during my professional experience *did* seem to believe in rehabilitation, that they seemed to treat people as individuals rather than as members of aggregate groups, and that they did *not* want to punish people. Similarly, I felt that probation officers acted as professionals; they presented themselves as having a knowledge which was theirs to use and that they had obtained this knowledge through formal training. Moreover, they appeared to be confident in using this knowledge and believed that this gave them authority and legitimacy to act. I thought that I had perhaps been away from the front-line for too long and that things had changed, as they often do in probation, with remarkable speed. Thus I returned to the front-line and worked as a housing support worker, again with offenders. I made a concerted effort to talk to probation officers about their jobs, their roles, what they believed in and how they tried to achieve this. It seemed that the disjunction I had perceived during my MSc still existed but that things were more complicated than my initial assumptions. Whilst it was clear that changes in policy were having an impact on practice (through the increased use of risk assessments, for example), I felt compelled to explore the possibility of an implementation gap between the two. Thus I decided to investigate this disconnect in a more rigorous and systematic manner through doctoral research. This dissertation is therefore the product of a criminological education combined with informal and

unstructured observations and discussions with probation officers. It has developed into a broader and more detailed investigation than would be possible within the confines of a job.

Why Probation?

There are several reasons for conducting research on probation probation practice and practice ideals, as opposed to other criminal justice institutions. Firstly, the Probation Service works with three times more people than the prison service, yet the culture of probation has been subject to significantly less attention than that of prisons or the police.² This research fills a significant lacuna in the criminological literature. Secondly, the Service's values were subject to considerable debate in the 1990s, with academics exploring what the values were, and what they should be. There has been a lack of research looking at how the values have changed in practice. This is especially important because the debates of the 1990s were inspired by a threat to the value base at the time (Williams, 1995) and it is important to understand whether values have indeed changed.

Thirdly, it has been argued that the Probation Service is the criminal justice institution most vulnerable to change in policy. Senior, Crowther-Dowey and Long (2007) argue that institutions have been under pressure to change and have responded with different degrees of energy. Whilst each institution showed elements of compliance, censure and commitment to changes, Senior, Crowther-Dowey and Long argue that probation was both more compliant and more committed to changes than others. However, their analysis is situated at the level of discourse and, as they rightly argue, 'discourse does not simply filter down and automatically translate into practice' (Senior et al., 2007: 54). There are also inconsistencies in their thesis which need elaborating: for example, how do we explain the fact that prisons were privatised considerably earlier than the probation service, if probation is deemed to be more vulnerable? Might it be that the persistence of certain values helped the service resist these changes, and why, or how, is the government going ahead with these changes now?

² I do not know why this is the case although I can suggest several possible explanations: 1) both the police and prisons are more visible than probation: the 'bobby on the beat' has been an enduring image of crime control since the advent of a formal police force in 1829. Prisons have both a physical presence as well as a special place in the psyche of the public in terms of punishment. 2) The public tend to know what they want from a prison system or a police force (Roberts and Hough, 2002) whereas the same cannot be said of probation, so much so that the Government organised a Justice Select Committee investigation into the purposes of probation in 2011. 3) Probation is a more recent creation than both the police and the prison and, as such, receives less attention from the public and the discipline of criminology (although it should be noted that probation is over 100 years old).

Fourthly, we know little about what probation officers actually do ‘on the ground’. As Gough (2009: 252) said in his review of *Handbook of Probation* (Gelsthorpe and Morgan, 2007a), ‘[a]rguably, the only area the *Handbook* fails to deal with is probation occupational culture. Much of what is written on probation surrounds the history of policy and ideas. Less is known about those who actually do the job.’ Thus, there is a need to better understand what probation workers do and why they do so.

Late-modern Crime Control

Until the mid-twentieth century the state’s approach to punishment was distinctly ‘modern’.³ That is, enlightenment ideas of ‘progress’, ‘rationality’ and the infallibility of science to answer society’s problems were prioritised in policy. Penal-welfarism, as encapsulated in the ‘treatment model’, can be seen as a criminal justice manifestation of a ‘modern’ view of offenders: that they were to be treated according to scientific and medical principles and then welcomed back into society. This progress was ‘animated by the practice of classifying and treating offenders in order to return them to the fold of citizenship’ (Loader and Sparks, 2004: 7).

Since the 1970s these ‘modern’ methods of dealing with offenders have depreciated in influence because of:

frustration and discontent with the received wisdom of modernist theory, which resulted in an overarching desire for innovation and newness. It also arose out of a profound disillusionment with social change and a disenchantment with Marxism. (Russell, 1997: 63)

Here, Russell is referring to the concept of a postmodern criminal justice landscape. Indeed, it has been argued by some that criminal justice is now postmodern (Simon, 1993). Despite the tendency of criminologists to use the term ‘postmodern’ there is a lack of clarity regarding what postmodern actually means in the criminological context. As Garland (2003: 47) argues, these accounts ‘are disappointingly thin when it comes to a positive characterization of what is postmodern about the future’. Thus, there is no consensus on the existence of a postmodern criminology (Russell, 1997: 61) although Miller (2001: 168) has attempted to identify some themes which might come within a postmodern criminological arena:

High incarceration rates, a rapidly expanding criminal justice system, and the growth

³ This dissertation is not the place for a full distinction between modernism and Modernism, nor postmodernism and Postmodernism. Instead I use the words as they are most commonly used in criminology and the social sciences more broadly; that is as descriptors related to the term ‘modernity’ which, in turn, is related to the industrial, economic, and societal shifts which occurred after the industrial revolution.

of the private prison industry... criminal justice policy that is utterly devoid of broad social goals and that is not grounded in any larger narrative of purpose ... a move away from state responsibility for crime control and a move towards community responsibility for addressing crime.

The main issue with postmodernism for this dissertation is that the term is used to signal a break from the past; that we are no longer 'modern' suggests that the postmodern situation is wholly different to that which came before:

the condition of postmodernity is distinguished by an evaporating of the "grand narrative" – the overarching "story line" by means of which we have a definite past and a predictable future. (Giddens, 1991a: 2)

The informal observations which led to this research suggest that such a framework of understanding society (in the sense that I am conducting a 'sociology of probation') is insufficient because there does not appear, at least initially, to be a distinct break with the past. Rather, the research was inspired by informal observations on the continuation of certain elements of probation's 'traditional' methods of practice despite changes in policy. In essence, my argument is that postmodernism puts a stress on discontinuity and an ineluctable change in the global social scene, whereas I am concerned with how traditional probation practice has persisted in spite of clearly discernible changes in policy. This focus has come about because of a relatively recent emphasis on continuities within probation's history, an examination of which leads us to the conclusion that late-modernity is a more appropriate framework for exploring these questions.

Continuities in Probation's History

Probation's history is often periodised (Gelsthorpe and Morgan, 2007b: 10) but this obfuscates the fact that important continuities exist. Mair (1997) rightly argues that many histories of probation (see for example Bochel, 1976; Haxby, 1978; Jarvis, 1972) tend to be chronological in nature and contain little explanation of why and how things developed as they did. Such histories portray themselves as a formal history of probation and fail to 'capture fully the tensions and struggles that went on' (Mair and Burke, 2011: 3). In place of these simplistic, chronological, policy-focused accounts, Mair calls for a 'revisionist history' of probation which 'takes full account of the socio-political background against which they appeared' (1997: 1198). A useful theoretical framework on which to hang such an account is that of 'history from below' which seeks to bring to bear the influence of the 'common people' on the history and development of institutions and society (Thompson, 1966). This has three important ramifications: it adds

support to the use of late-modernity as a means of understanding changes in probation's values, it relocates power from residing solely within the hands of policy makers to the hands of probation officers in terms of understanding where change comes from, and, relatedly, it allows for a social constructionist perspective which enables us to see the way in which probation officers are both constitutive parts and creators of the Probation Service and the way it functions.

McWilliams' (1983, 1985, 1986, 1987) quartet of essays on the history of probation have come to be regarded as reflecting a sophisticated understanding of the ideas that underpinned probation work throughout its history. In the first two essays, McWilliams (1983, 1985) describes the way probation moved from the work of missionaries whose 'transcendent task was the saving of souls', through an increasingly professionalised service to one in which diagnosis and treatment of offenders prevailed (McWilliams, 1986). The final essay (McWilliams, 1987) describes the beginnings of managerialism in the Service, a theme which he developed further in later years (1990, 1992). Whilst his essays are well respected amongst probation practitioners and academics, they have been critiqued for highlighting the differences in probation ideas across eras to the neglect of continuities and the detail of practice (Nellis, 2007: 27).

As Vanstone (2004: viii) highlights, the 'nothing works' claims of the 1970s may well have been 'a critical factor in the demise' of rehabilitation if one looks at policy, but that 'exploration of practice through the 1970s and 1980s challenges this orthodoxy in so far as practitioners continued to work towards the rehabilitation of those under supervision'. By focusing on policy, histories of probation tend to assume that power rests with policy makers and politicians rather than probation officers and offenders: 'the voice of the practitioner is often barely audible in these histories' (Canton, 2011: 24). Overall, then, there is a need to look at policy, theory *and* practice because the tensions and differences that exist between the three will help us to fully understand probation culture.

Vanstone (2004) overcomes some of the problems that Mair (1997) raises by explicitly acknowledging that the development of probation cannot be viewed in a top-down fashion. Instead, he argues that it was 'embroiled in contested political, religious and cultural ideologies that defined and labelled offenders in ways that, in part at least, shaped those purposes' (2004: 19). Vanstone sees the development of probation as a reciprocal process between policy, theory,

practitioners and offenders and his account creates a strong argument in favour of seeing the development of policy and practice as a reciprocal and iterative process.

Canton's (2011: 23) more recent account of probation's history begins with the idea that 'an episodic history emphasizes change and risks suppressing continuities. A new phase never completely displaces its predecessor'. Thus he argues that the religious origins of probation has an 'abiding importance and an identifiable echo' in modern day probation values (2011: 23). His argument is compelling, especially in light of Vanstone's (2004) comment regarding practitioners continually striving for rehabilitation in spite of the 'nothing works' claims in the 1970s. Canton (2011: 29 original emphases) argues that one of the most enduring continuities in probation practice is:

what probation *represents* – what it says and stands for, the values which it strives to give expression. Prominent among these values are *a belief in the possibility of change* and *social inclusion* (though the term is quite new, the ideal is enduring).

More recently still, Mair and Burke's (2011) analysis of probation's history shows that many of the issues facing the Service have been important ever since its early days. Moreover, they argue that 'whether or not things are done differently in the past, what is done continues to reverberate in the present' (2011: 6). As Whitehead has argued, it is possible to identify 'footprints' of those early probation officers whose approach was humanitarian and who wanted to use social work with individuals who offend (2010: x, 65).

Notwithstanding the acknowledgement of these continuities, *how* these changes and continuities might manifest in the practice and values of probation practitioners has not been fully considered. Whilst research has been conducted on how the 'new penology' (Feeley and Simon, 1992) may have affected newly qualified probation officers there is still a limited understanding about how such 'massive' shifts might have been appropriated, resisted, ignored or embraced by those who actually 'do' probation work (Annison et al., 2008: 267; Gelsthorpe, 2007a; Gough, 2009; Teague, 2007). Research with newly qualified probation officers tends to reach similar conclusions with Deering (2010), Annison, Eadie and Knight (2008), and Knight (2007) all uncovering attitudes amongst trainee and newly qualified probation officers that point to a desire to help offenders and work with people. Moreover, these new recruits explain that they do this in a similar way to previous contexts; via 'the more traditional approach of engagement with individuals and working to empower them to change their lives' (Annison et al., 2008: 260).

Trainees are probably the most researched group of probation practitioners in the context of how policy and polity change has affected probation practice.

Whilst various authors acknowledge that changes in policy are unlikely to result in a change in practice (for example, Senior et al., 2007) we do not know what mediates the relationship between the two. Deering (2011: 178) draws on Bourdieu's concept of *habitus* to explain this. Habitus is a 'way of being' that consists of 'durable, transposable *dispositions*' which are created with, and through, the structure within which a particular behaviour takes place (Bourdieu, 1977). Deering (2011: 178) argues that there is a 'clash between the field and the individual practitioner's habitus [which] has resulted in a compromise and practice is perhaps something not completely intended'. McNeill et al. (2009) have also used Bourdieu's ideas to explain culture change although in this case, the culture was that of Scottish Criminal Justice Social Workers.⁴ Like Deering, they utilise Bourdieu's concept of hysteresis (Bourdieu, 1990) to explain how a change in policy has a delayed effect on practice. This is because practitioners' working practices 'are the *durable* products of individual and shared *histories*' and are thus 'slow to adapt' (McNeill et al., 2009: 434). Whilst the idea that a habitus exists amongst probation practitioners (indeed, amongst any kind of practice/behaviour) is endearing, the idea that practice ineluctably lags behind changes in policy is problematic in the context of England and Wales when one looks to the detail of practice (Vanstone, 2004).

Hysteresis relies on a linear view of history but the history of probation appears to move in circles rather than lines. Many participants in this research echoed Canton's argument that 'probation has sooner or later made the discovery that the best way to enforce, rehabilitate and protect the public is *by advising, assisting and befriending*' (2011: 30, original emphasis). Whilst hysteresis might be a useful theoretical framework within which to view changes in practice it does little to explain how policy *and* practice develop and the relationship between the two. Rather than accepting societal transformations as linear, Berger and Luckmann's (1967) thesis of social construction argues that social action is created via the interaction of two 'habitualized

⁴ In Scotland, probation remained under the purview of social work following the recommendations of the Kilbrandon Report (Kilbrandon, 1964) whilst the Seebohm committee in England and Wales recommended a separate organisation concentrating solely on probation (Seebohm, 1968). Criminal Justice Social Work, and the Scottish penal landscape more generally initially resisted many of the changes faced by their English and Welsh counterparts for a variety of reasons (McAra, 2005). Thus this dissertation is focused on developments in England and Wales, although there is evidence that prominent themes within this research such as punitivism, penal populism and managerialism have begun to affect the practice of criminal justice social workers (McNeill et al., 2009).

forms', allowing us to see changes in 'penalty-in-practice' dialectically. They argue, in essence, that it is rare for one mode of practice to completely subjugate another but that they combine to create something that is constituted by elements of both. From the beginning of an interaction, the actors 'assume this reciprocity of typification' until both parties 'inwardly appropriate [the other's] reiterated roles and make the models for [their] own role-playing' (1971:74). For example, the 'evolution' (Robinson, 2008) of rehabilitation may have more to do with an enduring rehabilitative ideal having an impact on policy than policy changes (slowly) impacting on the *habitus* of probation officers. Needless to say, this phenomenon is not restricted to probation, but might be applied to other spheres of social policy.

Although Berger and Luckmann's theory has been simplified here, its difference from McNeill et al. (2009) and Deering's (2011) use of Bourdieu is clear. Both theories suggest a conflict between 'new' and 'old' policies and modes of practice is possible but Berger and Luckmann's conceptualisation is useful because it provides a possibility for the old and the new to combine to create something 'even newer'. Moreover, Berger and Luckmann's theory adds weight to the idea of a late-modern, as opposed to postmodern, probation. Through Berger and Luckmann, we can see the continuities, the developments and the discontinuities in a way which hysteresis precludes. It also keeps the focus on practice.

Nevertheless, Bourdieu's (1977) concepts of habitus and field are useful because they highlight the possibility of a tension between what practitioners do and the ways in their social condition has been shaped by their shared histories (*habitus*), and the changing shape of the field, a 'site of struggle'. Indeed, probation is often described in terms of conflict and tension: May's (1991) book features the word 'conflict' on its cover, while Canton talks about the continuities in probation as 'constant tensions' (2011: 25). On the other hand, probation's history appears to be a tale of compromise, with policy changes being mediated by practitioners' habitus to create new ways of working. It is from this theoretical standpoint that I approach the broad question of how the penal system's move into a state of late-modernity, and concomitant changes in policy, interact with extant practice and values to create practice which is comprised of elements of the old, and elements of the new.

Late-modernity

Late-modernity (as opposed to *post*modernity) is characterised by Young (2007: 1) (drawing on Marx and Engels ([1888] 2004) and Bauman (2000)) as a situation where:

all that is solid melts into air, in contrast to the high modernity of the post-war period where the stolid, weighty, secure work situations of Fordism, undergirded by the stable structures of family, marriage and community, presented as a taken for granted world of stasis and seeming permanency.

Late-modernity is about the process of individualisation (a feature common to both modern and late-modern periods) 'as an ongoing and unfinished history with its distinct stages - though with a mobile horizon and an erratic logic of sharp twists and turns rather than with the *telos* or preordained destination' (Bauman, 2000: 31). Late-modernity brings with it no sense of the ultimate achievement which, in turn, loosens the ties between people:

...as de Tocqueville long suspected, setting people free may make them indifferent. The individual is the citizen's worst enemy, de Tocqueville suggested. The 'citizen' is a person inclined to seek her or his own welfare through the well-being of the city - while the individual tends to be lukewarm, sceptical or wary about 'common cause', 'common good', 'good society' or 'just society'. (Bauman, 2000: 36)

This can be seen in Putnam's (2001: 141) work on social capital which he describes as 'mutual reciprocity, the resolution of dilemmas of collective action, and the broadening of social identities'. Putnam (1995) argues that society has witnessed a decline in the importance and presence of social capital, evidenced by a decline in the number of members of organisations which afford individuals social capital: religious organisations, the Scouts, parent-teacher organisations, labour organisations and so on. Alongside this there has been an increase in membership of organisations which require little effort but also contribute little to citizens' social capital such as football clubs (Putnam, 1995: 71).

The decline in social capital, and late-modernity more broadly, is associated with 'ontological insecurity' (Laing, 1962) which stems from the way in which the riskiness of abstract systems that govern the way we behave (which, in turn, have no 'end' such as international economic collapse or nuclear power) results in individualism and heightened choice. In a pluralist world this leads individuals to an identity crisis (Giddens, 1991b). In order to maintain a semblance of ontological security, Young argues, individuals respond by evoking 'an essentialism that asserts the core, unchanging nature of oneself and others' (2003: 400). In the criminological context

such ontological insecurity affects our perception of, and reaction to, deviance and results in attempts to:

reassert one's values as moral absolutes, to declare other groups as lacking in value, to draw distinct lines of virtue and vice, to be rigid rather than flexible in one's judgements, to be punitive and excluding rather than permeable and assimilative. (Young, 1999: 15)

Such a statement has ramifications for probation's values which have remained focused on treating individuals as humans in their own right through the exercise of discretion, flexibility and compassion for much of the service's history. How might the decline of social capital, and the rise of ontological insecurity affect the way probation workers view their clients? Are they 'othered' by probation workers as well as by the public?

Ontological insecurity is inextricably linked with the concept of risk. Beck's *Risk Society* (1992) depicts a society in which risk has become ever more prominent as a result of the increased perceived riskiness of everyday life. These risks have come about, specifically, out of the modernisation of society: industrialisation; globalisation and technologisation. Indeed, Giddens (1999: 3) has argued (from a distinctly westocentric perspective) that the rise of risk marks the end of nature, which:

...means that there are now few if any aspects of the physical world untouched by human intervention For hundreds of years, people worried about what nature could do to us – earthquakes, floods, plagues, bad harvests and so on. At a certain point, somewhere over the past fifty years or so, we stopped worrying so much about what nature could do to us, and we started worrying more about what we have done to nature.

Horkheimer and Adorno (1973) take a slightly different view, however. They argue that the enlightenment created a situation in which the relationship between humans and nature has to be mediated by reciprocity. Giddens' thesis suggests that this dialectic has come under threat, and that humans have an altered relationship with nature, one in which those situations which we still cannot control have taken on a whole new riskiness of their own. Giddens is keen to point out that a risk society is not one in which more risks are faced, but is one which is 'increasingly preoccupied with the future (and also with safety), which generates the notion of risk' (1999: 3). He also argues that along with the end of nature, has come the end of tradition:

To live after the end of tradition is essentially to be in a world where life is no longer lived as fate. For many people – and this is still a source of class division in modern societies – diverse aspects of life were established by tradition as fate. It was the fate of a woman to be involved in a domestic milieu for much of her life, to have

children and look after the house. It was the fate of men to go out to work, to work until they retired and then – quite often soon after retirement – essentially to fade away. We no longer live our lives as fate, in a process which Ulrich Beck calls individualisation. (1999: 3)

All of this has potentially wide-ranging repercussions for the way probation workers practice and the values which underpin their work. For example, if risk has taken on a more important role, one might expect PWs to be confident in working towards a risk-based model of probation work. In turn, this proposition raises questions about whether PWs see their work as inherently risky (or as more risky than in previous years). It also requires us to ask what PWs believe about the aetiology of crime, and whether they are in a position to do something about crime.

Giddens (1991a: 2–3) argues that late-modernity does not mark a break with the past but instead represents and comprises some of the most extreme aspects of modernity itself:

Rather than entering a period of post-modernity, we are moving into one in which the consequences of modernity are becoming more radicalised and universalised than before.

Thus punishment was considered important during modernity but it co-existed with rehabilitation in the form of penal-welfarism. In late-modernity the punitive aspect of penal-welfarism has become radicalized to the extent that it dominates the welfarist aims of the criminal justice system. Importantly, however, there is still a welfare element in the penal framework as evinced by the presence of rehabilitation as a purpose of sentencing in s.142 of the Criminal Justice Act (CJA) 2003. Therefore, late-modernity is an appropriate framework for appreciating the way probation practice has changed in the context of the political and policy change which will be explored in the next chapter.

In the next chapter I explore how Garland's book *The Culture of Control* (2001a) encapsulates the way these changes in society have manifested in the penal system and highlight some important criticisms of his work which focus on the neglect of the individual practitioner and his broad-brush account of penal transformation. I discuss how late-modernity might have impacted on probation's values through an exploration of changes regarding managerialism, rehabilitation, risk and punishment in policy and practice. These four themes run throughout the dissertation. Chapter 3 outlines the methodological approach taken, which may be broadly defined as an ethnography of probation. Chapter 4, the first empirical chapter, elaborates on how managerialism has manifested in the context of probation and sets this against probation

workers' attitudes towards this method of measuring probation. I also set out how probation workers define 'success' for themselves and draw links between this and the desistance literature. Chapter 5 explores the notion of punishment and describes how probation workers reconcile their duty to deliver punishment with a desire to reduce the deleterious impact of punishment itself. Chapter 6 takes the supervision process as the main locus of rehabilitation⁵ and presents the way probation workers define rehabilitation. The relationship is considered a critical part of rehabilitating offenders and I explore how this enduring aspect of probation practice looks in a late-modern setting. As with Chapter 5, this chapter sheds light on what probation workers want to do in their work and what their underlying values are. Chapter 7 starts from the notion that probation workers' accountability has shifted from the courts towards local management and central government. However, probation workers consider these modes of accountability to be inadequate and I explore alternative modes of accountability. Chapter 8 returns to managerialism with a view to exploring the exercise of discretion. I utilise Hawkins' (2003) model of discretion in conjunction with Bottoms' (2002) model of compliance to explore the way in which probation workers make decisions about breach and recall. This has two important consequences. Firstly, it allows us to see more clearly the values which underpin what probation workers are trying to do. Secondly, it highlights the existence of a new kind of compliance (as opposed to enforcement) which depends on the existence of managerialism. Chapter 9 is the concluding chapter. Here, I bring the chapters together to explore the practice and practice ideals of probation workers. I explore what this means for future practice, especially in the context of some of the changes that the Coalition Government wishes to introduce. Chapter 9 outlines some of the changes that have taken place since the period of fieldwork and uses this to explore what may happen in probation in the future. Ultimately, this dissertation presents a picture of probation at the end of a period in which managerialist punishment and risk management policies have interacted with 'traditional' probation values to create a particular type of probation practice that has important implications for the future of probation, especially in the context of the Coalition Government's proposed reforms.

⁵ Probation workers saw supervision and accredited programmes as the main mode of rehabilitation. However, as this research was conducted in two 'field' teams, the opportunities for talking to those delivering programmes was limited and I was unable to see any accredited programmes being delivered first hand.

Chapter 2: Probation Values in a Culture of Control

This chapter reviews the relevant literature through an exploration of probation's values. The impact of late-modernity will primarily be explored via this concept. Although late-modernity and the penal system has been dealt with by a number of authors, Garland's influential book *The Culture of Control* (2001a) encapsulates many of these ideas and this chapter explores how his version of a late-modern penal system might have impacted on the values of probation workers. As part of this, I present additional evidence on the existence of continuities, as opposed to discontinuities, in probation practice. The chapter concludes by outlining some of the criticisms of Garland's book which are central to this dissertation.

Probation's Values

Assessing the way in which probation's values have changed is complicated by the absence of an explicit statement of values (Mathieson, 1992). Instead the service has traditionally relied on 'the social work ideal' to 'ward off the threat of the government's 'punishment in the community' strategy' (Nellis, 1995a: 174). However, values are often drawn on to resist change (Faulkner, 2008) and, perversely, this means they have been the subject of much debate in probation. Therefore, there is a wealth of literature on which to draw. By looking to the literature of the 1990s we can discern a picture of probation's traditional value base; a base which is alleged to have been under threat ever since (Gelsthorpe, 2007a; Williams, 1995). Prior to the CJA 1991, probation's core values were encapsulated by the British Association of Social Workers' Code of Ethics and had been reasonably stable since the advent of the probation service in 1907 (Mathieson, 1992: 146):

Basic to the profession of social work is the recognition of the value and dignity of every human being – irrespective of origin, race, status, sex, sexual orientation, age, disability, belief or contribution to society.

The profession accepts responsibility to encourage and facilitate the self-realisation of each individual person with due regard for the interest of others.

The 'nothing works' claims of the 1970s led to several crises within the service. The most significant for this dissertation is a crisis revolving around the ethics of a treatment paradigm. It was argued that the treatment model was 'theoretically faulty' because: 1) crime is, to an extent voluntary, whereas disease is involuntary; 2) sociological explanations of crime show it cannot be seen as purely pathological, and 3) because of this social aetiology of crime, the solution cannot only be found in the individual (Bottoms and McWilliams, 1979: 161). In light of this, Bottoms

and McWilliams (1979) proposed a ‘non-treatment paradigm for probation practice’. They raise the important point that the demise of the treatment model would not irrevocably lead to the abandonment of probation’s core values of care and respect for offenders. In order to achieve this, their model sees probation officers providing unconditional help to offenders on issues that are collaboratively defined by the officer and the offender. This, they argue, overcomes some of the issues raised in relation to probation officers having to care for and control offenders in the community whilst keeping respect and care central to probation practice.

A separate reconceptualization of probation practice, which also sought to keep respect and care central to probation practice, came from Walker and Beaumont’s (1981) socialist critique of probation practice. Their model eschews seeing offenders as individuals and instead focuses on emphasizing similarities with other (non-offending) people to combat the alienating function of the criminal justice system (1981: 175–176). In this sense, the socialist critique still sees offenders as humans in their own right but seeks to reintegrate them through raising awareness of the function of the capitalist system in which they are situated, and which works against them. Walker and Beaumont (1981: 176) focus on being honest about the power differential between the officer and offender: ‘clients should be aware of the constraints operating on us – that we are supervised and accountable – and the implications of this for them’. They take issue with Bottoms and McWilliams’ (1979) concept of ‘unconditional help’ because this is unrealistic, especially in regards to material or practical help and instead encourage officers to change the agency so that it better meets the, primarily socioeconomic, needs of offenders. In this sense a socialist method of probation practice is based on values which serve to improve the lives of offenders *and* the functioning of the criminal justice system at large for the benefit of future offenders.

The treatment model, the ‘non-treatment paradigm’ and the socialist critique illustrate the importance of treating offenders as individuals as well as a desire to help them. Williams’ (1995: 12–20) attempt to define probation’s values provides a useful starting point for assessing how probation’s values may have changed. He states that a fundamental value of probation is the opposition to custody and a commitment to a more productive means of working with offenders. Such a ‘value’ needs to be seen in the context of the CJA 1991 which redefined alternatives to custody as community penalties. There was concern that the creation of probation as a sentence in its own right would make probation more punitive, putting it on a continuum

with prison at one end and fines at the other as opposed to a separate institution altogether. This heightened the need for an anti-punitive and anti-custodial value within the Service, especially as the Act was revised substantially by the CJA 1993 which severely weakened the philosophy of just deserts and signalled the onset of Michael Howard's punitive 'onslaught' (Mair and Canton, 2007: 256).

Another of Williams' values revolves around:

valuing clients as unique, worthwhile and self-determined individuals. In doing this, social work skills are employed and the principles underlying all the caring professions are involved. In this way, acceptance of clients is communicated. *This is kept separate in probation practice from the confronting of offending behaviour and offensive behaviour.* (Williams, 1995: 16, emphasis added)

This particular value looks and feels very similar to the 'traditional' value of respecting offenders as human beings regardless of their circumstances but it has its own historically specific inflection, again stemming from the CJA 1991 which introduced a sentence comprising the 'simplistic appeal' of help and punishment (Mair and Canton, 2007: 255). Prior to this Act, there was little need for an explicit separation of these aspects of practice because they were not intended to be delivered together.

Williams further argues that a key probation value is that of probation workers' beliefs and assumptions that offenders can change, that recidivism is not inevitable, and that the nature of professional relationships with clients is influential (1995). The final aspect of this value needs to be considered in context. The relationship had been a key component of social casework, the main method through which probation was delivered during the 'rehabilitative ideal'. By the 1990s, the importance of the relationship and the faith placed in its potential as a means of reducing reoffending was greatly diminished (Burnett and McNeill, 2005). Williams' affirmation of this aspect of practice might be seen as a specific response to this decline.

A key tenet to Williams' argument is that social work values are a firm basis for probation practice and that if this way of training of probation officers were to be abolished then the values would also diminish in importance and influence. However, there is a need to be critical of social work as a solid basis for probation practice. Williams does acknowledge that there are tensions within a social work ideology but he neglects to depict a service which, even during the 1970s, was already showing signs of moving away from social work values. Indeed, one cannot expect

probation officers to practice in a way that is always compatible with, or reflective of, their values (Hardiker, 1977).

Williams' definition of probation's values can be read as a statement of fact. Other authors writing at a similar time were working on a vision of how probation's values might look, taking into account the challenges that the service was facing. Nellis (1995b) argued that probation workers should alter their value base to make the service more credible in the face of an increasingly punitive criminal justice system. He proposed that probation workers adopt a stance which combined anti-custodialism with restorative and community justice. He argued that the service should reconstruct itself to provide a service to both victims and offenders in order for the service to survive the 'benevolent corporatism' emanating from the Home Office. Following Nellis' article, a debate on probation's values ensued in the *Howard Journal of Criminal Justice* lasting until 1997. Spencer (1995) took issue with Nellis' argument because, he argued, prioritising the fortunes of the Service through a rejection of 'traditional' humanitarian values over the welfare of clients would lead to clients no longer being seen as ends in themselves, but as a means of transforming the Probation Service. On the other hand, James (1995) argued that probation's values should come to revolve around restorative justice by drawing on the idea that reintegrative shaming can create positive punishment if the stigmatising effects of punishment are minimised. Nellis (1995c: 350) responded by arguing that the 'personalist' values of seeing offenders as ends in themselves are 'fine as far as they go, but in this context are best understood as an element of restorative justice'. He also contended that 'reintegrative shaming' (Braithwaite, 1999) was under-developed and so practitioners should avoid basing their practice on such a theory. Masters (1997) drew on all three of the above articles to argue that probation practice and values should be based on the idea of relational justice. He argued that relational justice sees offending as a result of a breakdown in relationships and seeks to repair this in a similar way to restorative justice seeks to repair the damage caused by offending. Thus, the aetiological assumptions that underpin both sets of values are similar.

After a brief hiatus, the values debate resurfaced in the 2000s with the creation of the National Probation Service and the publication of *A New Choreography* (NPS, 2001: 8) which listed the values of the new organisation as:

- Valuing NPS staff and partnership colleagues;
- Victim awareness and empathy;
- Paramountcy of public protection;

- Law enforcement;
- Rehabilitation of offenders;
- Empiricism;
- Continuous improvement;
- Openness and transparency;
- Responding and learning to work positively with difference;
- Problem solving;
- Partnership;
- Better quality services.

However, as Gelsthorpe (2007a) has argued, this list is more of an ‘operational methodology’ than a coherent description of what should underpin probation practice. Nevertheless, research carried out during this period identified certain themes, with McNeill (2000) stating that research with criminal justice social workers in Scotland uncovered a general preference for measuring the effectiveness of probation through outputs and outcomes such as reducing reoffending, changing attitudes, alleviating needs and victim empathy. McNeill (2000: 394) concludes by arguing that practitioners' attitudes appeared to be shifting in accordance with changes in policy but that the legacy of the welfarist Kilbrandon Report (Kilbrandon 1964) was evident and that the threads of probation's altruistic past had not been entirely lost suggesting an important continuity with probation's history. Robinson and McNeill (2004) present a comparative analysis taking into practitioners' perspectives in England and Wales, and Scotland. Participants in both jurisdictions related to the relatively new notion of public protection as the main aim of probation but, importantly, saw this transition in 'relatively unproblematic terms... as a 'different way of looking at familiar problems' (Robinson and McNeill 2004: 288). As with McNeill (2000), the participants in these studies placed considerable value on the aim of reducing reoffending, seeing it as a means to the broader end of public protection. Interestingly, public protection was also seen as a means with which to enhance the legitimacy of the service and appeared to provide practitioners with a sense of identity that had been lost in the face of claims that 'nothing works'. Problematically, however, Robinson and McNeill (2004: 296) argue that public protection rhetoric introduces the potential for more 'punitive, exclusionary and unpalatable tasks' because it 'lacks an ethical dimension'. This raises several pertinent questions for this research: do practitioners still see public protection as a 'meta-narrative' and do they see it being responsible for more punitive strategies?

During the late 2000s, the debate moved, again, to what the Service's values should be.

Gelsthorpe has described the way in which values moved from social work to management and

enforcement, arguing that this came about because the service was unable to ‘respond to a changing conceptualisation of the criminal justice system’ and asks, in response, what the values should be (2007a: 491). She argues that anti-custodialism can never be a legitimate value of probation, and that community safety is too wide a notion because of its crime control connotations and goes on to suggest human rights as a value base for probation. This, she argues, ‘incorporates values of equality, respect for diversity and concern for community, victims and offenders’ (2007a: 505). Faulkner (2008) takes the debate further, arguing that there are structures already in place that can encourage the development of a more meaningful value base which Gelsthorpe believes is absent. For example, Faulkner (2008: 77) argues that the Offender Management Model does at least allow for the creation of positive relationships between probation workers and offenders, which have been shown to be beneficial to offenders wanting to desist, but that relationships are often described in ‘language [that] suggests that they could become formalized, even ritualized, so that they conform to standard patterns approved and measured by management’.

Gelsthorpe states that ‘there is a lacuna in probation’s values’ (2007a: 486), reflected in the idea that current probation policy treats people as ‘things’ (Burke and Collett, 2010). However, people always work to achieve *something* and their practice inherently contains some kind of implicit or explicit value (Maybe and Worrall, 2011). Whether that goal is presented in a mechanistic manner (Faulkner, 2008) or is implicit in practitioners’ practice (Mawby and Worrall, 2011) is not the point. Rather, In the context of probation, this could range from a simple desire to ‘help’ offenders, to broader notions of protecting the public, or to meeting centrally defined targets. It is the exploration of what probation officers want to achieve, and how they go about achieving it, that is the underlying aim of this dissertation. This can be discerned through attention to probation workers’ articulated desires and aims, the way in which they resist policy which encourages a mechanistic and formalised way of working (Faulkner, 2008; L Gelsthorpe, 2007a), or by exploring what they do when working outside the bounds of formal targets and performance indicators.

Practice and Practice Ideals

In much of the discussion about values that came out of the 1990s (Nellis, 1995; James, 1995; Masters, 1997) authors contended that probation practitioners should make use of an ideal, or value, in their work. McWilliams and Pease (1990), for example, called for the reinstatement of

rehabilitation as the central philosophical basis of probation whilst Nellis (1995c) made a case for the greater use of restorative justice. The use of the concept of a practice ideal allows us to analyse probation practice from a variety of perspectives. At the simplest level, it enables the articulation of what PWs want to achieve in their work. This is important because, as will be seen in Chapter 4, we need to have a sound understanding of what PWs are trying to achieve in order to measure the effectiveness of their work appropriately and to take their own ideas on effectiveness into account. However, as Allen (1959) argues the 'real significance of an ideal as it evolves in actual practice may be quite different from that intended by those who conceived ideals'. Thus, ideals are rarely implemented fully, alerting us to the possibility of an implementation gap, as has been seen elsewhere in probation research (McNeill, Burns, Halliday, et al., 2009). Furthermore, the identification of ideals allows us to contrast them with actual practice, in recognition of the importance of the interaction between structure and agency (Giddens, 1979) and *habitus* and the field (Bourdieu, 1990). As highlighted by Henry and McAra (2012: 1), much of what goes on in criminal justice is subject to a 'negotiated order' in which 'dialogue and concession will have been a necessary part of the social production of orders'. Thus, this dissertation aims to take PWs' practice ideals, or values, and identify the extent to which the implementation of practitioners' ideals are the product of the structure, or order, in which they take place. As indicated in the previous chapter, this 'order' has changed considerably in the context of broader criminal justice and probation policy and the following section goes on to explore some of the most relevant elements of these changes.

A Culture of Control?

Thus far I have referred to various changes that have threatened the traditional values of probation. Since the debate in the 1990s, probation has changed considerably. As already mentioned, the CJA 1991 allowed for probation as a sentence in its own right, the mid-late 1990s saw the Government espouse a more punitive aim for the Service, the National Probation Service (NPS) was created in 2001 and then disbanded in 2003 to make way for the National Offender Management Service (NOMS) which brought probation and prisons together within the newly formed Ministry of Justice. Garland (2001a) has argued that late-modernity has resulted in certain political and policy initiatives with which the state intended to overcome challenges to the legitimacy and effectiveness of welfare institutions. These institutions, he argues, were based on a 'new set of class and race relations and a dominant political block that

defined itself in opposition to old style 'welfarism' and the social and cultural ideas upon which it was based' (2001a: 76).

The cultural ideas against which the state has set itself are explored elsewhere by Garland in *Punishment and Welfare* (1985). He explores the rise of penal-welfarism through reference to the political contexts in which these changes took place leading up to the 1970s. For Garland, penal-welfarism is a hybrid structure which combines 'the liberal legalism of due process and proportionate punishment with a correctional commitment to rehabilitation, welfare and criminological expertise' (2001a: 27). Penal-welfarism is based on three axioms: that crime is an unproblematic conception, that it is a 'presenting symptom of more deep-seated social problems', and that the responsibility for dealing with crime and offenders lies with 'experts and expert knowledge' (Loader and Sparks, 2007: 79). Thus probation officers were afforded the role of expert, and were charged with dealing with the problem of crime, which, in turn, was clear-cut. These axioms are in opposition to the idea that offenders are responsible for their actions and so confirm the contemporaneous idea that offenders primarily needed help, as opposed to punishment.

The penal landscape was stable up until the 1970s when 'support for penal-welfarism collapsed under the weight of a sustained assault upon its premises and practices' (Garland, 2001a: 53). One example of this assault came from Martinson's (1974: 47) meta-review on the effects of penal based treatment in which he concluded that it was not possible to 'say that this treatment in itself has an appreciable effect on offender behaviour'. In conjunction with research from Brody (1976) and Folkard et al. (1976), which also put the effectiveness of probation into doubt, his paper was construed as 'nothing works', despite the picture being considerably more complicated than this phrase suggests (Mair, 1995, 1997). In conjunction with a seemingly inexorable rise in crime rates, (primarily Anglo-American) governments' faith in the potential of the welfare state to reduce crime began to wane. This led governments to accept that they were not, and should not, be solely responsible for controlling crime. Garland (1996) has proposed that governments responded with *adaptive strategies* and *strategies of denial*. Adaptive strategies include the normalization of crime to the extent that some crimes are seen as a 'normal social fact' that can be controlled via modifying 'the everyday routines of social and economic life by limiting the supply of opportunities, shifting risks, redistributing [sic] costs, and creating disincentives' (1996: 451). Such changes are best seen in the now widespread implementation of

situational crime prevention which makes use of burglar alarms, neighbourhood watch schemes and improved car security, for example. Importantly this method of crime control depends on a view of human nature which elevates individual rationality and choice over viewing crime as a result of pathological deficits or social deprivation. Within this theory everyone is capable of committing a crime or being a victim of a crime. Thus, victims and offenders become responsible for preventing crime through a strategy of responsabilisation (O'Malley, 1992).

On the other hand, governments have implemented strategies of denial. This idea is linked to the notion of ontological insecurity and has resulted in a 'criminology of the other' which is based on 'essentialized difference':

In this rhetoric, and in its policy effects, offenders are treated as a different species of threatening, violent individuals for whom we can have no sympathy and for whom there is no effective help. The only practical and rational response to such types is to have them 'taken out of circulation' for the protection of the public, whether by long-term imprisonment... (Garland, 1996: 461)

This essentialized difference can be seen in Feeley and Simon's article on the 'new penology' (1992) where they argue that crime control is becoming increasingly actuarial in nature. They argue that, in response to demands for efficiency, the criminal justice system is now more concerned with managing 'risky' people as members of aggregate groups rather than as individuals in their own right. The new penology 'does not speak of impaired individuals in need of treatment or of morally irresponsible persons who need to be held accountable for their actions' (Feeley and Simon, 1992: 452).

Garland (2001a) argues that there are twelve 'visible landmarks' of a changing, and late-modern crime control arena, all of which have had potentially important ramifications for the values of probation workers. Four of these are particularly relevant and run throughout this dissertation: 'the decline of the rehabilitative ideal', 'the re-emergence of punitive sanctions and expressive justice', 'new management styles and working practices', and 'above all, the public must be protected' (Garland, 2001a: 7–20).⁶

⁶ The other eight are: changes in the emotional tone of crime policy, the return of the victim, politicization and the new populism, the reinvention of the prison, the transformation of criminological thought, the expanding infrastructure of crime prevention and community safety, civil society and the commercialization of crime control, and a perpetual sense of crisis (Garland, 2001a: 7–20).

New Management Styles and Working Practices

In an analysis of developments in public policy, Hood (1991) described new public management (NPM), or managerialism, as one of the five ‘megatrends’ of changes in public administration.⁷ The word ‘managerialism’ tends to be used, or at least received, pejoratively. However, this is a relatively recent development. Although the advent of managerialism in probation tends to be associated with the introduction of the Statement of National Objectives and Priorities (SNOP) in 1990 and national standards in 1992, its beginnings stem from an earlier period in the Service’s history. For example, one can see the emergence of managerialism in the controversial introduction of ‘casework supervision’ – the supervision of a probation officer by a senior member of probation – in 1950. As it was introduced, debates revolved around who should conduct supervision and what its purpose was (Monger 1964: 208). The Morison Committee (Home Office, 1962) stated that the purpose of casework supervision was to ‘provide help and relief’ for the main grade officer with Monger describing it as an interactive and educative process ‘in which a person with certain equipment or knowledge and skill takes responsibility for training a person with less equipment’ (1964: 197). This suggests that it was there for the benefit of the officer and subsequently, the probationer. Clinical supervision is a vital part of delivering therapeutic interventions in social work and psychology and so the introduction of a managerial structure might have been more related to probation’s treatment-based approach than with the onset of managerialism. Nevertheless, the subsequent period was one in which an ‘administrative hierarchy’ became ever more pervasive, with the ratio of supervisory to non-supervisory posts increasing from 1:6 to 1:3 between 1960 and 1978 (May 1991: 18). As Haxby noted, the introduction of casework supervision ‘could easily appear to be a subtle form of inspection’ (1978: 33). The reasons behind those early signs of a managerialist service are much the same as today: to ensure ‘that probation officers use public money properly’ (Monger 1964: 210).

Indeed, this was the reason for the increased importance of managerialism in the late 1970s and early 1980s where the changes implemented by the Thatcher Government represented a ‘permanent revolution’ in the way the probation service was managed (J. Clarke et al., 2000: 1). At the time, there was increasing scepticism about the effectiveness of probation and its use of casework especially in light of Martinson’s (1974) review of interventions delivered by the penal system. There were also concerns around the perceived ‘softness’ of probation as well as a desire to reduce an expensive and burgeoning prison population. Finally, the neo-Conservative

⁷ The other four are: slowing down government growth; privatisation; automation; and internationalisation.

governments of the 1980s saw the public sector more generally 'as spendthrift, idiosyncratic and unaccountable' (Raine and Willson, 1997: 82). Thus, the Thatcher Government introduced limits on the budgets of institutions with a view to creating institutions which were more financially aware, alongside standardised policies and practices which were to 'curb the autonomy of the professionals and reduce their idiosyncrasies'. The period also saw organisations being reorganized into more explicitly hierarchical structures which were 'supported by target setting and performance monitoring to effect greater control and to sharpen accountability' (Raine and Willson 1997: 82-83). In this regard the Statement of National Objectives and Priorities (SNOP) (Home Office, 1984) redefined the objectives of the service and handed greater control of probation policy to central government (Morgan, 2007; Raynor and Vanstone, 2007). It has been argued that the introduction of the SNOP and national standards (Ellis et al., 1996; Hedderman and Hough, 2000) heralded an expanded inspectorate and 'represented a challenge to the professional autonomy of individual probation officers, [and] were associated with growing demands for management performance data and practice accountability' (Morgan, 2007: 92). The increased use of managerialism was noted and researched by Humphrey and Pease (1992: 49), who concluded that whilst a Probation Area had met its contractual and legal obligations, an investigation of such obligations was 'a way of emphasising to those who believe that the service's primary responsibility is to slow down or halt criminal careers just how far removed such a function has become from the day-to-day world of probation staff' because they were overwhelmingly focused on inputs rather than the traditionally understood aims of probation: to reduce crime. It might be argued that the criticisms that the Service had faced, in conjunction with the rise of managerialism, had left the Service bereft of any purpose and Nellis (1995b) goes so far as to argue that the attack on probation's social work values in the early 1990s allowed managerialism to take hold because there was a vacuum within the service's ethos which needed to be filled.

It was hoped that the election of a Labour government in 1997 would lead to an 'upturn in [the probation service's] fortunes within a more enlightened approach to law and order' (Burke and Collett, 2010: 232). Alas, this did not transpire and the march of managerialism continued throughout Labour's time in office. During this period, the Service became increasingly micro-managed to the extent that, by 2001, managerialism, in the form of modernisation, had been 'institutionalized and normalized' (McLaughlin et al., 2001: 313). The use of the word 'management' is telling in terms of the underlying philosophy of the penal system in the early

twenty-first century (cf. Feeley and Simon, 1992) after the advent of the National Offender Management Service in response to Correctional Services Review (Carter, 2003). Following the election of a Coalition Government in 2010, Burke and Collett (2010: 242) have offered the following assessment of Labour's legacy in relation to the Probation Service:

It seems to us that what originally offered hope – ‘tough on crime, tough on the causes of crime’ has increasingly become the slogan under which a reductionist focus on managerialist and technical policy fixes has critically impacted on probation. Being tough on crime has been supported by a welter of targets and pronouncements that at the local level have become counterproductive. Perverse incentives have delivered damaging outcomes in terms of both probation practice and wider criminal justice operations and at the same time provided the rationale for more intrusive bureaucratic control.

More recently, the Justice Committee has published a report on the role of the Probation Service in which they criticise ‘the overly-administrative approach to engaging with offenders’ as well as a leaked restricted Ministry of Justice report which found that probation staff spend only 24 per cent of their time in contact with offenders (Justice Committee, 2011: 18).

There is an important distinction to be made here between management and managerialism. Criminal justice used to be managed according to an ‘administrative model’ of management whereby professionally qualified staff used ‘bounded discretion’ and ‘rule-based procedures’ to deliver services within ‘the familiar bureaucratic features of hierarchical structures’ (Butcher 2002: 1). Managerialism in probation, on the other hand, has been characterised by a focus on outputs and performance rather than inputs or outcomes, alongside the separation of purchaser and providers (Clarke, Gewirtz and McLaughlin 2000: 7).

Under the ‘administrative model’ of probation, the performance of the Service was not formally measured. In fact, the first ever study into the ‘effectiveness’ of the service did not take place until 1958 (Radzinowicz 1958). For this study, Radzinowicz used reconviction rates as his measure of ‘success’. Although the study showed probation in a generally positive light, the important matter for this dissertation is that a lack of offending by probationers was considered to be the most appropriate means of measuring probation. That this was the first study of probation's impact illustrates the confidence with which politicians (and by extension, the public) had in professional probation officers to do what they thought was best. Although probation was not formally ‘measured’ until the introduction of national standards in 1992, it is clear from contemporaneous literature that reoffending was considered by many to be the key measure of

success in the service, with Haxby stating, for example, that ‘the prevention of crime has not been seen as one of the objectives of the Service, except in the more limited sense of the prevention of recidivism’ (1978: 192). For Haxby (1978), the more explicit objectives of the service depended on the particular function being carried out. For example, in the case of after-care the objectives of the service were to ‘facilitate the offender’s reintegration into society by helping him [sic] to cope with the material and social handicaps resulting from imprisonment’ (1978: 259). Although statistics were collated on the completion rate of probation orders from 1961 onwards (Haxby 1978: 134), no targets were in place to dictate what level of compliance officers should be achieving. This example serves to illustrate a significant change brought on by the expansion of a managerialist probation service where targets stipulate that 80 per cent of offenders must complete their Orders, for example (Ministry of Justice, 2007). However, the Probation of Offenders Act 1907 contained a set of Probation Rules which stipulated that probation officers had to visit offenders for at least one month ‘at frequent intervals, not less than one week’ (Home Office 1908: 6). Whilst the National Standards of 1992 were more onerous (between 6 and 12 appointments in the first 3 months of the Order), the message is the same: that officers are, and always have been, bound by rules laid down by central government.

Nevertheless, the 1992 National Standards represented an extreme version of the Rules that had come before. The 1907 Rules contained just 12 rules related to officers’ practice, with some of them being particularly vague (e.g. #12 ‘The Probation Officer shall, as occasion may arise, advise, assist and befriend the offender’). The 1992 standards were 118 pages long, covering both purposes and practice prescriptions for each of the Service’s areas of work. Thus the management of the service has always involved prescriptions.

Raine and Willson (1997) argue that managerialism has brought with it benefits and disbenefits. Importantly, however, they believe that managerialism is ‘on the wane and that other forms of organising work which better match contemporary concerns and conditions are coming to the fore’ (1997: 87). Drawing on Quinn’s (1988) theory of organisational change, they argue that the managerial phase of criminal justice is an occurrence which should be expected as the organisation moves from a bureaucratic to a managerialist model because of the desire to achieve productivity and increased performance. Quinn’s theory suggests that the organisation then needs to become responsive to the fast-moving, ‘tough and restless’ market. In view of this restlessness, Raine and Willson (1997: 90) argue, the organisation is forced to change again to one

of collaborative partnership where ‘effort is redirected to consolidate what is worthwhile and to establish stability to allow the maximum use of knowledge already acquired’. This, according to Raine and Willson (1997: 92) can be described as a post-managerial criminal justice system which involves:

a redefinition of the role and function of criminal justice to reflect its status as a regulatory body... greater attention to crime prevention rather than management indicators such as arrest rates and a stronger emphasis on the interconnectedness between criminal justice and social policy.

Most importantly, they believe that a post-managerial criminal justice system focuses on long-term policy goals and a ‘return to more fundamental empirical, research-based and less polemical forms of policy development’ (1997: 93). However, Clarke and Newman (1997: 78) argue that despite its faults, managerialism has come to be seen as the only option for public bodies and so Raine and Willson’s optimism needs to be viewed cautiously.

Nevertheless, Raine and Willson’s concept has some utility in this dissertation. If we accept post-managerialism as characterised by collaborative partnerships with a focus on the long-term, there is evidence to suggest that probation is moving into such a phase. Although national standards became increasingly long and prescriptive, the 2007 revision marked a change, with the guidelines stating that:

When an offender who has not provided an acceptable explanation in advance does not keep an appointment or otherwise does not comply with a requirement of the sentence, *and* if the failure to comply indicates that the public is at substantially greater risk, the Offender Manager initiates expedited and urgent enforcement action immediately, through a court or the Post Release Section of the Ministry of Justice, whichever is appropriate. (Ministry of Justice, 2007: 2f.3, emphasis added)

This change allowed probation staff more discretion when dealing with a potential breach situation. Whereas previously probation officers had to breach an offender if they missed two appointments regardless of an increase in risk, the new guidelines allowed for an investigative approach. This change was arguably about encouraging compliance as opposed to enforcement: where success had been measured via a short-termist goal of enforcing orders as quickly as possible, the new aim was the relatively long-term goal of trying to get as many offenders as possible to successfully complete their orders. This may have been related to evidence that the failure of offenders to complete interventions could lead to higher rates of recidivism than if the offender had not started the intervention in the first place (McGuire, 1995). The 2011 National Standards (Ministry of Justice, 2011a) signify an even greater shift. This revision, introduced by

the Coalition Government, is a mere four pages long and includes no stipulation on how often offenders should be seen, how many appointments they are allowed to miss and so on. Rather it asks probation workers to maintain purposeful contact with offenders throughout an Order and prepare offenders for any requirements attached to their sentence (Ministry of Justice, 2011a: 3). The new Standards afford probation workers considerably more discretion when ascertaining how often to see offenders than the previous revision and so it might be argued that the Government is giving PWs more freedom to use their body of knowledge in a set of circumstances (Raine and Willson 1997: 90).⁸ Importantly, a post-managerial criminal justice world is long-termist but still volatile and contradictory (O'Malley, 1999); a theme which is present throughout this dissertation.

Garland (2001a: 18–19) argues that managerialism moved the emphasis away from the probation service's 'social work' ethos towards 'new forms of system-monitoring' and centralized control suggesting a direct impact on the values of probation workers. Beaumont (1995) argued that managerialism forced the probation service to begin managing itself through objectives which were unashamedly driven by economy, the most powerful of managerialism's three Es (the other two being efficiency and effectiveness). Kemshall warned that this could lead managers to being 'imprisoned by data, unwilling to make any decisions under any situation of uncertainty' (1993). Such an impact is unlikely to be limited to management, with front-line practitioners undoubtedly in a vulnerable position, especially because managerialism involves holding individuals to account for their own practice, and for their own ability to meet targets. Arguably, then, managerialism might be seen to shift an individual probation workers' values from a simple desire to helping someone (with the concomitant vagaries about what that actually means) to a value base which prioritises concrete measures of effectiveness, although such concrete measures do not necessarily have to be couched in terms of economy and efficiency.

Above All, the Public must be Protected

Garland (2001a: 12) argues that the criminal justice system now aims to protect the public above all else and that this is closely related to a risk-averse public and intense focus on the 'risk of depredation by unrestrained criminals'. Probation workers deal with offenders in the community

⁸ On the other hand, critics have proposed the idea that the significant reduction in the targets which probation staff have to meet stems from the Government anticipating resistance to such micro-management from the private sector should privatisation of the Service go ahead. That said, the Government has made attempts to reduce red tape elsewhere in the public sector and so this criticism may not be valid.

which means that risk has to be treated in a unique way in the context of probation policy and practice. Indeed, Kemshall has argued that ‘risk has become the dominant *raison d’être* of the Service, supplanting ideas of need, welfare or indeed rehabilitation as key organising principles of service provision’ (1998: 1). As with managerialism, risk has had a constant presence throughout probation’s history. The missionaries of the mid-late 19th century had no formal means of identifying with whom they should work. However, Vanstone’s analysis of probation’s history suggests that probation officers did choose to work with certain people by utilising moral judgements to separate the ‘deserving from the undeserving’ (2004). These moral judgements, according to Vanstone have simply ‘been replaced by separating low risk offenders from high risk’ (2004: 156). As Vanstone (2004: 36, original emphasis) argues, the work done by the missionaries was ‘*actuarial* in the sense that they were concerned with risk’. Despite this, risk has taken on a new meaning in more recent years for reasons that are directly related to the onset of late-modernity.

Risk has manifested in probation primarily through the use of risk assessment technologies. Although it is often argued that the first risk assessment tool was introduced to probation in 1996, the use of actuarial risk assessment tools can be traced back to the 1920s (Burgess, 1928, 1936; Tibbitts, 1931; and see also Robinson and Dignan, 2004). The increased relevance of risk in probation is often portrayed as being imposed on staff. However, Mair et al. (2006) argue that it was probation staff themselves who initiated the introduction of risk assessment technologies into probation practice. By highlighting the way in which practitioners themselves have contributed to policy we can see the socially constructed nature of probation.

The Offender Group Reconviction Score (OGRS) was introduced to the Service in November 1996 with the intention of it being a source of ‘informal advice to probation officers, who will form their judgment in the light of all the special circumstances of the case. The score does not play any formal part in the judicial process’ (Copas and Marshall, 1998: 159). Its position as an aid to decision making rather than a substitute for a judgement remains (HC Hansard vol.486 col.1598W 22 January 2009). The original tool has been revised and is now on its third iteration, OGRS3, which is alleged to be more accurate and user friendly than previous versions (Howard et al., 2009). Importantly, OGRS has only ever taken account of static risk factors, leading some to criticise its potential for accurately predicting risk and applying this to the supervisory context (Raynor et al., 2000).

Since the introduction of OGRS, several risk assessment tools have variously been introduced, tested, and/or withdrawn. One such example is Assessment, Case Management and Evaluation (ACE) which takes dynamic and static risk factors into account. ACE was intended for use on all offenders, yet others have been created for specific offending groups. For example, the Spousal Assault Risk Assessment (SARA) is designed for those convicted of a domestic violence offence. The Offender Assessment System (OASys), first introduced in 2002, is now the most widely used risk assessment tool in probation in England and Wales. OASys takes dynamic and static risk factors into account as well as seeking to ensure consistency in assessing the risks and needs of offenders (Crawford, 2007: 158). After completion of an OASys assessment, the probation worker is presented with a risk score. Rather than being numerical, as is the case with OGRS, OASys defines offenders in terms of low, medium, high and very high risk to different groups of potential victims: unknown and known adults, unknown and known children, the public and members of staff. Since OASys takes dynamic factors into account, it is used to measure changes in an offender's risk over time, and there is a requirement for PWs to conduct regular reviews (every 16 weeks at the time of the research).

Robinson (2003a: 31–32) has laid out several arguments in favour of the increased use of risk assessments which include the benefits of a structured format for practice which promotes consistency, improvement in practice more generally and a contribution to strengthened legitimacy for the probation service because of the evidence-based nature of the tools. However, a strong justification for structured risk assessment tools does not mean that their introduction has been without controversy. Several commentators reported in the 1990s that the increased use of such technical forms of practice have led to practitioners being 'constrained, controlled or deskilled' (Robinson 2003b: 595). However, this move towards greater 'technicality' (Robinson 2003b) needs to be considered in the context of how these new measures were implemented and how practitioners perceive them. Rather than seeing technicality as an inherently negative development, Robinson (2003b) makes the case that technicality (the increased use of standardised forms of practice) does not necessarily lead to reductions in indeterminacy or discretion but can, in some cases, aid and support professional practice and autonomy.

That said, many problems have arisen around the implementation of such tools which suggests a potential impact on the values of probation workers. Prior to the introduction of OASys,

Robinson (2003a) highlighted some of the problems that might be faced in such a large scale project. She pointed to the likelihood of extreme ambivalence amongst practitioners to the project which would stem from antipathy towards the increased amount of paperwork required, and the loss of professional autonomy through the erosion of indeterminacy or professional judgement. Through research with probation workers, Mair (2001) has found that practitioners believe that their professional judgement has been threatened by risk assessment tools (see also Mair et al., 2006). As seen in the discussion above on probation's values, much emphasis was placed on making use of the offender when defining areas of need, and thus help (Bottoms and McWilliams, 1979). Risk assessment tools clearly detract from this possibility by imposing pre-determined issues on offenders so much so that, arguably, offenders have an identity imposed upon them by the tools themselves (Aas, 2004). Furthermore, the idea that professional relationships can effect change (Williams, 1995) is presupposed by the idea that probation workers *are* professionals and so risk assessment tools might be seen as a means with which to denigrate the professional standing of probation officers. On the other hand, Robinson (2002: 19) reports that the introduction of risk management and risk assessment tools led to two different modes of practice: public protection and mainstream practice which was based on the 'distinction between those offenders assessed as posing a serious risk of harm to the public, and those who are not.' Thus, the introduction of greater risk management and the 'new penology' (Feeley and Simon 1992) does not inevitably lead to a simplistic translation theoretical changes into practice.

Risk has increased in importance alongside the rise of managerialism and the two have become increasingly interconnected, and interdependent. Thus we see internal measures of the Service's success bound up with the risk assessment process. For example, probation workers have to conduct risk assessments within certain timeframes and at regular intervals with little regard for the quality of the assessment carried out. Risk has become the key factor in the proper allocation of resources (Kemshall, 1998: 39). Here, risk is closely tied up with the efficiency and rationalisation of criminal justice (Feeley and Simon, 1992). The use of risk assessment tools which elevate static risk factors over dynamic risk factors reduce the potential for those who present the greatest need to receive the support they need because they are seen as immutable. This may cause probation workers to show less interest in those who present high need but who do not pose a high risk of harm. Thus, the feasibility of offering unconditional help (Bottoms and McWilliams, 1979) is mediated by these tools. On the other hand, Hannah-Moffat (2005)

argues that the introduction of risk assessment tools which take dynamic risk factors into account actually turn the offender into a ‘transformative risk subject’ which has the effect of relegitimizing the place of need in probation practice, and probation workers’ value.

The Decline of the Rehabilitative Ideal

It is hard to refute the suggestion that rehabilitation has held an enduring role in the history of probation, despite its well recorded demise (F. A. Allen, 1981). However, it is argued that the Gladstone Committee did not believe rehabilitation should be of concern to sentencers (Bean, 1976: 1) with the focus instead on deterrence and retribution. Despite this, the missionaries of the Church of England Temperance Society had been engaged with the penal system for 50 years prior to this report and had been explicitly involved in the project of reform, if not rehabilitation (see Hudson (2003), Raynor and Robinson (2005) and Chapter 6 for more on this distinction). Garland (1985, 2001a) has described in detail the background to which the advent of probation as a formal institution appeared: briefly, the end of the 19th century and early 20th century was a period of significant liberal reform in the sphere of public policy in which specialist juvenile courts, penal institutions and other organisations were created in order to remoralise the nation’s ‘wayward youth’ (Nellis, 2007: 29).

The Probation of Offenders Act 1907 formally created a professional Probation Service. The Act did not lay out any particular aim of imposing a probation order beyond advising, assisting and befriending offenders, although it was hoped by some of its proponents that it would have a decarcerative and reductivist effect by reducing the reliance on prisons. Indeed, it was believed by supporters of the Bill that probation would ‘prevent crime, and to a large extent empty our jails’ (HL Deb 05 August 1907 vol 179 cc1487). In this sense, probation has always been seen as an alternative to custody despite this only becoming an explicit aim during the 1980s through the first SNOP (Raynor, 1988). Although rehabilitation was not a stated aim of the Act, it was considered to have considerable potential for the reduction and prevention of crime. Thus, the use of rehabilitative techniques as a tool for ‘social defense’ has always run alongside helping an offender for their own sake.

Increasingly, rehabilitation became the stated aim of the probation service. As McWilliams has argued, ‘[probation] was transformed from a service devoted to the saving of souls through divine grace to an agency concerned with the scientific assessment and treatment of offenders’

(1986: 241) until such a point in the 1960s and 1970s that rehabilitation became a ‘taken-for-granted’ aim of the Service:

Sentences to receive help are now so much part of the judicial and penal process, that we now regard them as common practice. (Bean, 1976: 1)

In light of the argument that rehabilitation is as much about social defense as about the individual’s improved happiness, Bean’s comment here fails to take account of the various forms that rehabilitation can take. Nevertheless, the ‘decline of the rehabilitative ideal’ (F. A. Allen, 1981) is often depicted as one of the great discontinuities in probation’s history. In the face of a declining faith in the Service’s effectiveness, as well as increasing crime rates, a larger prison population, and popular discourse which was dominated by the idea that the increase in crime was a result of ‘softening discipline’, the service’s focus was shifted from rehabilitation towards crime prevention and punishment (May, 1991).

Although it cannot be denied that rehabilitation underwent a severe attack on its credentials for reasons outlined above, if one looks to either academic writing or research on probation practice, one can find evidence of rehabilitation having a constant presence in both practice and policy. As Raynor and Vanstone argue in their analysis of probation’s history, ‘the effect of the “Nothing Works” research was not on practice but on policy” (2007: 68). A similar development can be seen in the field of academia, as Gendreau and Ross (1987) observed,

...that the “nothing works” credo has had a pervasive influence and has suppressed the rehabilitative agenda was not borne out when we examined the number and variety of successfully reported attempts at reducing delinquent behavior. In fact, the rehabilitative literature is growing at a noticeable rate.

Thus, despite the diminishing focus on rehabilitation in policy, and a focus on punishment in the community taking its place formally, it can be argued that rehabilitation remained relevant and useful for practitioners.

Nevertheless, rehabilitation has re-emerged in probation policy, primarily through the ‘What Works’ movement. As with risk, it is often assumed that What Works has been imposed on probation practice. Whilst the Labour Government did make the decision to roll out Accredited Programmes and set (arguably unachievable (Bottoms, 2004)) targets related to their use, programmes, historically, have come ‘from below’. As Raynor and Vanstone note, the first offender programmes were owned by ‘practitioners *and* management’ (2001: 387, emphasis

added) and, as identified by Gelsthorpe (2007b: 52), it was practitioners who developed specific programmes for women. What Works, and its related programmes, is dependent on the use of evidence-based research to provide answers on how best to rehabilitate offenders. Raynor and Robinson (2005: 51) argue that probation officers have always been ‘eager for any knowledge which carried the stamp of more expertise’ and so it might be argued that the influence of What Works depends on the idea that it is based on evidence of a higher standard rather than the argument that evidence-based practice became a more legitimate basis for practice.

The What Works movement is best illustrated through the programmes which make use of cognitive behaviouralism to rehabilitate offenders. Of these programmes, Risk-Needs-Responsivity (RNR) is probably the most well-known. RNR, and cognitive behaviouralism, is not the only iteration of evidence-based practice but it is the most widely used.⁹ As Polashcek (2012: 7, original emphasis) argues, the RNR model has made an

Original substantive contribution to the development of criminal justice assessment, intervention, research, programme accreditation and programme integrity around the world.

Without this substantive contribution, there is little doubt that rehabilitation could have emerged as it did. Elsewhere, Robinson (2008) has argued that rehabilitation has re-emerged because it has evolved to legitimate itself through three distinctly late-modern themes: utilitarianism, expressiveness and managerialism. Robinson is right to point out that legitimating rehabilitation through recourse to a utilitarian rationale is not new, but that the current form of rehabilitation plays down traditional welfarist arguments in favour of utilitarianism (2008: 432).

What Works and the ‘new’ rehabilitation have appeared alongside the rise in managerialism and risk. Indeed, this is another aspect of Robinson’s (2008) late-modern rehabilitation. Rather than the increased importance of risk replacing rehabilitation, as proposed by Kemshall (1998), risk has become a constituent part of rehabilitation itself. Thus ‘rehabilitation is viewed as a means of managing risk, not a welfarist end in itself’ (Garland, 2001a: 176). As Robinson (2008: 434–435, original emphasis) has argued, rehabilitation in a late-modern era has ‘served to *reinforce* a penal discourse saturated by risk’ so much so that ‘contemporary rehabilitative interventions are quite at home – and know their place – within a systemic framework with, at its heart, the logic of management’. The classification of offenders into different Tiers has made it easier to

⁹ Other examples include the Good Lives Model (Ward and Brown, 2004).

accommodate these programs into a managerialist framework of targets, inputs and outputs. Moreover, the move from the inquisitive ‘What Works?’ to ‘What Works’ as a statement of fact means that policy is presupposed by the idea that an accredited programme *will work*. This means that as long as appropriate offenders are identified for treatment and that they actually complete the prescribed treatment, rehabilitation will inevitably be achieved. Thus rehabilitation has come to be measured primarily through referral and completion rates.

In contrast to this view of the new rehabilitation which is dependent on technical measures of effectiveness and rehabilitation and is delivered primarily through groupwork programmes and cognitive behaviouralism, New Labour introduced the Offender Management Model (OMM) in line with the Correctional Services Review’s recommendations (Carter, 2003). The OMM was based on Dowden and Andrew’s (2004) Core Correctional Practice model, a review of which led NOMS (2005a: 25) to state that ‘the concept of Offender Management should be a human service approach – based upon those personal relationships – rather than an administrative or bureaucratic one’. This led Burnett and McNeill to highlight two important aspects of the relationship in recent probation practice: firstly, that ‘it is not an exaggeration to say that there is now a revival of interest in the officer–offender relationship and a reaffirmation of its value’ and, secondly, that, ‘arguably, its importance has, throughout the history of the probation service continued to be recognised by frontline staff’ (2005: 25). Indeed, Porporino has refined his previously ardent championing of What Works which was based on the ‘application of good social cognitive interventions to change offenders’ to take account of the argument that there is a need to better understand the ‘real process of change that offenders move through’ (2010: 63). In doing so, he accepts that the role of desistance theory can play an important role in conjunction with the ‘well tested and dominant’ risk management framework.

Through desistance theory, there has been an acknowledgement that the offender himself/herself is a locus for change and that their motivation to change is a key determinant in whether they will desist from crime (Day et al., 2010). In this sense, desistance moves rehabilitation away from the What Works interventions which change offenders to ones which help offenders change. In this regard, desistance theory relies on the importance of the relationship. There is evidence that the Government and Probation Trusts are beginning to act on some of the research emanating from academic debates on desistance. For example, the Ministry of Justice is piloting the Skills for Effective Engagement Development programme

(SEED) which seeks to improve the skills that probation workers need in terms of engaging offenders with their sentence. The Ministry of Justice (Copsey, 2011) sees this work as a means with which to operationalize the research on desistance which highlights the importance of human and social capital in the process of desistance (Farrall, 2004; Laub and Sampson, 2001), although McNeill (2006) has expressed ambivalence towards the idea of creating a *model* of probation practice based on desistance theory. Notwithstanding this circumspection, there are signs that the Government is accepting the argument that there has been too much emphasis on the content of work rather than the method of delivery, and that it has led to a focus on too few approaches (Porporino, 2010). Thus rehabilitation is increasingly being attempted via a more flexible and relational approach. Indeed, it might seem that rehabilitation, and probation practice more generally, may be moving towards Lord Woolf's model of relational practice which James (1995) highlighted in the mid-1990s:

Identifying and seeking to tackle one of the major underlying causes of the breakdown of social behaviour...the total or partial failure of a series of relationships – the relationships which should exist among and between individuals, communities and institutions. (Lord Woolf quoted in James, 1995: 339)

This reminds us of the importance of late-modernity as a framework for exploring changes in probation practice and practice ideals in two ways. Firstly, that change is unlikely to be wholly linear and ideas from previous 'eras' will not always lose traction. Secondly, that Putnam's (2001) decline in social capital has an important and relevant application to probation practice more broadly.

The 'new rehabilitation' is not solely based on the technical and bureaucratic nature of What Works style accredited programmes which do not take the process of delivery into account. Neither can it be argued that the relationship ever truly disappeared, despite being discredited in the 1970s (Burnett and McNeill, 2005). What can be said is that the development of What Works style accredited programmes placed too much emphasis on the content of programmes as opposed to the delivery of rehabilitative work but that there is evidence to show that policymakers interested in implementing the Government's 'rehabilitation revolution' are beginning to take research on desistance into account.

The Re-Emergence of Punitive Sanctions and Expressive Justice

Prior to 1991 a probation order was an alternative to a formal punishment, mainly imprisonment, instead of a sentence in its own right. The Probation of Offenders Act 1907

stipulated that a probation order was to be imposed where punishment was considered to be inexpedient. Formally, probation became a punishment in its own right through the CJA 1991 although probation's punitive element goes further back than this. Despite probation not being explicitly punitive, the Morison Report accepted that the very act of having to see a probation officer can be perceived as punitive by offenders, regardless of the stated aims of the sentence (Home Office, 1962). 1972 saw the introduction of Community Service which could be perceived by some as

simply a more constructive and cheaper alternative to short sentences of imprisonment; by others it would be seen as introducing into the penal system a new dimension with an emphasis on reparation to the community; *others again would regard it as a means of giving effect to the old adage that the punishment should fit the crime*; while still others would stress the value of bringing offenders into close touch with those members of the community who are most in need of help and support. (Wootton, 1970: 13, emphasis added)

Moreover, probation was received as an alternative to custody for much of the 1980s (Raynor, 1988) and so was viewed punitively despite not being punitive in legislation. In his analysis of probation practice in the context of Feeley and Simon's (1992) 'new penology', Deering (2011) has traced the more formal development of punishment in probation over the last twenty years. He argues that in order to make claims for positioning prison as the place for only the most serious offenders more palatable, probation was repackaged as punishment in the community and that this 'perhaps saw the beginning of a belief that the relationship between the probation service and offenders should be one based increasingly on authority, rather than on a social work ethos of assistance' (2011: 30). This, in conjunction with Labour's 'tough on crime' stance leading up to the 1997 General Election (Downes and Morgan, 2007) saw the abolition of social work training for probation workers in 1997, with the intention of creating a 'new breed' (Deering, 2010) of probation officers who would focus on 'probation's top priority role of protecting the public and reducing crime through effective work with offenders' (HC Deb 29 July 1997 vol 299 c151W). Nellis and Gelsthorpe (2003: 229) argue that the government wrong-footed the service by asking whether probation was social work at all and instead demanded that it 'speak the moral language adequate to the challenges posed by contemporary crime'. In this vein, there have been allegations that the Coalition Government is considering the recruitment of ex-military personnel to help 'toughen up' the image of the service and community sentences (Doward, 2010).

Despite these clearly punitive developments, there are important ambiguities. For example, Paul Boateng's epigraph to the 2000 National Standards informed probation officers that 'we are a law enforcement agency. It's what we are. It's what we do' (Home Office, 2000). This contrasts with David Blunkett's first speech to the National Probation Service that 'rehabilitation is the highest possible priority for those entering the criminal justice system'. Moreover, the current Government's desire to make retributive punishment a core aspect of every community sentence (Ministry of Justice, 2012a) can be contrasted with its own 'rehabilitation revolution' (Ministry of Justice, 2010a). This is not to say that rehabilitation and punishment are mutually exclusive. Indeed, it is intriguing to note that the increased importance of punishment in probation revolves around reductivism; probation was made 'tough' not in order to punish more, but with the idea that more punishment would protect the public. Whether the intention was for this to occur via deterrence, reparation or rehabilitation is unclear. Thus the different approaches illustrate the different ways in which probation can function. This ambiguity continued through New Labour's tenure, with Tonry (2004: 1) arguing that despite being committed to evidence based policy New Labour was determined 'always and on all issues, no matter what the evidence may show, to be seen as "tough on crime"'. Indeed, in her description of late-modern rehabilitation, Robinson (2008: 435) argues that rehabilitation is engaged in a 'new discursive alliance with punitiveness' which is critical to its 'continuing legitimacy'. Moreover, she argues, the new rehabilitation is increasingly concerned with 'the moral consequences of offending' in which 'the re-moralization or 'responsibilization' of offenders is paramount.

Therefore, rather than seeing the revival of the relationship and the increasing interest in, and influence of, evidence about 'what works' in reducing reoffending as a counter to the concomitant rise in punitive rhetoric, they can be seen as part and parcel of the onset of late-modernity; one in which new habituations are created through the interaction of different theories, practices and ideologies. This perhaps explains why punishment is to be delivered to all offenders regardless of Tier – as Robinson (2008) argues, expressive rehabilitation concerns the notion of responsibility. If this is a central concern of late-modern rehabilitation then utilising punishment as a means with which to rehabilitate offenders begins to make sense.

Theoretically, this change in focus to a more reductivist kind of punishment through the increased responsibilisation of offenders needs to be implemented via a different set of skills and values to those seen in previous decades. Rather than seeing offending as a result of pathology

and social circumstance (as the probation officers committed to the treatment model, the non-treatment paradigm or the social critique might be forced to), probation workers need to accept the idea that crime, partly at least, results from a rational decision to act.

A Culture of Control?

Thus far I have used Garland's (2001a) book *The Culture of Control* to explore some of the ways in which probation policy reflects late-modern methods of crime control and have theorized the way in which these changes might demand new ways of working, or new values on which practice must be situated. However, Garland's thesis has been critiqued on several counts, including on the basis that his theory does not necessarily translate to practice.

Rather than accepting the argument that there has been an ineluctable global move toward increased punitiveness in criminal justice I argue that we should, as Garland (2001a: vii) himself admits, engage in a process by which 'sweeping accounts of the big picture can be adjusted and revised by more focused case studies that add empirical specificity and local detail'. Garland's observations on late-modern transformations in the penal system come under what has been termed the 'punitive turn' by which penal modernism, or penal-welfarism:

...is seen to be replaced by exclusionary regimes characterised by savage punishments, mass imprisonment, and incapacitation. It is said to be driven by a punitive state that in turn is responding to the failure of penal modernism to reduce crime, and by the demands of a disillusioned and angry populace. (Meyer and O'Malley, 2009: 2)

Such a project is bound to highlight tensions, contradictions and dualism in criminal justice systems which might be lost in a generalized account. For example, it might be argued that although Feeley and Simon (1992) are correct in arguing that risk plays an increasingly important role in criminal justice, it does not necessarily lead to an overly punitive system. In fact, one could argue that risk keeps the individual's circumstance firmly within the system's scope, thus ameliorating the punitive elements seen elsewhere in the system (Robinson, 1999). Zedner (2002) picks up on this very idea when warning about the dangers of dystopias in criminal justice. Although Zedner (2002: 341) agrees that change is undoubtedly occurring in the field of criminal justice, she questions the validity of assigning the observed transformations to a particular 'master pattern' because, as O'Malley (1999) highlights, there is a lot about criminal justice which is 'mutually incoherent and contradictory.'

There are many examples of academics engaging with such sweeping accounts through reference to empirical data, geographical variations and normative theoretical frameworks. Indeed, criminologists who put forth grand theories of penal change admit that such accounts are lacking. For example, Wacquant's (2009: xix) *Punishing the Poor*, whilst being a book which engages with broad changes in social and penal policy,

...does not probe policy misfiring, ambiguities and contradictions, which abound in the penal field... It does not survey efforts to resist, divest or divert the imprint of the penal state from below...

The special issue of *Critical Review of International Social and Political Philosophy* (Matravers, 2004) contains several articles which critically engage with Garland's thesis. Specifically, Gelsthorpe (2004) has raised concerns about Garland's neglect of women, arguing that the place of women in the criminal justice system exemplifies the dualistic nature of criminal justice that he describes so well and so might be used to augment his theory through more nuance. Hagan (2004) highlights the case of young people, arguing that Garland's book should direct us towards a consideration of young people who do and do not break the law. Loader and Sparks (2004) take issue with Garland's methodology and use of the term 'history of the present'. In doing so, they contest the fact that 'subsequent case studies' are the only way to 'add empirical specificity and local detail' (2004). Furthermore, there are numerous examples of 'western' countries whose criminal justice systems are not characterised by traditional measures of punitivism such as high prison populations, indeterminate sentences and so on and these differences can be explained with reference to a variety of different explanatory factors such as political philosophies and styles of government (Cavadino and Dignan, 2005), religion (Melossi, 2001) or economic policy (Hallsworth and Lea, 2011). In addition to this, we can add the post-colonial perspective which argues that criminology in general fails to take the non-western country into account, and makes the case for doing so (Cuneen, 2011). Furthermore, some critics raise questions about whether we are facing a punitive turn at all, problematizing these measures of punitivism in the first instance. For example, Matthews (2005) asks whether the punitive turn is actually a myth, whilst Pratt (2000) has argued that the kinds of punishment we associate with increased punitivism are not, necessarily, actually that new. Many of these critiques highlight the presence of elements of postmodernism or late-modernity at the level of discourse but suggest that when one takes empirical evidence and policy implementation into account the broader picture is more complex and demands the inclusion of the individual within a framework which privileges traditional power holders, policy and politics.

Picking up on this theme, Cheliotis (2006) asks how 'iron is the iron cage of new penology?' He explores the lack of empirical data to support claims of punitiveness, making particular reference to the role of human agency. Although changes in governmental practice and principles may well impact on policy, it should not be assumed that such changes in policy impact on practice in a predictable manner. Despite Cheliotis's (2006) call for a more nuanced exploration of resistance to the new penology, and the problems highlighted by the authors mentioned above, probation has not been subject to thorough analysis of the way these 'problems' of late modernity and the 'problems' within those theories of late-modern crime control might manifest in this setting. Some work on the culture of probation has been conducted recently (Deering, 2011; Mawby and Worrall, 2011, Ugwudike, 2010; 2011) which has considerable relevance for this dissertation. Deering's (2011) analysis of interviews with probation practitioners provides a useful insight into the ways in which probation practitioners navigate and resist the changes imposed on policy and practice by the 'new penology'. Making use of Bourdieu's (1992) habitus and field Deering (2011) shows how old, traditional probation values sit alongside the newer structure of risk-focused policy and practice. Deering (2011) finds, as with other studies mentioned previously, that the core 'social work' value of believing in people's capacity to change has persisted despite the changes outlined in the earlier chapters of his book, and which have been discussed in this chapter. Mawby and Worrall's (2011: 11) work into the occupational cultures of probation presents similar findings. A key idea to emerge from this work, which consisted of interviews with probation staff of all grades was that of 'interviewees shar[ing] a belief in the worthwhileness of working with offenders in the community...expressed in a variety of ways but always included a belief in the capacity of the individual to change for the better'. Throughout their analysis runs the idea that probation workers relish the opportunity for autonomy and creativity but see this as being thwarted by the organisation: as with Deering's work, the relationship between structure and agency is present and often tense. Both Deering (2011) and Mawby and Worrall (2011) rely on interviews with current and former probation practitioners to generate data. Whilst this does not invalidate their findings, it does raise questions about whether what practitioners said in interview is a true reflection of what happens in practice. Ugwudike's (2010; 2011) work relies on both interviews with practitioners as well as observations of contacts between offenders and workers. This allows Ugwudike to see probation practice from the perspective of the offender as well as the practitioner. Again, Ugwudike evokes a tension between the structure of probation policy and the values and agency of practitioners. This is

most evident in her analysis of the ways in which a risk-based compliance policy is resisted and adapted by practitioners in accordance with what she (2011: 254) calls 'welfarist ideals'.

Conclusion

The first two chapters of this dissertation have explored the way in which policy and practice interact to create new methods of practice, values and practice ideals. Viewing these issues through the lens of Berger and Luckmann's (1967) thesis encourages the recognition of probation practice as socially constructed. However, many histories of probation, and accounts of penal transformation neglect to take practice and the values of practitioners into account when describing and explaining these changes. It is clear that new policy has not simply been imposed on probation officers from above, but that many aspects traditionally associated with late-modernity have their roots in the service's 'modern' history, practice or practitioners themselves. There is strong evidence to suggest that practitioners are a locus of power and this should not be neglected as a lens through which to examine the current state of probation practice and ideals.

This brief overview of some of the changes in probation policy provides a backdrop for the setting in which I conducted research on probation practice and ideals. Probation workers are officially working towards both the punishment and the rehabilitation of offenders, and rehabilitation and punishment can be seen as interdependent. There is an assumption that these two aims can be delivered by the same group of practitioners, despite the long-standing debate about whether probation workers can control offenders at the same time as care for them. Rehabilitation is primarily being achieved through the delivery of What Works style programmes and is measured through managerialist measures of key performance indicators and targets. However, this is currently being tempered by the importance of the relationship in the OMM and the increasingly important influence of research on the process of desistance. Risk has always been used to both allocate work as well make decisions on what to do with offenders and risk assessment tools have been shown to be accurate in terms of predicting offenders' risk of reoffending. However, risk assessment and work allocation is increasingly done with recourse to technical and bureaucratic tools with a reduction in the use of professional judgement. Having set out the state of probation policy within a framework which supports the view of a socially constructed probation service which must have elements of probation's 'traditional' values as

well as aspects of late-modern crime control, I now turn to the methods that I utilised in exploring probation practice and practice ideals.

Chapter 3: Methodology

This dissertation explores both the working practices as well as the practice ideals of probation staff. Importantly, it is not only concerned with what probation officers say or do as this would do little to shed light on their values and assumptions. Rather I am concerned with unpicking which aspects of a late-modern Probation Service are more or less salient in probation practice. I am interested in whether the aspects of probation which have become more prominent in late-modernity have been internalised; whether any of the aspects are resisted and, if so, why; and how probation staff describe their work. I am trying to get to the heart of the ‘lived order’ of the occupational culture within probation:

The words ‘lived’ and ‘order’ refer to aspects of what actually occurs and is experienced in everyday social action. The word ‘lived’ alerts the observer to the essentially situated and historical character of everyday action... The term ‘lived order’, then, calls our attention to both the contingent and socially constructed ways societal members construct/enact/do/inhabit their everyday world. (Goode, 1994: 127; cited in Pollner and Emerson, 2007: 119)

To examine the practice of probation in a framework of social constructionism fits with the argument in the previous chapter that probation policy itself is socially constructed via the interaction between the *habitus* of practitioners and policymakers/politicians/policy. There are a variety of methods with which to explore such ideas.

Commonly used Methods in Researching Probation

There has been an increase in research on effectiveness in the literature on the police. This has mainly involved the use of experimental designs and randomized controlled trials. This research has been accompanied by academic research on the culture, practices, legitimacy and decision-making processes of police staff (Reiner and Newburn, 2007; and see Tankebe, 2008 for an example in this). According to Mair (2007) research on probation has been subject to much greater control by both the Home Office and NOMS. He describes the way ‘one issue which became increasingly difficult to handle was pressure from probation services to be seen to be performing well’ (2007: 406). Arguably, this perception is linked to the increased importance of managerialism as well as the ideology and influence of evidence-based policy which has permeated policy. Nevertheless, this focus has resulted in a limited body of work on the everyday reality of probation practice. A considerable section of Mair’s chapter describes Home Office funded or ‘shaped’ research which takes the form of quantitative, evaluative design. A result of

this, he notes, is that ‘we still know little about the organisation of probation services and how that relates to the delivery and outcome of penalties or how individual probation officers justify what they do and how they do it’ (2007: 422). However, it might be argued that Mair overstates the case, and that his delegation of researchers that are more exploratory in their approach as ‘mavericks’ fails to take account of the widespread interest in a variety of probation-related issues. In this category he includes Rex’s (1999) and Farrall’s (2002) work on people who are subject to probation orders and Robinson (1999) and Kemshall’s (1998) research on risk, all of whom employed a combination of interviews and observation. Roberts and Roberts’ (1982) work on pre-sentence reports involved the use of analysis of written reports along with a survey of probation practitioners’ views on reports. There is also research which is not quantitative but that might be also considered evaluative, such as the pathfinder project on community service (Rex et al., 2003).

A considerable body of work on probation practice is based on interviews with probation staff (for example, see Deering (2011)) and this is the route I initially planned to go down at the beginning of this project. Whilst interviews have the advantage of generating information about ‘past behaviour, experiences, private actions and motives, and beliefs, values and attitudes’ (Foddy, 1993: 1) there are several limitations to solely using interviews for this piece of research. As Pullner and Emerson argue, by drawing on Garfinkel’s work on ethnomethodology,

the representations contrived through these techniques [surveys, interviews, content analysis and experiments] have a tenuous relationship to the actual concerns and doings of practitioners and participants. Thus, for example, the use of accounts elicited through interviews may not only gloss or omit details but by virtue of their retrospective character impart a determinacy and inexorability that the recounted events did not possess as they were lived, experienced and structured the “first time through”. (Pollner and Emerson, 2007: 199)

Deering (2011: 4) overcomes the problem of practitioners’ accounts being mere ‘rhetoric or idealised versions’ of events by asking for specific examples of practice and through reading case files and pre-sentence reports (PSR). Whilst this overcomes some of these problems it fails to see the case records as socially constructed artefacts in themselves; rather, it is implied that case records and PSRs are the true account against which the practitioners’ account should be checked for veracity. Deering also fails to overcome a more serious problem related to these techniques: that they ‘impose a priori or extrinsic definitions of pattern and order’ on participants which results in a ‘highly abstract version of the processes through which the fabric of social life is created’ (Pollner and Emmerson 2007: 119).

Whilst the research which has been conducted via postal questionnaires (for example, Annison et al., 2008; Knight, 2007) allowed for large and representative sample sizes which led to important conclusions about the existence or otherwise of a ‘new breed’ of probation officers, the method inherently limits the potential for the researcher to explore, identify and unpick what exactly happens during training from the perspective of trainees. Once a questionnaire has been sent to the participant, it cannot be modified to probe answers and so the nuance and subtleties that a research project like this one aims to explore is not possible. Nevertheless, the use of surveys and interviews has proved to be a useful means with which to research practitioners’ views, attitudes, motivations and underlying philosophies. However, this dissertation is concerned with practice as well as attitudes. I want to know what probation staff think they are doing, why they do it and what they actually do. Whilst conducting interviews elicits data relevant to the former, it would not do so for the latter. From this, it became clear that the research would have to involve some element of observation.

In contrast to Mair’s (2007) claim that probation research has been characterised by evaluative, and quantitative research it is possible to identify a number of studies which have used more qualitative and observational methods to explore similar ideas to those under discussion in this dissertation. As with the police (Marks, 2004), it could be argued that many of the texts which are now considered key to our understanding of probation in the 1950s and 1960s were ethnographic texts. For example, Jarvis, the author of the popular *Handbooks on Probation* (1969, 1974) was a serving probation officer. A little known book by St. John is probably the first systematic observational research of probation practice. In his preface he recounts his reasons for wanting to research the Service:

I explained why I believed it would be in the interests of the Service if the public were told a little more about what it did ... that many believed the fallacy that probation officers were only concerned with juvenile delinquents ... that apart from textbooks the subject had been largely neglected ... offenders who got probation disappeared from public view... and I wanted to discover what happened to them, what was done to help them and how they reacted ... I had often heard that no one still in the Service felt able to write about his or own cases, because they were involved in them too personally and it would amount to an unthinkable breach of trust. (1961: 5)

My own reasoning is very similar to that of St John’s reasoning (which he presented to the Assistant Under-secretary of State, the head of the Probation Division at the Home Office,

probation's principal inspector and the Home Office's Principal Information Officers). Despite St John's contribution, there was a dearth of observational research in the 1970s and 1980s (as there was also in police and prison research), perhaps because of the increased focus on effectiveness in light of 'nothing works'. Thus, May's (1991) book stands out. May conducted observational research in one probation Area, spending time in a variety of settings (including rural teams; urban teams; hostels; and prisons) in England and Wales (1991: 185). The aim of the period of observation was to enhance his understanding and to augment questionnaires that had already been administered to probation staff. McIvor's (1992) work in Scotland also involved observational research with offenders doing community service. More recently, McNeill et al. (2009) have conducted an ethnographic study of criminal justice social work in two sites examining the routine social production of SERs. Finally, Bauwens (2010) has conducted observational research amongst probation staff and offenders in Belgium. Bauwens argues that observation proves a useful tool in terms of triangulating interview data (which, she argues incidentally, forms the majority of qualitative research on probation). With the exception of St. John, each piece of research also aims to shed light on the interaction between what probation staff do and the policies and politics that dictate their work. Thus, my own approach has been to combine interviews and observation in order to gather data related to both what probation officers do as well as data on why they do it and to what ends they are striving. The method utilised can be described, perhaps loosely, as an 'ethnography of probation'.

Young (2011) has argued that ethnography is particularly well suited to the study of late-modernity. Having explored the problems with quantitative methods which include: problems of representativeness, translation, a lack of relationship between researcher and subject,¹⁰ Young (2011: 133) argues that ethnography can give a 'voice to the voiceless' by positioning the researcher as the narrator (as opposed to observer and reporter) of the subject through the creation of a relationship between researcher and participant. This is important in two ways. Firstly, the relationship between probation officer and offender has been a long-running theme amongst probation's history. If ethnography depends on the creation of relationship it might be assumed that probation staff might be sympathetic to such an approach. When considering my methodological approach I was concerned to think about how best to maximize the potential of probation staff talking to me and letting me observe their practice. I reasoned that if they believe that a relationship with offenders is important (see Chapter 6), then they would value my

¹⁰ Although see Garland (2012) for a critique of Young's work.

attempts to build a relationship with them. Secondly, probation is often seen as the most maligned criminal justice institution (evinced by the fact, and opposition to, that NOMS is dominated by people with a prisons background at all levels), and so ethnography offers a unique solution in terms of providing a (much needed) voice for probation officers.

Normatively, ethnography has a 'particular strength...namely, its ability to uncover some of the deep cultural meanings and normative bonds which are often so important in everyday life' (Bottoms, 2008a: 89). However, ethnography is difficult to define (Atkinson et al., 2007: 1). Thus it is necessary to outline some of the key features of ethnography to assess its suitability for this research. It has been argued that observation is 'the mainstay of the ethnographic enterprise' (Werner and Schoepfle, 1987: 257) but this does not mean that ethnography only involves observation: 'even studies based on direct interviews employ observational techniques to note body language and other gestural cues that lend meaning to the words of the persons being interviewed' (Angrosino and de Perez, 2000: 673). Hammersley and Atkinson (2007: 3) argue that:

ethnography usually involves the researcher participating, overtly or covertly, in people's daily lives for an extended period of time, watching what happens, listening to what is said, and/or asking questions through informal and formal interviews, collecting document and artefacts – in fact, gathering whatever data are available to throw light on the issues that are the emerging focus of enquiry.

Importantly this means that choosing ethnography as a method does not preclude the use of interviews and other data collection. Nor does it mean that to 'do' ethnography means complete immersion in an 'exotic' society, as has been the traditional association with the term (Marcus, 2007).

Ethnography should not be seen as a panacea for the problems raised in terms of other qualitative (and quantitative) techniques. Indeed, it comes with its own pitfalls, dilemmas, ethical issues and problems of integrity. As Young argues, 'only too often ethnography depicts too much consistency, too much constancy, too little contradiction, and too high definition of account. It replaces the reification of numbers with the reification of representation' (2011: 133). Thus there is a concomitant question for the naturalist perspective in which social phenomena should be studied in their own environments. As Matza (2010: 5) put it, naturalism is:

the philosophical view that remains true to the nature of the phenomenon under study... The phenomenon being scrutinized is to be considered object or subject depending on its nature – not on the philosophical preconceptions of a researcher.

Thus, a naturalistic ethnography aims to be valid because ‘reality exists in the empirical world and not in the methods used to study that world’ (Blumer, 1969: 27 cited in Hammersley and Atkinson, 2007: 7).

In spite of its critical stance towards the concept of theory-ladenness (Bottoms, 2008a), naturalism has come under fire because it attempts to present its own objective representation of reality. Ultimately, this has led to an appreciation of the importance of collaboration between researcher and subject. Thus ‘it might be useful to shift from a concentration on observation as a “method” per se to a perspective that emphasizes observation as a context for interaction among those involved in the research collaboration’ (Angrosino and de Perez, 2000: 676). This perspective, in the context of this research, allows probation staff to interact with me as the researcher, and to affect, alter and, to an extent, create for themselves data that are then recorded as fieldnotes.

In order to stick to such values, the ethnomethodologist (as opposed to the ethnographer) enters the field ‘having divested oneself of all sociological concepts’ (Pollner and Emerson, 2007: 119). In contrast to a naturalist approach in which the researcher avoids interfering with social action (something which an ethnomethodologist would argue is impossible) the ethnomethodologist eschews a top-down imposition of a theory in favour of a ‘bottom-up’ means of exploring the lived order of social actors. An ethnomethodologist would argue that standing back from the action ‘diverts attention away from the lived order, formulates it as epiphenomena, and/or imposes concepts and mechanisms variously irrelevant or unintelligible to participants’ (Pollner and Emerson, 2007: 119). The previous chapter focused on the need to eschew the splitting up of probation’s history into eras because these artificial concepts neglect to take continuities and the practitioner input into account. However, the feasibility of approaching a research subject with no a priori assumptions would prove difficult, especially considering the motivation behind this research outlined in Chapter 1.

Glaser and Strauss (1967) argue that their concept of grounded theory allows for the generation of a theory through the process of systematically obtaining data rather than the ‘logical deduction of a priori principles’ (Cohen, 1969: 227). The utilisation of grounded theory allows the researcher to be ‘sensitive to the concepts that emerge from the data’ and create a theory from that data. As Charmaz argues, ‘throughout the process, grounded theorists develop analytic

interpretations of their data to focus further data collection, which they use in turn to refine their theoretical analyses' (2000: 509). There is, as Bottoms suggests, a '*continuing dialogue* between and empirical observations' (2008a: 75). Grounded theory involves the following strategies:

- Simultaneous data-collection and analysis;
- Pursuit of emergent themes through early data analysis
- Discovery of basic social processes within the data;
- Inductive construction of abstract categories that explain and synthesize these processes;
- Integration of categories into a theoretical framework that specifies causes, conditions and consequences of the process(es). (Charmaz and Mitchell, 2007: 160)

Importantly, grounded theory allows for both a social constructionist perspective which acknowledges that the researcher is a part of that social construction in conjunction with an ability to build theory using an ethnographic method. Charmaz and Mitchell's conception of grounded theory in ethnography serves this project well:

- We are concerned with correspondence between reports we craft and human experience. We aim to construct a full account, to tell a meaningful story – not to reduce our craft to the canons of 'normal' science. (2007: 161)

Thus, this dissertation represents my own interpretation of what probation workers do, and how that practice reflects policy concerns or practitioners' habitus. Grounded theory allows for flexibility and adaptivity so that the data that are generated by it is both useful for descriptive and theory building purposes. It is with this in mind, that I decided to base my fieldwork, and subsequent data analysis, on the basic principles of grounded theory.

In doing so, I was conscious of the need to be reflexive during the research period. Reflexivity requires the researcher to accept that 'research cannot be carried out in some autonomous realm that is insulated from the wider society and from the biography of the researcher' (Hammersley and Atkinson, 2007: 15). This means that we 'can work with what we currently take to be knowledge, while recognizing that it may be erroneous; and engaging in systematic inquiry where doubt seems justified' (Hammersley and Atkinson, 2007: 16). Thus, although my research is inextricably bound up with my own biography (as someone who used to work in partnership with probation and who had spent the first year of his PhD reading about probation's histories), reflexivity allowed and required me to critically reflect on my own knowledge. This meant that I was compelled to change my focus if I uncovered issues that had not been identified through pilot work or engagement with the literature or found that my pre-existing ideas had little

relevance in practice. There are examples of the way in which my own reflexivity affected the nature of this research.

1. The project began life as a consideration of the role of rehabilitation in the work of probation staff. Having read more on the subject, in conjunction with the pilot interviews (see below), it became clear that although rehabilitation is still relevant to probation staff it is by no means the only important aspect of their work. Moreover, I realised that a discussion of rehabilitation could not occur without reference to the other key developments in recent years. Thus, the research expanded to incorporate the themes of rehabilitation, punishment, risk and managerialism.
2. At the beginning of fieldwork, I expected to find a probation service that was characterised by low morale, and was braced for being on the receiving end of complaints and general dissatisfaction. Whilst staff did talk about their own considerable concerns with their work, the overwhelming impression was that in general people enjoyed their work and that if they did not, many were happy to go elsewhere. I think that my initial preconception came from two sources: firstly, the academic literature on probation does tend to paint a picture of low morale in the service (Farrow, 2004; Nellis and Chui, 2003). Secondly, it has been pointed out that much research focuses on the negative aspects of working practices. Much research, especially that done in the probation service, is concerned with identifying a problem, exploring the causes of that problem and then exploring solutions.
3. I was interested in exploring the concept of managerialism and its impact on practice. I had read in depth about the rise of managerialism, its causes and the potential for impacting both positively and negatively on practice. I expected to find concrete examples of practice being altered by competing targets, over-zealous micro-management and so on. I did not expect to find such a permeation of managerialism which became clear when a manager began talking about 'managing demand'. Thus, when it came to analysing the data, it was clear that one distinct chapter devoted to managerialism would be insufficient in exploring its full impact on practice. For this reason, managerialism crops up throughout the dissertation, as it does throughout probation practice.

Problems of Language

Before moving on to the process of fieldwork it is necessary at this stage to outline some of the features of this dissertation. The changes experienced by the probation service (and the rest of the criminal justice system) are characterized by changes in discourse, as much as they are to do

with changes in the content of policy (Feeley and Simon, 1992; Oldfield, 2002). For example, there has been pressure within the Service to refer to those people on probation as ‘offenders’ as opposed to ‘clients’, and the term ‘offender manager’ is now used to denote ‘probation officers’ and ‘probation service officers’. However, offender manager is also being used in the context of prison and the police to refer to staff who work with offenders, but who are not employed by probation. I was thus faced with having to decide how to refer to the offenders and staff to whom I refer in this dissertation. In order to adhere to a social constructionist approach I made a note of how probation staff referred to the people they worked with. Service user and ‘people who offend’ (the Howard League’s preferred phrase) were rarely, if ever, used. On the other hand offenders were commonly referred to as clients, my guys, one of ‘mine’, cases, and ‘them’. That said, ‘offender’ was the most commonly used word across both research sites (this may well be an example of the way in which the discourse of the new penology may have been internalised by probation staff). Although some staff raised objections to the term ‘offender’ it was in such widespread use as to be almost de-politicised and so I use this word in this dissertation (see McNeill et al., 2010 for more on the use of the word offender in probation).

Offender manager seemed to create more unease than the word offender with several, particularly more experienced staff expressing dislike for the term. In some cases this would be explicit (‘I’m not an offender manager, I’m a probation officer’) to the more satirical (‘Excuse me, I’m just off to manage some more offenders’). There is an argument for using probation officer and probation service officer. However this could either lead to overly wordy sentence constructions or statements that were overly specific, especially in light of the increasingly blurred boundaries between the two roles (Annison, 2007: 155). Mawby and Worrall (2011) use the term ‘probation worker’ (PW) to refer to probation officers and probation services officers and this represents an adequately neutral, yet descriptive term. Where relevant, and in direct quotes from interviews or fieldnotes I specify what grade the particular member of staff was.¹¹

¹¹ Thus (RS1, Chloe, PO, Interview) means the comment comes from an interview with Chloe, who is a probation officer in research site 1 (see below). Where a date is included, the comment is an excerpt from fieldnotes recorded during observation and so might be my own interpretation of an event or a paraphrasing of a conversation, for example. Thus, (RS2, Karen, PSO, 1 March 2009) refers to a comment or situation involving a probation service officer called Karen during observation in research site 2. All names have been changed to protect the anonymity of participants.

Pilot Work

In the early stages of my PhD I had the opportunity to undertake an evaluation of the implementation of a Bail Accommodation and Support Service. This gave me the opportunity to try out some of my ideas on probation workers. The research involved spending time in a probation office and I quickly realised the value of this in terms of collecting data through observation. I was also able to conduct pilot interviews with some members of staff. An email was sent round and four people offered their time. In the spirit of grounded theory I approached these interviews flexibly and with little in the way of an interview schedule. I decided I would ask broadly about what they thought about rehabilitation, risk management, discretion and managerialism. The PWs I interviewed spoke enthusiastically about their own work and my own project. They confirmed for me that the four topics I had identified had the potential for further exploration. The key themes to come out of these pilots were: an apparent conflation of ‘rehabilitation’ with social work; the importance of talking to offenders with a view to rehabilitation; an ambivalence towards risk assessment in which the main message was that risk assessments were critical to probation work but only if there was sufficient time to conduct the assessment and then, crucially, act on it. The PWs to whom I spoke were very negative about managerialism. I was surprised by their attitudes towards discretion with them arguing that they have considerable discretion but that it is constrained by managerialist techniques of performance management.¹² Having conducted this pilot work, I concluded that there was both potential in the research topic itself, and that speaking to and observing probation workers was a valid way of collecting data relevant to the topic being researched.

Gaining Access and Finding a Sample

Having decided to conduct a grounded theory inspired ethnography of probation involving observation and interviews, I was faced with the prospect of finding a suitable team or teams in which to do it. I decided to conduct observational work in two probation teams: one rural and one urban. This choice was intended to reflect the idea that probation workers in different areas would work with different types of offenders, have varying caseloads, would have different relations with the courts, teams would be of different sizes and offices would house different numbers of workers. However, it should be stressed that due to the nature of conducting an ethnography direct comparisons between the two is not possible. As it turned out, there were few substantive differences amongst the data generated in both teams and so a distinction

¹² See Appendix 1 for a more detailed review of these pilot interviews.

between the two is made only where relevant. Nevertheless, I provide the source of data for the benefit of the reader. Offender management is a critical construct of late-modernity in probation and so this research is primarily concerned with the implementation of the offender management model and offender supervision. I therefore limited my options to 'field teams'. Whilst conducting observational work in hostels, court teams (that were focused purely on writing PSRs), drug rehabilitation requirement teams, unpaid work or probation staff based in prison would have generated useful data, it would have been affected by the distinct aims of those specialist teams. Although limiting my sample to one team in each area might be seen to be limiting the opportunities to gather data, I was confident that focusing on one area of practice would lead to a more in-depth analysis of the situation. In order to ensure this was the case, I employed theoretical sampling to ensure that, should I find gaps in my own knowledge during the iterative research/analytic process inherent to grounded theory, I was able to go back to the field and fill those gaps (Charmaz and Mitchell, 2007: 168).

Many PhD colleagues in the Institute of Criminology, Cambridge were studying prisons or were conducting quantitative analysis of datasets that were already in existence. Those in the latter group had few problems with access. Those in the former seemed to face a litany of problems with regards to gaining access (especially those who were conducting research outside of England and Wales (Symkovych, 2011)). I expected to find myself somewhere between the two and, in view of Mair's (2007) description of increased Home Office/Ministry of Justice control over research on community penalties, I entered the process of gaining access with some trepidation. Fortunately, I need not have been so worried. I initially approached a large Probation Area with a view to gaining access to an urban team. Unfortunately, my request was turned down, with the Area citing workload pressures related to the attainment of Trust status as the main barrier to me conducting research there. However, other potential sites emerged and I was granted access to a Probation Area which covered the whole of a large conurbation as well as a smaller Area which contained rural and more urban areas.

In order to maintain the privacy and confidentiality of the people with whom I spoke, all data are anonymised. The urban team was in research site 1 (RS1). I met with the manager of the offender management unit (OMU) and members of his team were all broadly supportive. The manager agreed that I could use a desk in the team and that I would be free to speak to probation workers, accompany them on visits and ask for opportunities to observe contacts with

offenders. The office housed 6 OMUs in total and covered half of a large city in northern England with a population of half a million. Although I was primarily to be based in one Unit, it was made clear by the manager that I was able to approach any member of staff from any OMU – this meant that I had a population of about 60 probation workers from whom to glean a sample. The office served a particularly deprived area of the country and was situated close to several large council estates.

Research Site 2 (RS2) was the rural team. Again, I met with the manager and the team and the reception was enthusiastic. The main obstacle here was a change in manager – whilst access was readily agreed by the initial manager, the interim manager required extra reassurance and information about what I was intending to do. Nevertheless, access was granted in a reasonably smooth and easy manner. RS2 housed just one OMU which was made up of 8 probation workers. The office served a town in the east of England with a population of twenty thousand people, as well outlying smaller towns.

Ethics

Access to RS1 required the approval of an ethics statement and so I am confident that many ethical issues were considered before entering the field. Whilst some research methods can directly harm a participant (such as bio-medical research), ethnography often impacts on people indirectly. Murray and Dingwall (2007: 341) offer a useful example:

A study of division of household labour might include informal interviews, which lead some women to focus on their unequal domestic workloads. They may become dissatisfied and challenge current arrangement. This outcome could be regarded as beneficial (increased self-awareness leading to positive change) or harmful (the disruption of previously happy and stable family arrangements), depending upon one's ideological position.

I anticipated that this scenario would be unlikely. The thrust of my argument in the previous chapter is that practitioners do have agency and that this is critical to the development of practice. I did not expect my presence to suddenly spur probation officers into action and 'challenge current arrangements'. My main concern arose from the idea that I may uncover serious disjunctions between policy and practice and that the findings could be used to justify a 'crackdown' on practitioners. For example, I may have discovered that PWs were explicitly breaking rules but were still acting in the interests of the offender and the public. This scenario might have important implications for the future practice and policy. Ultimately, this matter was

likely to come to the fore when putting the research into the public domain. I thus decided that I would give participants a 'right to reply' through letting them read articles prior to publication, as well as by reporting back to participants on my key findings. Indeed, acknowledging the possibility of indirect harm being caused to participants makes the process of implementing grounded theory simpler as it forces the researcher to formally allow participants to be involved in the process of analysis and writing up.

Maintaining anonymity in quantitative work or when using qualitative methods such as surveys and interviews is easier than with ethnography. Privacy in such methods is 'treated as technical matters and managed through rigorous procedures of anonymisation and storage' (Murphy and Dingwall, 2007: 341). Whilst anonymising participants' names and locations goes some way towards maintaining their anonymity, the fact that ethnography uses data generated in 'communities' means that members of that community might be identifiable whether or not they are anonymised. Two interesting aspects of probation practice emerged from two separate Serious Further Offences. Despite using pseudonyms for the probation workers involved, any member of staff who was present will know which PW I am referring to. Neither case requires a judgement to be made of the individual practitioner's actions and so I have chosen to include them in this dissertation. Moreover, one of the incidents was relayed to me in interview as well as during observation and it could be argued that the issue of informed consent is considerably clearer in an interview setting compared to observation.

I came up against more immediate issues related to privacy. The process of observation must include the practice of writing ethnographic fieldnotes. I initially attempted to do this covertly, so that participants did not know when I was writing and what I was writing about so as to minimize the impact that I may have had on the action under observation. I began by going somewhere private (such as the bathroom, stairwell or common area) and scribbling notes down before returning back to the office. This meant, however, that I missed opportunities for observation: in one case, early on, I had been invited to observe a supervision session with an offender but was absent from the office, writing up notes, when the offender arrived and the PW went ahead without me. Moreover, it was clear that staff were aware of me making notes and I began to feel underhand by being covert. I thus decided to make notes in full view of anyone in the office. Although what I was writing would have been illegible for anyone in the office, they were able to see when I wrote. This seemed to be a more honest way of

documenting these people's lives. PWs began to acknowledge the 'notebook' and I received several comments such as 'are you going to put that in your notebook?' or 'oh no, Jake's writing something down... what have we done wrong?'. Although all this was mainly in jest, it was clear that people had a sense of unease about what I was doing in the office. I overcame this by ensuring everyone, as frequently as possible, that all data would be anonymised and that if they felt I had seen something they did not want me to see, they could ask me to refrain from using it in my dissertation. Although this never happened I sensed it was appreciated.

Informed consent in interviews is relatively easy to achieve, especially when not interviewing vulnerable people (young people, offenders, ill people, for example). The fact that I was interviewing adults and focusing on their working practices meant that the potential for harm was low. Nevertheless, I asked each interviewee to sign a consent form (see Appendix 2) and assured them of confidentiality, anonymity and safe storage of the data.¹³ Gaining informed consent during the process of observation was more difficult. All PWs in each OMU knew who I was, what I was doing and how I was doing it and so I made the assumption that if they wanted to keep something private, they would either refrain from telling/showing me or would ask me not to include it in my analysis. However, problems arose when members of staff from outside those two OMUs the Service itself came into the observation arena. They did not know who I was or what I was doing and so could not give informed consent. In these circumstances I always tried to introduce myself as quickly as possible so that they knew an external researcher was in the vicinity. Whilst this might not be construed as giving informed consent, it meant that I was confident the visitors could alter their behaviour, if they so wished. If I was unable to introduce myself, or if I was not confident that the person knew who I was, I made an effort to not observe what was occurring. Whilst this risked losing out on potentially valuable data it satisfied any concerns that I was not treating people as a means to an end, but as ends in themselves. Indeed, to have done so would have been in tension with the ethic of grounded theory which demands respect to be paid to the person under observation and accept that they have a role to play in the generation of data.

The most contentious aspect of gaining informed consent occurred when observing contacts with offenders. I always gave PWs the opportunity to prevent me from attending at the outset,

¹³ I kept the transcriptions and recorded interviews in a disk image on my laptop which was secured with 128 bit security before transferring them as soon as possible to University servers and relying on the security and backup facilities that they provided from then on.

after they had initially invited me, or once an interview had begun (if something had arisen unexpectedly which would have been made more difficult by my presence, for example). PWs thus acted as gatekeepers to any attempt to gain informed consent from offenders and I had to rely on their own judgment in the first instance. In many cases access to contacts with offenders was denied because the probation worker did not think that the offender would be happy with me being there. Although this handed a considerable amount of power to the probation worker, it was the only option: I could not force the probation worker to let me observe. It was not going to be reasonable to gather a written consent form for every offender I observed and so instead I relied on gaining verbal, informed consent. Most commonly, I would accompany the PW to meet the offender in reception to be introduced to the offender, before we went into an interview room. The PW would explain who I was and what I was doing and gave the offender the opportunity to accept or decline my request. I was aware that the power differential between the offender and the PW could impact on the offender when making this decision (their decision may have been affected by thoughts such as ‘if I say no, will I be penalised?’, for example) and so I tried to reiterate the fact that they could decline. Two offenders did decline and one asked me to leave partway through an interview (because he didn’t ‘feel comfortable talking about these things in front of a stranger’) and so I am confident that offenders did know what they were agreeing to. Furthermore, I always gained consent in front of a member of probation staff who could have intervened had I been forcing offenders to consent. In most cases I was introduced as a PhD student or a student from Cambridge (or something to that effect) so offenders knew I was not part of the Service. Some PWs introduced me as a colleague, in which case I made it clear that I was from outside the organisation. Nevertheless it is clear that offenders could not have been fully aware of who I was or what I was doing. Thus, the data collected in supervision sessions has been generalized so that there can be no possibility of any offender being identified.

Being in the Field

I spent an average of three days per week in RS1 between 19 October 2009 and 24 February 2010. In total I was there for 53 days. The fieldwork in RS2 was slightly shorter: between 5 May 2010 and 28 July I spent 45 days in the OMU. The reason for the discrepancy is twofold: firstly, I spent the first few weeks in RS1 working out how to ‘do’ research. Having entered the field, I realised, as many textbooks describe, that gaining access is a continuous process and so it took some time to work out how best to collect the data that I wanted. In essence, I had to work out techniques for observing and collecting the most relevant data and this took some time; time

which was not required in RS2 as similar techniques seemed to work across the sites. I also had to hone my focus whilst in RS1 to a much greater extent than in RS2. By the time I was in RS2 I had a good idea about some of the key themes and so the process of continuous analysis of the data and subsequent returns to the field to elicit more data on a particular topic was quicker. Secondly, as the OMU in RS2 was the only OMU in the building there were fewer opportunities for observing probation workers. After three months I sensed a fatigue amongst staff which, despite never being voiced, made me feel more conscious of the demands I was making on their time. I still had to conduct interviews with the staff and so rather than risk them becoming obstructive to this process I decided to cut the fieldwork short. It was also the case that because the population was smaller the possibility for observing was more intense – in a sense, I was able to get a more holistic sense of what was going in RS2 because of the size of the team and building whereas in RS1 there were many situations that I could not observe.

My PhD examines practice and attitudes towards practice and policy so I wanted to see probation workers with offenders and in the office. I thus spent considerable periods of time sat at my desk, listening to what was going on, asking questions about phone calls that had just been conducted and talking to people about my own research. On other occasions, I sat with PWs and watched them work through an OASys or prepare a pre-sentence report. This resulted in descriptive data pertaining to what probation workers actually did as well as data about why they did things, what the purpose of it was and what was taken into account when making a decision, for example. The second main aspect of the fieldwork was observing staff with offenders. This allowed me to see what went on behind the closed door of the interview room, identify common themes in supervision sessions, and watch how staff described and explained the purposes and content of probation to offenders. I never explicitly asked for information on an offender before going into an interview because I was aware this may cloud my own perception of what occurred. However, staff often gave me a brief overview which I was unable to refuse. After the interview I would always ask the member of staff some questions about what happened, why they said something particular and what they would do next. This meant that the data collected were descriptive and very specific to particular cases. Thus, the questions I asked about what might be done in a particular context do not suffer from the problems associated with such questions posed in an interview setting. I tried to make sure I was in the office during normal office hours but was also present on 'late nights' when the office was open until 8pm so that offenders who worked could have appointments. Most staff started work between 8am and 9am

and the offices were quiet, most days, by 5.30 although some PWs consistently worked late and all said that they worked more than their contracted hours.

As each day progressed, I documented what happened, to whom I spoke and what they said. In order to maintain my attention and to avoid putting people off, I did not take notes during conversations, or during offender contacts and so I paraphrased these as soon as possible after the event. In line with grounded theory I analysed these notes as I went along, both during the day and when I typed them up into a coherent manner on a daily basis. This meant that I could continuously question my own data and approach specific PWs about particular issues that had arisen.

The excerpt of my fieldnotes in Appendix 3 illustrates the potential for following offenders as they progressed through the system and the opportunities I had to probe practitioners' actions and find out more about decision-making processes. Being in the office meant that I saw how the computerisation of probation has affected practice. It also shed light on the political views of probation workers which might not come out in interviews. I was able to see the way in which managerialism impacted on practice first hand rather than through practitioners' accounts. The value in using grounded theory is clear – I noted that PWs were printing out their own appointment cards and, later that week, went on to ask why this was the case. This then led me to think more about the impact of the impending budget cuts; people were concerned about redundancies but the data also raised questions about how else budget cuts might affect practice? Ethical issues also come out of this extract. At one point during the PSR interview I was drawn into conversation. This happened regularly, although with some workers more than others. Offenders would also draw me into conversations. There was a difficult line to tread in these circumstances – on the one hand, I did not want to be seen as cold and detached. However, I did not want to get too involved in the action that was playing out in front of me. I always tried to respond appropriately but cursorily so as to reiterate the fact that I was there to observe and not participate. This was partly because I did not want to impact on the interaction any more than my presence already was, but also so as to minimize the possibility of the PW or offender telling me something that could compromise my position.

Exiting the Field

Having decided that I had observed sufficient contacts with offenders and that I had identified, through grounded theory, the main issues at the heart of probation practice I was faced with having to 'exit the field' (Buchanan et al., 1988). Fortunately, this was made easier by the fact that I was planning to conduct interviews with members of staff. These interviews provided me with a halfway house situation in which I could retreat from full observation but still be present in the office in order to conduct interviews. So that PWs knew where they stood, I decided that I would not document what occurred in the offices and not use any observations (beyond my own observations on interviews) in subsequent analysis once I had begun interviews.

Interviews

The interviews were semi-structured and I planned them so as to maximise the potential for flexibility. Although I had an interview schedule (see Appendix 4), in many cases I switched the order of the questions as the conversation progressed. I made sure to ask all interviewees the same 'main' questions but was otherwise flexible. In designing the interview schedule I balanced normative questions with factual questions. When devising the interview schedule I was alert to the potential of making use of appreciative inquiry, an approach to research which is '*relentlessly positive*' (Robinson et al., 2012: 2 original emphasis) and is well suited to research which is aiming to understand an organisation (Cooperrider et al., 2008). Whilst the study itself was not fully designed around appreciative inquiry I was interested to see what could be learnt from focusing on 'best experiences' (Liebling 2004: 132). Thus, rather than asking PWs to describe the problems they faced in their work (of which I had seen plenty during observation) I asked them about their most successful clients, why they joined the service and what they enjoy about their work. This shed light on what PWs considered the 'best' outcome of their work and set a tone for interviews which was intended to stand in direct contrast to accusations of ineffectiveness which are often directed at the Service. In some cases I used the interviews to address specific issues related to a particular PW's work but this was rare and only occurred when I had been unable to talk to someone about this during observation. All interviews were recorded and transcribed and I made reflexive notes on the interviews after they had finished.

In total I conducted 22 interviews in RS1 and 10 in RS2. I was able to interview each member of both the OMUs in which I was based as well as an additional 9 from other OMUs in RS1. I also interviewed both managers of the OMUs as well as the administrative staff supporting them. I

was unable to arrange an interview with senior management from either OMU but have since had email contact with the Chief Executive from RS1 and have discussed some of the issues raised during fieldwork. The interviews lasted between 30 minutes and two hours, with the average length being one hour. The shortest interviews were with administrative staff.

Analysis

Having completed the fieldwork I had over 100,000 words of fieldnotes and 31 hours' worth of transcribed interviews. Data was analysed using NVivo 9. This had the advantage of bringing the possibility of organising data into nodes and trees to make links between issues clearer. I began by reading through all the data, an important part of the analytic process (Bachmann and Schutt, 2003: 244) and coding the data thematically, . . . As already indicated, I was conscious of the problems associated with trying to enter the field with prior knowledge and sociological concepts in mind. This meant that a pure form of grounded theory was not feasible. Nevertheless, I adopted an inductive approach to dealing with my data, effectively letting the data speak for itself. As I identified these conceptual categories I checked and confirmed whether these initial observations were appropriate. For example, I made a note of whether my initial observation was a common theme, noted who tended to adhere to such a view or worked in a particular way. The advantage of grounded theory allowed me to reflect and affirm emerging findings as fieldwork progressed thus enhancing the validity of any findings. Observation in particular allowed me to explicitly question and gather data about a particular concept. For example, it was clear that the relationship was an important concept to PWs in my sample and so I made sure to speak to a variety of participants about this concept.

Thus, by the time fieldwork came to an end I had a clear idea about several key themes and concepts that required further analysis. These themes were: the impact of managerialism, the notion of rehabilitation and the concomitant importance of the relationship, the problems that PWs saw in the punitive element of community sentences, and the ways in which they exercised discretion. My first task was then to re-examine these themes to explore commonalities across research sites, grade of staff, and types of work observed (supervision, risk assessments, PSR interviews, decisions about breach, for example) in order to identify emerging findings which held prominence for the majority of participants or were particular to a specific group. The focus of analysis was on the goals, values and ideals of participants with the aim of developing a theory of how PWs' practice and practice ideals were being impacted upon by Garland's (2001) 'culture

of control'. Thus I then recoded these themes using subnodes with the aim of identifying the values which underpinned a particular type of practice or a specific type of decision. For example, where a PW had made a decision around enforcement of an Order I coded the reasoning that underpinned the decision enabling me to identify some of the key elements as to why PWs make decisions about enforcement. This included cross referencing data from the period of observation with what PWs had said in interviews, linking the content of PSR interviews with the discussions held with staff afterwards as well with my notes on the report if I had had sight of it. Having coded the data that had initially been organised into broad themes I revisited my fieldwork notes to identify what had been missed. Again, this adheres to the principles of grounded theory in which data is analysed several times in order to induce a thorough understanding of the social situation under research (Bachmann and Schutt 2003: 248). Revisiting fieldnotes and interview transcripts alerted me to the pervasiveness of managerialism and it became clear that managerialism had an important impact on many areas of probation practice and, moreover, provided a useful counter to the values and ideals that had already been identified. In turn this led me to reorganise the dissertation so that managerialism could be incorporated across chapters rather than, as the original plan had been, to devote just one chapter to this concept. I had limited information about offenders' backgrounds so was unable to make links between particular 'types' of offender and the work that was done with them in a general sense. However, in most cases I knew what offence each offender had committed as well as their sentence and so I could discern what was pertinent in the context of different types of offenders and offences.

It has been argued that using computer software to code qualitative data leads the researcher to disconnect with the data (Seale, 2010). Whilst this is a concern, I am confident this was not the case in my own analysis. I did not use the auto coding facility built into NVivo, instead using it primarily as a convenient means of storing and organising a large dataset. Additionally, I read all of the data several times to keep in touch with what was there. NVivo can also lead to the decontextualizing of data because the coding process means that something can be 'lost'. This potential problem was also overcome by reading the full data at regular intervals; I would revisit the data before writing each chapter, for example.

Limitations of the Research

I have already explained the advantages of conducting research into probation and values using an ethnographic approach and some of the inherent limitations to such an approach have been overcome by utilizing a grounded theory approach. Some limitations, however, remain. Firstly, as with any type of research which depends on people talking about their lives and opinions I could never be sure whether participants were simply conforming to what they thought they wanted me to hear or were expressing their own views. I was also conscious of PWs 'holding back' and was aware that the practice and behaviour, particularly that in the office, was not necessarily the way people really behaved. One can never be sure whether or not this has occurred. However, it appeared to me that everyone with whom I spoke was candid and honest. I was often included in jokes (including, in some cases, ones that could be considered inappropriate) and people began to describe me as part of the furniture. Moreover, there was no discernible shift in behaviour as time went on: people may have put on an act initially, but this would have been hard to maintain for the length of time I was conducting fieldwork.

A second issue regards the sample. Whilst I had free access to all PWs in each OMU some were more willing to speak to me than others. Additionally, some worked part time and their working days did not always fit well with when I was in the office. Thus there was less time for me to spend talking with them. It was also the case that I got on better with some PWs than with others and that these PWs were the ones who were more willing to let me observe them with offenders. Although I managed to observe every PW with at least one offender, the number of contacts with each PW varied considerably and so my sample of contact observations is likely to be skewed. Fortunately, there was no clear pattern as to who might be more willing to talk or be observed and so the sample is not skewed towards any particular grade, gender or age (although there may be a bias towards people with certain personality traits). Nevertheless it is the case that certain members of each OMU will have a greater presence in this dissertation than others, simply because I spoke to them more.

Even though I managed to observe each PW with an offender, the issue of PWs as gatekeepers to these observations remains. I began most days by asking PWs whether they had any appointments that I could observe. Although people were overwhelmingly cooperative with these requests, there were many occasions in which I was denied the opportunity to observe. The most common reasons were that the offender would not be happy with me observing; that

the PW did not know the offender very well and my presence may affect the creation of a relationship; that they planned to talk about issues which would not be suitable for me to observe; that it would be 'boring' or a 'hi and bye'. I was unable to do much about this and had to accept the PWs' reasons for declining my request. However, it does not mean that the PWs' true motives were necessarily what they said. It might have been that they were intending to challenge the offender on something and did not want me to see this kind of practice; or it could have meant that they believed little could be achieved with the offender and they wanted to present an image of themselves 'doing something'. Many positive responses to my requests included a judgement about the offender. For example, PWs might say, 'yeah, come and see him: he's a nice guy and will be happy for you to observe'. Thus, my sample of offenders may be skewed towards those who were easy going and compliant and away from those whom PWs considered 'difficult'.

Ethnographic work does not set out to produce generalizable, objective findings. Rather, the true test of such research is whether it is recognisable to the research participants and whether what I observed, and the way in which I interpret the data, reflects the beliefs and working practices of the probation workers I observed. As Schutz (1954) argued, social science research should conform to the 'postulate of adequacy' in which the construct must be understandable to the actor himself. To this end, I returned to both research sites to discuss my findings with the people I had observed in February 2012. I presented participants with an overview of each chapter, discussing the main findings and asked questions of them about whether they were able to recognise their own work in my findings. Participants in both research sites received this presentation well and made constructive comments about where they thought I had misinterpreted their actions. I have been able to incorporate their comments into the chapters that follow. Having laid out the methods used in this research, I now move into the empirical chapters that form the bulk of this dissertation. The next chapter picks up the discussion on managerialism from the previous chapter to explore what probation workers are trying to achieve in their work, and how this relates to the increased influence of managerialist measures of 'success'.

Chapter 4: The Aims of Probation: incorporating the offender when measuring the system

Since the 1990s the need to measure the effectiveness of the Service has become ever pronounced yet Mair and May's (1997: xix) statement that 'ideas about what constitutes effectiveness have never been more confused' still rings true. As discussed in Chapter 2, managerialism has taken on a more pervasive role within the Probation Service. Indeed, managerialism might be considered the driver in the move towards offender *management* as opposed to offender *help* and is thus the mechanism through which the Service is measured. This chapter considers what PWs say are the aims of their work and contrast this with the main methods with which the service is evaluated. In looking at this, I analyse the way PWs define the main purpose of their work, reasons for entering the Service, and what their expectations were. The chapter also examines PWs' own definition of successful clients to explore other ways of measuring probation.

Evaluating the Aims of Probation

Evaluation of the Probation Service began in earnest during the 1950s. Radzinowicz claimed that his research was the first assessment of probation to be considered sufficiently reliable to draw 'conclusions of primary import' (1958: xiv), yet the study relied solely on completion and reconviction rates. Whilst recidivism is seen by some to be the best proxy for measuring the effectiveness of the Service, its use is problematic (Merrington and Stanley, 2007; Stanley, 2009). For completion of an Order to be the key factor in evaluating the Service's success means one of two things. One interpretation of the focus on completion might suggest that retribution is the defining feature of a community sentence in that it signifies that an offender who has completed their Order has also served their punishment. This is problematic because punishment is not the sole aim of any sentence but also aims to reduce crime through deterrence and a reduction of reoffending. In turn, the focus on completion suggests that that an offender will have been rehabilitated having completed their Order. However, government data show that 34 per cent of offenders are reconvicted following a community sentence (Ministry of Justice, 2010b: 13). Therefore completion cannot be seen as an adequate proxy for rehabilitation. Section 142 of the CJA 2003 instructs sentencers to have regard to rehabilitation and the Tiering Framework stipulates that all offenders from Tier 2 upwards must receive help as part of their Order (NOMS, 2005a). For completion to be a good measure of effectiveness, one needs to be sure

that the intervention will have some rehabilitative impact which is far from the case in all interventions (Lösel et al., 2011).

Following the ‘nothing works’ claims in the 1970s the Probation Service’s aims shifted from the treatment of offenders to diverting them from custody. As such, evaluation methods changed. As opposed to the content of supervision or the subsequent effects on offenders, research and evaluation focussed on decisions made in the criminal justice system, and how many offenders were diverted from custody (particularly in the context of the introduction of community service). One example comes from Pease et. al.’s (1975) research on the impact of the Community Service Order. The authors highlight some of the problems experienced when trying to evaluate diversion from custody. Firstly, the researchers argued that it was difficult to show whether a custodial sentence would have been imposed had there been no community option; and secondly, that the causal route towards diversion was difficult to identify. As public protection became an increasingly important aim for probation, one might expect that evaluators turned their attention to the number of serious offences prevented by the work of probation. However, offending and reoffending is relatively low amongst this offence group and low base-rates make statistical significance difficult to determine. Instead, alternative methods of evaluating public protection have been introduced. The Serious Further Offence (SFO) review involves a review of the management of cases which ended in a SFO and the incorporation of the findings into practice. Whilst this may seem a laudable and arguably more qualitative attempt at evaluating practice and turning evaluation into an iterative process, it risks ignoring good practice and leading to undesirable and possibly knee-jerk reactions by policymakers (Merrington and Stanley, 2007).

‘What Works’ has the potential to incorporate some of the aspects of evaluation from previous eras. Indeed, Raynor made such a call when he argued that the ‘new rehabilitation’ should include pluralistic evaluation designs; a range of indicators of effectiveness; an awareness of the context of delivery and social context issues for offenders; a systematic attempt to describe the types of offenders which lead to results, as well as an acknowledgement that knowing more about effectiveness also tells us about ineffectiveness (1997: 28-29). Whether this has been achieved is debatable. Reducing reoffending is an explicit aim of What Works which means reconviction rates are an obvious starting place when evaluating such work. However, I have already shown how a reliance on reconviction rates (Merrington and Stanley 2007) as well as the

use of them across different probation areas (Hedderman, 2009) is inadequate. Probation is increasingly being measured through reference to reconviction rates (although during fieldwork these figures were only used for moderation and comparison between Trusts (Cumbria Probation Trust, 2011)).¹⁴ Reconviction rates are contextualized by comparing them against the predicted reconviction rates of each cohort which helps ‘to establish... whether there is a real change over time’ (Ministry of Justice, 2011b: 45–6). This is important because reconviction rates are dependent on the specific characteristics of each cohort, yet they are presupposed by the assumption that the tools used to predict risk are accurate. This presupposition is potentially problematic because, in a study looking at the predictive accuracy of OASys, an Area under the Curve Score (AUC) of 0.764 out of 1.0 was achieved (Howard, 2006). In a separate study, OGRS achieves an AUC score of 0.8 (Copas and Marshall, 1998).¹⁵

What Works relies on the delivery of specific interventions to defined groups of offenders and so it is possible to evaluate the process by which such an intervention is delivered. Despite this, there have been accusations of an uncritical acceptance of treatment programmes as black boxes through which one puts an offender with the assumption that they emerge from a programme effectively cured (Farrall, 2002). Although there has been an increase in interest in the way interventions are delivered, research around this is still sparse (Bonta et al., 2008). The What Works movement has given rise to a number of evaluations which take a number of factors into account. One example here is Raynor and Vanstone’s (1997) evaluation of the Straight Thinking on Probation (STOP) programme which took into account programme integrity, completion rates, offender and staff feedback, attitudinal change and reconviction rates. In addition to the reliance on groupwork, policy has recently turned its focus towards case management and one-to-one work, although Underdown (1998) suggested this as a course of action over ten years ago. The Offender Management Model is one example of this. Central to effective case management is the offender-officer relationship (Burnett and McNeill 2005). Research has shown that within this relationship, empathy, motivational work, respect and the appropriate use of authority are

¹⁴ This is likely to change considerably once the Payment by Results scheme is fully operational. At the time of writing the Government had just announced several pilot projects around the country.

¹⁵ AUC scores of 0.75 to 0.8 are considered to be representative of moderate to large effect sizes (Coid et al., 2009) but it is important to note that not all studies concur with these findings. For example, Coid et al. (2009: 342) report that none of the risk assessment tools they tested (PCL-R; OGRS; VRAG; RM2000; and HCR-20) achieved such a high AUC and that ‘no instrument predicted above a moderate level of ability for any offending outcome’. Moreover, such a method of measuring effectiveness would stand at Level 2 of the Scientific Methods Scale which is not considered rigorous enough to draw conclusions (Sherman et al., 1997).

crucial – how this is evaluated is yet to be considered properly (although see Shapland et al. (2012) for a review of the research on this issue). This chapter represents a key contribution to this debate by offering the views of probation workers themselves.

As described earlier, managerialism has taken a stronghold of probation practice resulting in the Service becoming more focussed on economy, efficiency and effectiveness than on rehabilitating offenders. As part of this, performance management has become a key means of evaluating the Service. Performance management operationalises the Government's priorities by defining effectiveness in ways which are likely to influence probation practice (Merrington and Stanley 2007), some of which have been discussed in the previous chapter. National Standards (Home Office, 1992, 1995, 2000, 2005) and performance indicators (cf. Cumbria Probation Trust, 2011) are central to the way in which probation is now measured. In one sense, such measures of effectiveness are simpler than evaluation because questions as to whether targets are being met, or whether pieces of work are being done in time, and whether offenders are being met at correct intervals are seen to be sufficient. However, reliable evaluation must take both process *and* impact into account and a reliance on performance indicators fails to do this. As Ashworth (2009) argues:

from the perspective of the practising probation officer, success would be something less tangible or immediate. Traditionally probation officers have had to play the long game, sowing seeds that might bear fruit quite a long way down the line. They recognized that change, especially in attitudes and behaviour, was not achieved overnight; that it required sustained effort, motivation and commitment – not something that many offenders have been used to in their lives.

What are Probation Workers trying to do?

Evaluative methods must be related to aims. Before exploring how PWs evaluate their own work we need a comprehensive understanding of what they think are trying to achieve. Importantly, this must be seen in the context of the technical, managerialist measures of success. Therefore, this section examines how PWs define the aims of their work, what they want to achieve by working in probation, what their expectations were before joining the Service, and what they find rewarding. 18 of the 32 probation workers I interviewed across both sites said that at least one of the following was the main goal of their job: reducing reoffending, reducing the risk of reoffending, and managing risk. Twelve said that public protection was the main goal of their job; three identified rehabilitation as the main goal; two (both managers) cited improving

performance; one said meeting targets; and one said ensuring compliance with the sentence.¹⁶ Some of those who cited public protection also cited reducing offending, managing risk or reducing the risk of reoffending. PWs accepted that public protection is now an overarching purpose of probation:

...the public protection role is the beginning and the end of the role- it is all encompassing; it's right the way from the first time you pick up a CPS pack through to when you sign someone off at the very end – it is all encompassing. (RS2, Daniel, PO, Interview)

I would say [the main purpose of my job] is to rehabilitate offenders but in a way that is safe for the general public ... at the same time keeping an eye such that public confidence and public safety isn't compromised. (RS1, Neil, PO, Interview)

However, PWs argued that public protection is achieved through managing risk; reducing reoffending and reducing the risk of reoffending. The public is protected through a combination of rehabilitative and incapacitative interventions:

[The main purpose of a PW's role] is protecting the public through the reduction of reoffending. (RS2, Faith, TM, Interview)

...the interventions that we put in place, particularly with high risk cases in the MAPPA system, is about protecting the public by reducing the opportunity to offend by placing external barriers. (RS1, Chloe, PO, Interview)

I think they are tied together in some respects: if you reduce somebody's reoffending then that is automatically going to protect the public from being a victim of offences so they're kind of mixed together in some regards. (RS1, Keith, PSO, Interview)

Public protection is widely believed to have stemmed from, and been an implicit part of, the Service's focus on risk as well as the influence of the 'new penology', and hence late-modernity (Kemshall and Wood, 2007). As discussed in Chapter 2, this has resulted in the increased use of behavioural programmes, the treatment of offenders as aggregate groups and the bifurcation of offenders into those who can be remoralised, and those who cannot (Garland, 1996; Kemshall, 2002). The implications for probation practice have been widely documented and one might expect such an emphasis to result in the short-term reduction of risk being prioritised. This sentiment was evident amongst PWs:

[My job] has two parallel roles- a dichotomy of public protection which can be done through two ways: enforcement or the more long term aim of rehabilitation (RS1,

¹⁶ Some probation workers offered more than one 'main goal' and so the total is more than 32.

Neil, PO, Interview)

Public protection either goes in tandem with, or takes precedence over, reducing reoffending and managing risk. By concentrating on reducing reoffending, the risk of reoffending and managing risk, PWs can contribute to the wider goals of protecting the public whilst continuing to work with the individual:

The main thing is the management of risk, public protection and managing harm in the community but on a personal level it is about helping people – risk management is the main aim but by helping people you can, in my opinion, lower that risk as well by looking at the factors that contributed to offending in the first place so it is on a personal level as well (RS2, Belinda, TPO, Interview)

Deering (2011) splits the aims of probation into macro and mezzo levels, a distinction which is useful here. For Deering (2011), the macro level is public protection whilst the mezzo level is about reducing the risk of reoffending and managing risk. These levels are primarily about systemic goals. PWs use the mezzo-level to legitimate the macro-level because it allows them to use the discourse of the Service (risk; risk assessment; reducing reoffending and so on), whilst enabling them to undertake work with and for the individual. This is because these mezzo-level goals can be seen to have two beneficiaries. Unlike public protection which can only benefit the public (Merrington and Stanley 2007), reducing reoffending can both protect the public *and* improve the individual offender's life:

I have to prioritise public protection over everything but I am working with an individual to make their life easier, happier, more productive for them... by doing that it is going to have a knock on effect on the public and the community by protecting them but ultimately you have to put public protection before the individual. (RS1, Frances, PO, Interview)

We can see here an illustration of the way in which PWs use probation's traditional focus on the individual to legitimate public protection. Whereas public protection can mean, at the most basic level, incapacitation, PWs did not think this was possible in probation. Rather, the broad, late-modern notion of public protection (which, in turn, is tied up with notions of the risk society and the rise of the victim) is legitimated through this distinctly individualistic approach. This individualistic approach with the offender is the micro-level of probation practice.

Turning to the reasons PWs decided to join the Probation Service and their expectations sheds light on the micro-level of probation officer's work and suggests that PWs preferred goals would be related more to the individual, or the micro-level goal, than the macro- or mezzo-levels. Not

all PWs were able to identify exactly why they had joined the Service but of those who could, ten said they had wanted to work with people, four said they wanted to help people, and three wanted to work specifically with offenders. Eight PWs had joined the Service by chance, generally through gaining temporary work as an administrator, then becoming permanent and applying for a PSO or PO position. Some PWs were able to identify certain factors which contributed to them joining the Service which included, in order of frequency: wanting to improve social inclusion; having an interest in why people committed crime; a perception that probation was interesting; and a desire to effect some positive change. No PWs explicitly stated that they joined the Service to protect the public, manage risk or reduce reoffending. This is in stark contrast to the data above which suggest these mezzo-level goals are the main aims of PWs' jobs. This may be evidence of the language of risk permeating PWs' discourse, as well as an acknowledgement that the micro-level of probation practice is not politically feasible. Arguably, however, it points to the idea that the mezzo-level goals are acceptable for the service but not for the individual PW. Interestingly, seven PWs referred to social work when discussing why they chose probation suggesting that, despite probation officers no longer having to have a social work qualification, they still considered probation work to contain an element of social work:

...[I] applied to probation 'cos it is similar to social work – it's not quite the same as social work but it is similar in the sense of caring and rehabilitation. (RS2, Imogen, PO, Interview)

I had some little bits of connections with the criminal justice system: my dad was a magistrate and it was very much social work within the criminal justice setting – quite different from what it is now. (RS1, Nicola, TM, Interview)

Four of these seven had social work qualifications (i.e. they trained prior to 1997) and three qualified under the new training, probation specific, framework after the 1997 reforms. The link between social work and probation was also highlighted by those who had not considered social work as a career: 'I thought it would be more social work oriented' (RS2, Belinda, TPO, Interview). The link between social work and probation was not uniform, however, with one PW explaining how attendees at an event organised for people interested in a career in probation had been told that '[social work] is not what we do and if you want to do that, go elsewhere' (RS1, Neil, PO, Interview). Interestingly, this encouraged Neil to apply for the job. As well as indicating a perception that PWs see their work as similar to that of social workers, my data also point to a connection between social work and the 'old' ways of doing things. There was an intriguing attitude towards social work and the position it used to hold in terms of affirming

probation workers' values. On the one hand, PWs respected the notion that social work was part of their role, and that, as we will see below, conducting work that could be considered 'social work' is key to achieving success. On the other hand, social work was seen to be outdated as a method of probation practice and was more associated with being offenders' friends, something which all PWs said was inappropriate. That probation work is explicitly not about befriending offenders is particularly pertinent in the context of the service's 'advise, assist and befriend' ethos of previous years (for more on this, and the worker-offender relationship more generally, see Chapter 6).

In addition to asking PWs why they joined the Service, I asked if the job had met their expectations. Four PWs said that they had no expectations: three because they had come into the Service by chance and the fourth said she had no expectations, but thought that she would find the work fulfilling because she had been encouraged to apply by social workers: 'it must be okay if social workers are telling me to do it' (RS1, Ursula, PO, Interview). Six said that it met their expectations, four of whom knew probation officers or had worked with probation officers before joining the service and explicitly stated that they were aware of the levels of paperwork involved. A further three said that the job exceeded expectations. Nine PWs said that the job did not meet their expectations because they either expected to have more contact time with offenders or had not expected so much paper-, office- or computer-work. That the job was not meeting expectations because PWs were unable to spend time with offenders suggests that it is the one-to-one work which PWs wanted to do by joining the service, and that this was what they still wanted to do (despite accepting that the job inevitably required more than this).

The desire to work at the micro-level is also evident when looking at what PWs find rewarding. During observational fieldwork I saw that those offenders who were low risk, with relatively few issues or who were being seen simply in order to comply with the mezzo-level goals of compliance and risk management were considered 'boring':

She asked if I wanted to sit in on another session – that it was an OASys review so would be very boring. (RS1, Sarah, PO, 10 November 2009)

Mary said she was doing an offender measures session with an offender but it would be really boring. (RS1, PO, 18 January 2010)

Furthermore, the work done on risk assessment itself was considered dull and boring for me, as an observer, despite my assertions otherwise. A result of this was that low risk offenders

(typically Tier 1 and 2 offenders) were briefly and cursorily dealt with by PWs with PWs focusing on what, if anything, had changed and arranging subsequent appointments (for more on the content of supervision sessions see Chapter 6). On the other hand, PWs expressed enthusiasm when it came to serious offenders, offenders with multiple issues, ‘interesting’ stories or who were engaged with their supervision:

She also had someone else in at 1.30 who had done lots of assaults so ‘might be interesting’, she said. (RS1, Brenda, PSO, 17 November 2009)

Linda said that she had two inductions today and that one was an IDAP case so would probably be more interesting so I could sit in on that if I wanted. (RS1, PO, 5 November 2009)

She thought it was good because ‘he genuinely engages’ with her when they talk about his offence. (RS1, Chloe, PO, 8 January 2010)

Moreover, such ‘interesting’ or ‘engaged’ clients were rewarded with extra attention:

I asked if he preferred easy clients like the one we had just seen or preferred something to get his teeth into. He said that when someone engages it is best – then you are more willing to spend some time with them. (RS1, Ali, PSO, 14 January 2010)

It is clear that PWs prefer working at the micro-level, with offenders yet, as the next section shows, PWs are most commonly measured through measuring their work at the systemic, or mezzo, level. However, there was a perception that protecting the public was in tension with working with individuals:

Ali said that the police think they are on the side of the offender which we are but that public protection trumps everything else. (RS1, PSO, 23 February 2010)

This means that PWs have an uneasy relationship with the way in which they are measured.

PWs’ Attitudes Towards Evaluation Methods

According to Dick, measuring the macro-level is almost impossible:

How [protecting the public] is measured at times and what that means in reality is difficult because, after all, we are working with individuals and each case has its different aspects and I think that’s one of the tensions, that performance targets and all that sort of stuff make assumptions about what is a success and is very much about measuring finite, easily defined things like timeliness or whatever but within public protection and reducing reoffending the reality is that there are lots of aspects which are almost impossible to measure. (RS1, TM, Interview)

This comment concurs with Merrington and Stanley's (2007) assertion that the priorities of public protection are particularly difficult to measure because of low base-rates and problems with assessing risk. This may explain why PWs' individual performance is perceived to be measured primarily through reference to the mezzo-level which were described by PWs: reducing reoffending (n=7); reducing the risk of reoffending (n=7); managing risk (n=7); and meeting targets/improving performance (n=5). Although success at the mezzo-level is considered to be a legitimate aim of their work, PWs' descriptions of their most successful offenders tend not to be defined through a reduction in offending or managing risk but through reference to the micro-level aspects of success as seen in Dick's comment above about working with individuals.

As I have said, the majority of policy deals with the mezzo-level goals of reducing reoffending, managing risk and ensuring compliance. As described by Merrington and Stanley (2007: 454) such measuring of the effectiveness of probation is often related to probation's focus on punishment in the community, What Works and performance management and is thus measured through enforcement and compliance measures; impact of interventions on offending; adherence to national standards and so on. As described above, these measures have been critiqued by academics largely on methodological grounds. Analysing what PWs think about this unveils further problems with these measures and sheds light on what PWs aim to do in their work, and how that might best be measured. In order to investigate this issue I asked PWs to talk about their 'most successful' offender. Four of the cases that were discussed involved a breach or recall as part of the Order or Licence, suggesting that compliance and completion is an inadequate measure of that PWs believe constitutes success. It was clear that completion rates are considered inadequate when a PW defines success:

I have an awareness of [having to get people to the end of an order] but to be honest, it's not really on my radar. (RS1, Mary, PO, Interview)

I'd have loads of successes if it was just about completing orders! (RS1, Nora, PO, Interview)

This foreshadows an important tension that arises in Chapter 8 in which PWs report a 'desperation' amongst the Service to get people to 'complete'. Importantly, it suggests that such managerialist measures of success are lacking from the perspective of the PW.

PWs are also measured in terms of timeliness; a clear indication of the prevalence of managerialism. In one team meeting guidelines were issued on when to inform the Ministry of Justice of an offender's release on licence. The manager explained that a form is to be faxed to the Ministry on the day of release but that this had been missed in one case, with the offender committing a further offence the day after release. The implication of the guidance was that the management of that offender's risk was lacking primarily because the PW had neglected to send the form. Despite the form being about public protection, the means through which this was being achieved, and subsequently evaluated, was considered to be ineffective:

A long discussion ensued about this form before Ali pointed out that, 'it wouldn't have stopped him committing the offence anyway'. 'NOMS think it will', responded Keith quickly. (RS1, 17 February 2010)

In many instances PWs described to me the way in which timeliness targets meant very little in terms of making substantive progress with offenders:

Brooke said that they have several targets and they are all to do with timeliness rather than quality: OASys, review and termination. She said that the quality of OASys does get monitored internally to an extent through appraisal but otherwise it is just all about time. She ended the conversation by asking rhetorically, 'What does that have to do with what I actually do with clients?' (RS1, Brooke, PO, 1 December 2009)

As mentioned above, reoffending rates are being used with greater frequency to assess probation's performance, although during fieldwork this only occurred for moderation purposes, as opposed to budget setting, for example. With respect to reoffending rates one manager explained that,

Politically the argument would be that reducing reoffending is a real measure – if one Service has reduced reoffending by 20 per cent and in another it has gone up by 3 per cent, you know, but ... what they're actually measuring is the conviction rates, not reoffending rates and they're measuring reconviction of known people against a theoretical base of what you might expect from that population... (RS1, Dick, TM, Interview)

Dick is alluding to the idea that reconviction cannot be equated to reoffending because, as has been well documented, only a small proportion of offences committed result in arrest or conviction (Maguire, 2007). As Steve (RS1, PO, Interview) pointed out, the problem with designating an offender as successful is that, one does not know what an offender might be doing outside of the view of a probation office. In addition to highlighting problems with the use of risk assessments to contextualise reconviction rates and using reconviction as a proxy for

reoffending Dick highlights a wider, yet more substantive issue in relation to using reconviction rates to measure success:

... I would still come back and say we are working with individuals but statistics don't tell that picture. (RS1, Dick, TM, Interview)

PWs see themselves as working with individuals and not aggregate groups of offenders and this came up on many occasions during fieldwork. This makes the task of incorporating an individual offender-based measure of success into the broader goal of measuring the Service even more urgent. One way in which the statistical nature of reconviction rates is critiqued by PWs arises from the two-year follow up period that is used in government statistics. Whilst academic studies consider two years to be the optimum timescale at which to designate an offender as having reoffended or not, it is inadequate from the perspective of PWs because they think in longer terms than this:

At a base line, success is someone getting through an order or licence without breaching. I suspect that you don't really see success because that is more about the long term- the time limited period of time that they are known to us is short in relation to the amount of time it takes to turn your life around completely (RS1, Evelyn, PO, Interview)

Moreover, considering the majority of offenders on probation do offend at some point (Ministry of Justice, 2011b), focussing on reconviction rates can be demoralising:

... if you were to view success as somebody who never offends then you would become a very depressed probation officer. (RS1, Frances, PO, Interview)

It is clear that the official measures of success are not received as accurate reflections of what it actually means to succeed for an offender. At best PWs consider the official measure of success to be a base line or minimum standard and at worst is seen to be a result of a manipulation of data, ultimately illusory in its import. However, PWs do aspire to achieve similar goals to those measured at the systemic level: reducing reoffending, managing risk and complying with sentences imposed by the court. There is, then, a tension: goals at the systemic level are seen as legitimate but ultimately unmeasurable, or at least are measured poorly from the perspective of PWs.

The participants in both research sites joined the Service to work with individuals. Therefore an alternative means of evaluating the Service might be to use the individual offender as a factor of success. This requires us to see the offender in Kantian terms: as ends in themselves, rather than as a means to end, a sentiment with which many PWs with whom I spoke would sympathise,

and one that is reminiscent of the values debate in the 1990s where probation practice itself was, variously, seen to be either a tool for broader change or focused on benefitting the individual offender. In order to understand how the Service might be measured via the offender I made enquiries regarding PWs' 'most successful' offender PWs were immediately critical. For example Felicity (RS1, PO, Interview) responded by saying, 'It depends on how you measure success', for example. This serves to further problematise the current measures of success used by NOMS as well as recognise that there might be several ways to measure success:

I guess my opinion of success might be different to probation's view of success.
(RS1, PO, Mary, Interview)

Success can range from changing someone's attitudes or behaviour, to simply having a moment of realisation that something must be done. An analysis of the answers to the question 'Can you tell me about your most successful client' reveals that an offender gaining employment, voluntary work or doing some kind of education was the most common feature when defining a client as successful (n=12). This perhaps reflects the focus on employment and education in recent years through governments' Seven Pathways to Reducing Reoffending (NOMS, 2005b). These pathways were referred to extensively when discussing 'successful' offenders: Accommodation (n=7); Health (n=0); Drugs and alcohol (abstention from: n=7; reduced use of: n=6); Finance, benefits and debt (n=1); Children and families (n=8); Attitudes, thinking and behaviour (n=9).¹⁷

There are targets around the Seven Pathways. For example, targets INT09 and OM17 specify that 'at least 40% offenders [must be] in employment at termination of their order/licence' and 'at least 75% offenders to be in settled suitable accommodation at termination of their order/licence' respectively¹⁸ and so PWs do get some form of credit for this aspect of success. Despite the fact that these targets are supposed to result in the 'Reduction of crime/reform and rehabilitation of offenders', such measures were seen by PWs as a tick-box exercise. Moreover, they argued that the tick-box nature of the targets made it more difficult for PWs to take the individual's circumstances into account and work with them in depth on the issues they faced:

In terms of your targets if someone goes through then that is a success. There are different levels of success – if someone completes an order, if someone doesn't

¹⁷ There are an additional two pathways for women offenders: support for women who have been abused, raped or who have experienced domestic violence and support for women who have been involved in prostitution. Only two female offenders were discussed in the context of 'most successful' offenders. There was no mention of issues relevant to these two pathways for either of them. See Chapter 9 for a discussion about the lack of specific attention to female offenders in this dissertation.

¹⁸ These targets are locally agreed targets for RS1. Similar targets were in place in RS2.

reoffend then you can just count them as a stat but for someone to get something from their time with probation then that must also be considered as a success but that isn't measured (RS2, Linda, PO, Interview)

Moreover, the focus on reconviction and avoiding breach eclipses such measures:

Three years later he has come back for another offence but he is now in a stable relationship, has had a job for two years so that is a success despite him coming back- not many people would see that... (RS2, Natalie, PO, Interview)

Several other factors which do not necessarily fall within the Seven Pathways, nor are measured by NOMS when assessing the achievements of the Service arose in response to this question.

Table 1: Number of times particular aspects of success were mentioned in response to question 'Can you tell me about your most successful client?'

Feature of success	Number of times referred to when discussing most successful client
Absence	11
Improved trust or respect for the Probation Service	4
Confidence/self esteem	4
"Totally changed life"	4
Developed good relationship between PW and offender	4
No callouts/monitoring	3
Took responsibility for behaviour	3
Still offending, but less serious or often	3
More mature	1

Only one PW talked about their most successful client in terms of being so high risk and intractable that monitoring police callouts and contact with the victim was the only option. This kind of success is related to the use of probation as an incapacitative sentence, considered by many to be unfeasible due to the difficulty of surveilling offenders 24 hours a day, 7 days per week. Nevertheless, Ben (RS1, PO, Interview) believed that the case was one of his most successful because he 'did a really good job of protecting his partner when he came out of prison'. Dick took a different view of this kind of success, suggesting that 'true' success is something 'deeper' than simply protecting the public and victims:

Equally, I would say if an officer is working with a high risk case and all the right

things are put in place, they are monitored and checked, and action is taken that potentially prevents something more serious happening, even though it hasn't happened, that's not a positive success but I would still say that officer has done a successful piece of work because they have protected the public and potentially prevented all reflected something far more serious from happening (RS1, TM, Interview)

There is, therefore, a distinction to be drawn between positive success (successful offenders) and good work (effective risk management) which requires us to examine success in more detail. In terms of successful offenders three broad factors of success can be discerned: *absence*; *small steps*; and *getting something extra*.

Absence

As shown in Table 1, 'absence' was a common feature when discussing success. Although PWs did not use the word absence explicitly, they talked about offenders whose Order had finished and who had not (yet) been reconvicted as if they were successful:

...if I don't see them coming back through the books then it's a success. (RS1, Margaret, PSO, Interview)

Broadly speaking, absence was considered to be positive. However, it does not necessarily mean the offender has not reoffended or are now living fulfilling lives and so PWs' embrace of absence as success neglects to acknowledge that they do not know what happens to their offenders after the completion of an Order:

In terms of follow up I don't really know what happens unless by chance they come back to me, which isn't always the case so I suppose in some ways we don't really know what happens to people after they leave probation. (RS1, Felicity, PO, Interview)

There are several reasons why absence might not mean an offender has desisted from crime (as Steve highlighted above). Offenders and/or PWs may move area so the individual PW does not and cannot know if 'their' offender has sustained a lengthy period of desistance. More specifically, offenders may die, be leading a life which a PW might not consider to be productive but is nevertheless legal, or be offending whilst escaping conviction. It is interesting to note that the final three reasons might also be valid criticisms of reconviction rates as a measure of success. Ultimately, this means that PWs think offenders have 'succeeded' in terms which are inherently vague:

...how can you say until someone is at the end of their life? (RS2, Evelyn, PO, Interview)

The fact that absent offenders are equated with successful offenders is sometimes difficult for PWs to come to terms with:

One of the difficulties of working for the Probation Service is that you tend to only see your failures because they're the ones who return. The ones who are successful, sometimes they might pop in, write a letter or you see them in the street and have a chat with them, but generally the people you see time and time again are the people who return because they have failed again, they have been back through the courts and committed another offence. So, there is a part of the job which is a little difficult in that you tend to see the people who fail, more than the people who succeed (RS1, Ben, PO, Interview)

Targets which prioritise the completion of orders might be seen to overcome this issue. Giving PWs something that is tangible and 'positive' might have helped PWs overcome the uncertainty inherent to their work but this does not appear to be the case. Rather, PWs remain focused on the idea that if an offender does not come back 'through the books', she is a success. Importantly, neither method of measuring probation can be considered sufficient.

Small Steps

The broader official measures of success used by the Service are inadequate, which means PWs tend to look for smaller successes when discussing successful clients:

You have to look for little successes with people, rather than trying to have big milestones to reach because for some of them that is a milestone – just getting a house, or getting a job for a few months or something like that ... (RS1, Chloe, PO, Interview)

Small successes are relatively tangible achievements, many of which come within the remit of the Seven Pathways to Reducing Reoffending:

...people who perhaps have been homeless for so many years and then succeed in getting a tenancy and just that one thing alone can be a success. (RS1, Mary, PO, Interview)

You can have small successes where people reduce their alcohol use. (RS1, Felicity, PO, Interview)

...it was a combination of the external successes of getting things in place and building that stability but also, with him, it was also obviously the internal change-the attitudes that had changed and his insight into his offending ... which you can't make up really, that's quite hard to evidence. (RS1, Chloe, PO, Interview)

However, because of the inadequacy of the measurement, PWs (and arguably offenders too) can feel they do not get the credit they feel they deserve:

It could be something as little as one of your offenders who had a sexual offence acknowledging that there was a sexual motivation for them committing their offence ... to get them to acknowledge the fact that, 'Yeah, that was a contributing factor in my offence' is huge... that's massive but on paper it's nowt. (RS1, Mary, PO, Interview)

The examples given under small success might be seen to come under the rubric of human capital whereby offenders receive the skills (cognitive behavioural skills, the ability to live without substance use, etc.) they need to avoid 'coming back'.

Gaining Something Extra

An alternative theme when defining a successful client is summed up by this comment from Nick:

It's about whether they leave with more than they started with I suppose. I suppose that's one way to measure it... I'm not sure if it was successful but I think [this offender] took something away from the process which might mean that he can ultimately achieve something. (RS1, PSO, Interview)

This notion is particularly vague and Nick was unable to articulate quite what and how this might be defined and measured. Nevertheless, it was a theme which emerged during the fieldwork on several occasions – the fact that it speaks to the difficulties related to measuring these intangible but important achievements makes the project of subtly and accurately defining the success of probation all the more important. This also relates to Ashworth's (2009) comment above as well as Whitehead's (2007) use of the word ineffable to describe much of what PWs are working towards. As Table 1 shows improved relationships with the Probation Service, increased confidence and self-esteem, a good working relationship with a PW and taking responsibility for one's actions are all perceived as attributes of a successful offender's time on probation:

...the early part was about building that confidence through building a relationship. (RS1, Ben, PO, Interview)

...but I think the success for me and maybe for him was that he built a professional relationship with me where he trusted me to come and, as often as he wanted basically, to be able to come and get that safe space to be able to go through those issues that he'd had and be treated fairly and accepted for what he is and who he was. (RS1, Nick, PSO, Interview)

The guy wasn't sure whether he trusted the probation service enough to go to the

group... [but now], he is quite happy now to extol the virtues of probation and the IDAP Program. (RS1, Ben, PO, Interview)

Despite the vagueness of the concept, analysis of the responses to my question suggests that ‘something extra’ is social capital: ‘mutual reciprocity, the resolution of dilemmas of collective action, and the broadening of social identities’ (Putnam, 2001).

Success is undoubtedly hard to define and measure in the context of probation. However, it is possible to identify some common features in the way in which PWs define successful offenders. The above discussion highlights the multi-faceted nature of success, as defined by PWs talking about their most successful clients. Success involves some or all of the following: cognitive behavioural changes, increased human and social capital, reductions in levels of offending, drugs and/or alcohol use, and better relations with those around them and with authority. All of this bears a striking resemblance with much of the work that has come out of research on desistance:

the process of desistance is one that is produced through an *interplay* between individual choices, and a range of wider social forces, institutional and societal practices which are beyond the control of the individual. (Farrall and Bowling, 1999: 265, original emphasis)

The contextualisation of successful offenders suggests that PWs are, as Maruna et al (2004: 228) explain, ‘using the language of personal redemption and overcoming challenges [which] was particularly salient to the desisting participants in the [Liverpool Desistance Study]’. On the other hand, PWs stress the importance of offenders taking responsibility for their actions. This may create tensions for PWs because it allows offenders to legitimately transfer blame for their actions through saying ‘that person wasn’t the real me’ (Maruna et al., 2004: 225). Gaining something extra also bears similarities to the generative themes put forward by Maruna (2001) in that PWs want to help offenders create something of lasting value, leave a mark on the world, pass something on to the next generation, or inspire others.

The Road to Success

As part of considering what success is, it is necessary to think about how offenders get there. As described in the desistance literature success is rarely achieved overnight and often takes the form of a zigzag path (Weaver and McNeill, 2010). This aspect of the process of desistance was reflected in comments made by PWs in my study:

I have ones that go places and then fall back. (RS1, Karen, PO, Interview)

[The case] had its own challenges, but in terms of a fairly typical probation success, I would say that it is kind of nice in that there were a few troughs but generally the progress was upwards and I think that is what our work can do. (RS1, Ben, PO, Interview)

A lapse in progress is seen as typical when thinking about success. Moreover, the ups and downs inherent to the desistance process are sometimes perceived to be necessary:

when he came out he actually thanked me for recalling him which is quite rare and he said, 'If you hadn't have recalled me when you did, then I don't know where I would have been because my drug use was escalating and I wasn't able to fund it legally.' Not all clients thank you for that kind of action, but it gives them some respite sometimes and a bit of time for reflection so it's not always negative. (RS1, Chloe, PO, Interview)

Offenders are also considered to have 'turning points'; important points in an order which signify where they are on the road to success:

He came from a violent background and although he knew that his mother wasn't happy when she was being assaulted by his dad, he hadn't really made the connection about how he had maybe learnt that that behaviour was acceptable; so that was a real turning point. (RS1, Chloe, PO, Interview)

The Importance of Context

When giving specific examples, PWs always put the case into context for me. For example, one PW went into detail about how many children her client had, and how many were in care; another described how her client had lost his job through a spiralling alcohol problem which stemmed from redundancy, bankruptcy and family illness. In this sense, successful clients are often portrayed as having achieved something against the odds. Whether the offender underwent a complete lifestyle change or reduced their drug use slightly was only relevant when considered in the context of the offender's background:

We have to focus on the fact that they have made progress and have lapsed rather than relapsed- context is important- reoffending doesn't mean the order hasn't been successful. (RS2, Imogen, PO, Interview)

This focus on context also suggests that PWs see success in terms of distance travelled, a concept which has been used widely in the voluntary sector as well as in relation to women offenders:

I had another lady who was on drugs ... there are child protection issues but that is all you can expect from her – she may not keep the baby but she has done well- she has done an awful lot to help herself (RS1, Kimberley, PSO, Interview)

Although Kimberley is talking about someone who has not necessarily succeeded, she has done ‘all you can expect from her’.

What is not Success?

Before bringing these together to examine alternative means of measuring the success of the Service, it is necessary to consider what does not constitute success. Much of this has been covered above, in relation to the way completion rates or reconviction may or may not constitute success but there are other factors which come to light. Whilst I did not intend to uncover what makes an unsuccessful offender, the question about PWs' most successful offenders, perhaps inevitably, did so. It is perhaps not surprising, in light of prevailing attitudes towards the official measures, that a breach or reoffending is not automatically considered a failure. Indeed, as pointed out above, several PWs' ‘most successful’ clients *were* breached or recalled at some point in the order and, for others, traditional conceptions of success were never the intention:

My definition of success didn't involve him giving up the dream, glory hallelujah, and never touching another bottle. (RS1, Nick, PSO, Interview)

Failure, like success, is dependent on the individual's circumstances and abilities as well as their engagement with probation and the work they put in. In this sense, success and failure are very close. Motivation is key for an offender, not only in terms of achieving success but also with a view to avoiding dependency on the Service which cannot be sustained at the end of an Order:

I think that when you're doing all the work for them, I don't really see that as a success because then as soon as that order is finished they are ‘oh no I can't cope ‘cos my probation officer's not here to do it any more’ so I think it is important to give them that responsibility so when the license does finish they can look after themselves. (RS1, Ursula, PO, Interview)

Similarly, an offender is not considered successful if there are things still to do:

A lot of cases such as his, at the end of the order, you're thinking, ‘Well, there's a lot of work for that person to do, there's still a lot of things to him to maintain.’ (RS1, Ben, PO, Interview)

Unsuccessful clients are not ones who reoffend or breach their Order. Rather they are offenders who do not take responsibility for their actions, whom are not self sufficient by the end of the Order, or who fail to leave probation with more fulfilling relationships and support networks.

Conclusion

Managerialism in its current form in probation relies on a clear split between a good output, and a poor output. However, it is clear that this split is not something which is easily operationalized in the context of frontline probation work. This may point to why adequate measurement of probation has been such a difficult task. Managerialism, the means through which probation is currently measured does not take individuals into account. Rather, it is about treating each person as an equal factor within a system. For PWs, however, success is an inherently relational activity:

It is very individual with whoever you are working with. (RS2, Faith, PO, Interview)

Thus there is an argument for making the measurement of success relational and suggests a need for an environment which encourages better relationships between the PW and offender, another finding borne out in the literature on desistance (see Chapter 6 and Burnett and McNeill (2005)). I have already alluded to the concept of ‘distance traveled’, which would allow PWs to take an offender’s initial situation into account before deciding whether they had been successful, or not. The concept of distance travelled is not without problems; ensuring consistency amongst offenders would be a considerable barrier. Moreover, allowing PWs the flexibility to define what success might mean for a particular offender would be a contentious development. Arguably, however, it is one which would allow for a broader and more holistic measure of how well the Probation Service was contributing to the broader aims of public protection and reducing reoffending. This is an important point; incorporating these measures of success would not mean a wholesale revision of what probation is measured against, rather it would allow for a more nuanced measurement system which acknowledges that all offenders are different, that not all systems of evaluation are equal but that they can be complementary.

This chapter has served to begin the discussion on PWs' practice ideals. It is clear from the previous discussion that the current managerial means with which probation is measured is insufficient from the perspective of the PWs in this sample. Thus, timely reports, strict adherence to national standards are not considered the ideal aims of probation. Rather, the PWs with whom I spoke talked of adhering to targets because they were there, but getting more value from other kind of work. The chapter describes how probation practice can be categorised into three levels in a similar way to that of Deering (2011): the macro, mezzo and micro. Whilst targets and the formal measurement of probation is focused on the macro and mezzo levels, the PWs in this research found more value from the work with individuals; the micro-level. That

said, PWs were relatively comfortable with the idea of public protection as a meta-narrative for probation's aims. Indeed, they echoed findings from research Robinson and McNeill (2004) that public protection is a legitimate aim for probation but, similarly, is one which is achieved *via* reducing reoffending. Importantly, however, they placed more emphasis on reducing reoffending through the more 'welfarist' ideals of working with the individual than on the more technical methods of risk assessment and management.

The chapter has outlined how, in the context of practitioners expressing scepticism towards the formal measures of probation, PWs define success on their own terms. Whilst PWs do not get any formal credit for this element of their work they were confident in asserting that success can occur in a variety of ways, the majority of which are contingent on the individual's circumstances. These measures of success can be split into three distinct categories: absence, small steps and gaining something extra. In turn, these categories have been compared against the literature emerging on the topic of desistance to find a distinct similarity between both the language and the concepts used to describe the way in which offenders desist from crime. All of this suggests that the effectiveness of probation needs to occur at different levels in the organisation. PWs accepted the need for measuring effectiveness at the macro and mezzo-levels but appeared to yearn for credit to be awarded for their work with the individual. Mair (1997) and McNeill (2000) have both argued in favour of a pluralistic approach to measuring effectiveness: the PWs in this sample would concur with this argument but see little evidence of this happening.

Having explored PWs' broader notions of effectiveness, I now move on to two distinct areas of practice. The next chapter explores the preparation of pre-sentence reports and uses this as a lens through which to look at PWs' attitudes towards punishment. The subsequent chapter focuses on the practice of offender supervision and, similarly, uses this to explore notions of rehabilitation and re-introduces the worker-offender relationship as a means with which to work with offenders.

Chapter 5: Pre-sentence Work and the Problem of Punishment

Pre-sentence reports have formed a considerable amount of probation officers' work since probation's inception in the mid-nineteenth century. As Gelsthorpe, Raynor and Robinson (2010) highlight, the first 'probation report' was probably handed to the courts in Matthew Davenport's Court and was formalised in the Probation of Offenders Act 1907. Pre-court work has since remained a constant feature of probation, despite the myriad changes to which the Service has been subjected. Despite this, pre-sentence work has been the subject of less research than other areas of probation practice. Both the Streatfeild (1961) and Morison (1962) Committees praised the role of the probation report (with the latter changing the name to Social Inquiry Report [SIR]). However, with the nothing works claims came a decline in the faith which policymakers and politicians had in the SIR, with Bottoms and Stelman (1988) uncovering high levels of variability and 'unfettered discretion' within reports. As part of the shift anticipated by the introduction of the CJA 1991, Raynor, Gelsthorpe and Tisi (1995) conducted a study on behalf of the Home Office into the quality assurance of pre-sentence reports (PSR). Although circumspect about the potential of a quality assurance tool to improve the quality of PSRs, the underlying assumption of this research must have been that it would, or at least could, do so. They did report however, that a good quality report could result in higher concordance rates and fewer immediate custodial sentences. Again, as was seen in the introductory chapters, probation underwent large-scale change after the CJA 1991. This saw the name of SIRs changed to pre-sentence reports, illustrating the way in which the CJA 1991 contributed to the move (in policy) away from social work to one that was explicitly focused on the offence and sentence. Alongside this came the first set of National Standards which were intended to ensure that reports were consistent.

The new PSR required probation officers to focus on offenders' motivations for committing an offence as well as the circumstances in which the offence was committed. As noted by Gelsthorpe, Raynor and Robinson (2010) little research has been conducted into the content of PSRs since the mid-1990s. Fortunately (in terms of the need for more research in this area) the authors report on a small-scale study which suggests that there is now, probably unsurprisingly, greater use of the language of risk as well as a greater tendency to portray offenders negatively.

I observed thirteen PSR interviews which lasted on average fifty minutes. They ranged from ten to ninety minutes. In addition to observing PSR interviews I made efforts to discuss the case with the PW immediately after the interview and read the subsequent report, although this was not always possible. The aim here was to explore what the PW intended to achieve via their sentence proposal. In many cases the report author¹⁹ would work with the offender after the sentence had been imposed. In other instances, a separate PW took the case on. This depended on the Tier of the offender which would dictate whether a PSO or PO would take on the case (Tier 4 offenders would always be assigned to a PO with Tiers 1, 2 or 3 being assigned primarily to PSOs). Workloads also played a role here; if a PSR author was already working over capacity then the case may be allocated to a PO who had a lower caseload. Due to the lengthy period of observation in each site I was often able to discuss the report with the PW who took on the case, whether they were the report author or not, enabling me to explore the impact of the report on the ensuing period of supervision. PWs would also talk to me about PSR interviews that I had not observed. Such discussions tended to involve the PW telling me what the offender had said, whether their ‘story’ was believable and, often after some prompting, what they intended to propose. Despite the opportunity for detailed PSR related discussion I did not observe sufficient interviews, nor read enough reports, to undertake a systematic study of the content of PSRs in the current context. However, the fieldwork allowed me to gather enough data about some of the issues to arise from pre-sentence work. These issues were overwhelmingly to do with whether, how and why offenders should be punished as part of a community sentence. Thus, this chapter uses pre-sentence work as an entrée to talking about matters of punishment, deterrence and justice.

The Legal Framework

The CJA 2003 frames this chapter. Section 158 of the Act states that a PSR should assist ‘the court in determining the most suitable method of dealing with an offender’. Section 142 requires sentencers to ‘have regard to the following purposes of sentencing—

- a) the punishment of offenders;
- b) the reduction of crime (including its reduction by deterrence);
- c) the reform and rehabilitation of offenders;
- d) the protection of the public; and

¹⁹ PSOs are not qualified, nor legally permitted to write PSRs (Knight and Stout, 2009: 273) so POs wrote all reports in both sites during the fieldwork. However, there was speculation amongst PWs that PSOs may take on this role in the future.

- e) the making of reparation by offenders to persons affected by their offences.

In this sense, PWs also have to take note of section 142 when writing reports, especially when a sentencer indicates the purpose of the sentence when adjourning for a PSR. This makes PSRs particularly useful in assessing how PWs think about punishment, deterrence, public protection, rehabilitation and reparation. As part of reformulating probation as a sentence in its own right, the Government's White Paper *Crime, Justice and Protecting the Public* (Home Office, 1990: 18) stated that 'it is the loss of liberty involved in carrying out the terms of the order rather than the activities carried out during the order which is the punishment.' The White Paper was explicit in stating the purpose of different kinds of activity: 'Community service provides reparation to the community. A probation order, on the other hand, should help offenders not to re-offend' (Home Office, 1990: 18). Despite Community Service Orders always having had ambiguous aims, for example, this suggests a certainty of intention underpinning certain forms of community sentences. The CJA 2003 confounded this and, arguably, formalised the ambiguity underpinning activities undertaken as part of a community sentence. For example, according to Robinson's (2011: 166) analysis of the legal framework underpinning offender management Unpaid Work is considered to be punitive if the court imposes a low level requirement (40-80 hours), reparative in cases of medium level (80-150 hours), and rehabilitative in high level requirements (15-300 hours). The only other requirements considered punitive under the sentencing framework of the CJA 2003 are specified activities; prohibited activities; exclusion; curfews; and attendance requirements (Robinson, 2011: 166). In contrast to this, Mair and Canton (2007: 277) have argued that community service and its successors (UPW and now Community Payback) has always been intended as a primarily punitive sentence with the additional benefit of reparation if the work that was carried out was genuinely beneficial to the community. Moreover, they argue, the Probation Service has sometimes been 'reticent about the *rehabilitative* aspects of the scheme' (2007: 277, original emphasis). On the other hand, UPW has been transformed (via a probation instruction rather than a change in legislation) to Community Payback in which the punitive element of the UPW requirement has been superseded by a greater focus on reparation to the community.²⁰ All of this raises questions about what PWs try to achieve via UPW and other punitive requirements more generally.

²⁰ Despite this change in policy, I continue to use the term Unpaid Work because this is the term most widely used by participants in this research and because Unpaid Work remains on the statute books.

The Philosophical Framework

Punishment can be imposed with several aims, as indicated by s.142 of the CJA 2003. They are retribution, deterrence, incapacitation, rehabilitation or reparation. None of these aims are mutually exclusive and a sentence is often imposed with one or more of these aims in mind. At this stage, it is necessary to look briefly at the theories underpinning each sentencing philosophy. Punishment was traditionally imposed as a way of paying the offender back for the harm they have caused to society. This has been developed over centuries, resulting in a concept of just deserts in which proportionality takes precedence ensuring that an offender receives a punishment commensurate to the harm that they was caused (von Hirsch, 1993). Just deserts was enshrined in the CJA 1991 although the decarcerative aspects of the system which had stemmed from setting tariffs low and led to a reduction in the prison population were repealed in the CJA 1993 following the election of John Major and the appointment of Michael Howard as Home Secretary. This ‘retributivist revival’ of the late twentieth-century is important in the context of probation because it reintroduced the importance of treating ‘the guilty with the respect due to them as *responsible agents*’ (Duff, 2009: 126, emphasis added). Arguably, probation as a sentence has always been distinct from prison, requiring the offender to be involved in their sentence by demonstrating a ‘commitment to reform’ (Raynor, 2012: 177). Here, again, we see the importance of the responsabilisation of offenders (O’Malley, 1992).

Sentencing within a just deserts framework is not explicitly tasked with reducing crime. Rather, punishment is justified ‘because and only because offenders deserve to suffer for their culpable wrongdoings’ (Moore, 2009: 31). On the other hand, von Hirsch’s (2003) conceptualisation of just deserts aims to both censure offenders as well as act as a disincentive to commit a crime and this, he argues, is why offenders must be punished. Duff argues that retributive punishment should primarily be a communicative activity that conveys ‘censure or condemnation of the crime’ to the offender and society at large (2009: 127). Again, the aim is not necessarily to reduce crime, or impact on an offender’s material well-being. Duff goes on to argue that verbal or symbolic censure can be construed by an offender in different ways (including in ways that are not censorious), communicative punishment must include ‘hard treatment’ such as imprisonment, a fine or community service. According to Duff, this has the added benefit of acting as a deterrent to future offending as well as compelling the offender to do something which they must consider ‘burdensome’. Thus, within a theory of communicative punishment, it

might be seen to be imperative to for community-based requirements to involve 'hard treatment'.

An alternative rationalisation of punishment is aimed at achieving deterrence although, as indicated above, a just deserts framework might also work to deter offending. The deterrent effect of the criminal justice system has been an area of debate since Beccaria wrote about it in the 18th century and has been subsequently elaborated upon by, most famously, Bentham (2001: 395):

Pain and pleasure are the great springs of human action. When a man perceives or supposes pain to be the consequence of an act, he is acted upon in such a manner as tends, with a certain force, to withdraw him, as it were from the commission of that act. If the apparent magnitude of that pain be greater than the apparent magnitude of the pleasure or the good he expects to be the consequences of the act, he will be absolutely prevented from performing it.

Deterrence works on the premise that a potential offender is a calculating individual who will weigh up the pros and cons of committing an offence to decide whether it is worth it. For deterrence to work, potential offenders must be considered rational agents above all else. Beyond the broad impact of a criminal justice system, there is little evidence to suggest that using the sentencing framework to deter future offenders is effective even within a 'very punitive sentencing strategy' (von Hirsch et al., 2009: 44).

The Social Backdrop

Freiberg (2001) argues that punishment can be either affective or effective and that current policy tends towards the latter. He argues further that the public wants punishment to be both affective and effective and that crime policy needs to take this into account in order to achieve political legitimacy because the rational aspects of policy 'fail to address some of the deeper emotional or affective dimensions of crime' (2001: 266). In other words, punishment can be seen to have an impact on an offender's and the public's attitudes towards crime or can have an impact on the propensity of an offender to commit a crime. One might argue that although policy is based on the idea of 'effectiveness', politicians routinely seek to capitalise on the 'gut reactions' that crime invokes and that they have sought, through the tabloid media, to portray a 'badly exaggerated picture of public opinion on crime and justice' (Maruna and King, 2008: 346). Certain sections of the media and politicians are keen to present probation as a punitive sentence and express dismay when this seems to be undermined. For example, Mair and Mills' (2009)

research into probation officers' views on COs and SSOs described POs who said that offenders were 'laughing their heads off' at the Service because of a lack of rigour with regards to breach proceedings. One comment in a large research project was construed by the media as putting the credibility of community sentences at stake, undermining its deterrent effect and proving that it was a soft option (BBC, 2009; Hickley, 2009). The portrayal of probation in the media suggests a desire for both retributive and deterrence-focused punishment with rehabilitation having lesser importance.

Probation's traditional values (as outlined in Chapter 2) were undoubtedly more concerned with effect than affect, raising questions about PWs' attitudes towards incorporating the concept of affective punishment into probation practice: do PWs see themselves as punishing offenders and, if so, what do they want to achieve? How does the fact that all offenders, regardless of their Tier, must be subject to punishment affect PWs' thinking on punishment? Do PWs see punishment as a means to achieving deterrence or rehabilitation, or should punishment be more about just deserts than the instrumentalist approach that probation has traditionally worked towards?

PWs' attitudes towards punishment

Turning back to my fieldwork, and the context of asking participants about the purpose of probation, the majority of PWs said that they did not see themselves as explicitly punishing offenders and that punishment can be counterproductive:

When working with sex offenders it isn't helpful if they feel punished all the time 'cos the offending is linked to self esteem so if you have someone saying that they are a bad person then it is likely to heighten risk. (RS2, Natalie, PO, Interview)

In contrast, PWs accepted that COs and SSOs are punishments and that offenders have to be punished. Despite this, the most common attitude to punishment is nicely characterised in the following claim:

Supervision and programmes aren't punishment – the punishment is that they have to come – once they come through the door the punishment ends. (RS1, Imogen, PO, Interview)

This bears a remarkable similarity to the well-known phrase 'men [sic] come to prison as a punishment, not *for* punishment' (Paterson, 1951: 23, original emphasis). It also reflects the idea highlighted earlier that 'it is the loss of liberty involved in carrying out the terms of the order

rather than the activities carried out during the order which is the punishment' (Home Office, 1990: 18). PWs believe that punishment is subjective and so will be received differently by offender:

Some people feel it is a punishment having to come and see me each week. (RS1, Natalie, PO, Interview)

JP: ...recalling someone to custody could be considered to be more about public protection than punishment...

Ursula: ...but the offenders see it as a punishment... (RS1, PO, Interview)

Here, we see the issues that Duff (2009) raises in relation to the effect of verbal or symbolic punishment, introducing the idea that PWs would concur that 'hard treatment' needs to be present for punishment to have an impact. Thus, when asked whether it *is* possible for the punishment to stop once they enter the door, Imogen replied:

It can be [...] but it depends on the individual's view of probation – some people will see the whole of the order as punishment. If you make the sessions more ... user friendly and targeted at what they need, then they shouldn't walk out and think that it was awful (although sometimes they have to talk about things they don't want to talk about) – I don't want them to leave thinking it was a punishment. (RS2, Imogen, PO, Interview)

When it comes to punishment PWs find themselves in a potentially difficult position of *having* to punish but *simultaneously* wanting to ameliorate the perceived negative impact of punishment. In this sense, punishment for PWs is more about communicating to the public that an offender has been punished, than punishing the offender in order to affect them or to effect some change in them. How do they go about this? Firstly, in line with Robinson (2011) they see particular disposals as more punitive than others:

JP: do you see yourself as punishing people or probation as punitive?

Nora: I don't personally, 'cos I see the punishment side of things being custody, Unpaid Work or curfew... (RS1, PO, Interview)

When probed about punishment in the context of community sentences as well as in PSR interviews, it was clear that Unpaid Work is the default mode of punishment: a finding that resonates with research conducted by Mair and Mills (2009). Moreover, Unpaid Work's primary purpose, in contrast to that set out by Robinson (2011), is punitive *regardless* of the number of hours imposed by the court. PWs overcome the problem of *having* to punish by detaching their work from the punitive aims of a community sentence. For Nora (RS1, PO, Interview) this was 'a bit of a cop out' whereas Steve (RS1, PO, Interview) believed that if he punished offenders,

‘they wouldn’t come’. Regardless of the reason underpinning this desire, it is clear that PWs see punishment as counter-productive but accept that it is a central part of community sentences.

There are two reasons for this. Firstly, PWs believe that the public want offenders to be punished and believe that the Probation Service can be involved in this. Indeed, the fact that PWs try to ameliorate the negative effects of punishment on offenders’ well-being means that they have a vested interest in being involved in this aspect of the criminal justice system. This explains the reliance on the use of Unpaid Work as the primary punitive tool. The Probation Service has worked hard over recent years to have a greater presence in the news media in order to shore up its image and it is now common to see articles describing the work that offenders have done for the community as part of their Unpaid Work requirements. Indeed, arguably, Unpaid Work has come to symbolise the work of the Probation Service with the introduction of fluorescent vests and the desire to make probation more visible (R. Allen and Hough, 2007; Bottoms, 2008b). Secondly, PWs think that offenders should be punished; just not necessarily by probation. One PW offered a solution to this problem:

I do think it is odd that probation delivers punishment. Our fundamental role is risk assessment but then we do community service which is bizarre – it is one of the things that probation would be happy to broker out... I don’t know why we do it – I always thought the police would do it – it would fit their attitude and look good to the community. (RS1, Neil, PO, Interview)

Neil’s last point here might in fact explain why the Probation Service has not relinquished control of Unpaid Work, (although all Probation Trusts have had to bid for Unpaid Work contracts since March 2011) because, as argued by Bottoms (2008b), the Service has attempted to make itself more visible to the community through programmes such as Unpaid Work. All of this suggests that although PWs are unwilling punishers, they do have a desire to see justice done. However, this means that the way in which justice can be delivered in the sentencing framework of the CJA 2003 is limited.

Although Unpaid Work is seen as the main punitive tool, it is important to note that a PW’s aim when proposing it in a PSR is not always punitive:

...clearly community payback is, in certain instances, purely punitive and could be perceived that way but in many instances it will be proposed with the subtext that the individual will gain something from it, whether it is social reintegration or a sense of self-worth or specific skills for work or improving their basic skills; that is often the driver to recommending a punitive course of action ... (RS1, Nicola, TM, Interview)

This illustrates the way in which PWs attempt to reconcile the demand to punish with a desire not to punish. It also speaks of the inherent ambiguities within community service which have been present ever since it was recommended in the Wootton Report (Willis, 1977: 120) and were arguably reinforced by s.142 of the CJA 2003. On the other hand, it illustrates the way in which PWs appreciate the fact that such work need not and indeed *cannot* solely be punitive, as evidenced in the pathfinder project on community service which argued that those projects which had a focus on skills acquisition produced 'better' results (Rex et al., 2003). It is clear from this that PWs do not think that punishment should be imposed only so as to be affective.

PWs' Attitudes towards Deterrence

There was some confusion amongst participants about what deterrence actually means. For example, in response to a question about deterrence, Ursula began talking about the research that has been done on groupwork programmes being more effective than one-to-one work. I discerned a pattern in PWs' responses to questions about deterrence in which PWs conflated consequentialist rationales of punishment whilst demarcating retributive punishment as something different altogether. This may explain why PWs appear not to ascribe much weight to the idea of probation being a deterrent. One PW said that probation is a deterrent on paper only, going on to argue that:

... in reality with the client group that we work with, being on probation ... or even the threat of custody isn't so much of a threat so I don't think it works like that in reality. Usually the people we work with have been in the system for a very long time and for some of them going to prison is better than their life outside 'cos they have a roof, regular meals and structure and routine and a lot of people we work with haven't had that so realistically I don't think it is a deterrent. (RS1, Mary, PO, Interview)

On the other hand, PWs argued that offenders just did not think about the consequences of their actions when commissioning an offence. One PW drew a link between punishment and rehabilitation, arguing that the deterrent effect of probation came about as a result of helping people to make better choices. As we shall see in the next chapter, a significant aspect of the rehabilitative supervision is spent on articulating the consequences of a crime. Daniel offered an alternative proposition:

...some people have made rational choices about why they reoffend - for example a heroin addicted shoplifter might weigh up: 'my chances of getting caught and how much heroin can I get?' - it is a rational choice- it is not that there is something wrong with them- it is a choice, it may not be the best choice but it doesn't mean

there is something wrong with their brain. (RS2, PO, Interview)

Here, Daniel believes that the problem with deterrence stems from the fact that ‘correct’ choices are predefined by society and that any choice is valid, but might also break social norms. Leading on from this Edward argued that:

If you tried to make probation a deterrent it would be flawed – it would not be possible because ultimately the purpose of probation is to reduce the risk of reoffending and protect from harm and reintegrate and to punish while restricting liberty – whilst custody still exists probation would have to become something different to what it is now... (RS1, PO, Interview)

If a punitive sentencing strategy is unlikely to result in general deterrence then it is fair to assume that probation, a sentence that is set at the middle level of sentencing severity, is likely to have very little effect. PWs tend to align themselves with this thinking: as Edward indicated, ‘No one would think, “I’m not going to rob this house ‘cos I might get probation”’ (RS1, PO, Interview). On the other hand Mary did think that probation might have a deterrent effect for ‘people who have never had contact with the criminal justice system before’ (RS1, PO, Interview). However, Mary is referring to the whole of the criminal justice system’s potential to deter rather than that of probation, common practice when PWs talk about deterrence.

Why do PWs have so little regard for probation’s potential to deter, especially in the context of the ‘toughening up’ of probation over the last thirty years? In addition to offenders accepting punishment as a part of life, PWs argued that offenders thought they had ‘got away with it’ if they were given a community sentence, perhaps reflecting the view amongst the media, and arguably by extension, the general public that probation is a soft option. However, several PWs said that if they were given the choice they would prefer to do a short prison sentence over a community order suggesting that they do not see a community sentence as soft. This contradictory view has also been uncovered in research with offenders (Trebilcock, 2011). This represents a contradiction: community orders *do* inflict pain (Durnescu, 2011) and *can* inflict more pain than a prison sentence but they still do not appear to represent good value in terms of deterrence. This may stem from the fact that PWs do not have much confidence in the potential of a short prison sentence to achieve very much. Therefore this is not a case of PWs thinking prison is better, but that it is easier:

JP: Why do people prefer prison?

Edward: It is easier – it is horrible and a restriction on liberty but it is easy – you can sit there for 6 months, don’t misbehave, get a TV, sit on your arse – it’s not cushy but

you are not necessarily held to account. (RS1, PO, Interview)

The contrasting position is this:

...a probation order is a good punishment for some people – a lot of people find it demanding and it takes a lot of time and effort and they have to open up and talk about things they don't want to talk about. Some people don't open up but they are put in a position where they are challenged and I think that could be a punishment for a lot of people. (RS2, Belinda, TPO, Interview)

The pain inflicted by a CO, therefore, is something which is inherent to the sentence, but which is ameliorated because PWs consider that pain to be productive: just not productive in achieving deterrence. Rather, the pain is justified by PWs because offenders need to be punished but that, in contrast to Bentham's original postulations, this pain does not exist to deter those from future offending.

The PSR Writing Process

The second section of this chapter concerns the process of authoring a PSR, the decisions that go into it as well as some of the structural constraints that limit PWs' choices in making sentence recommendations. The most striking thing about the PSR interviews I observed was that they followed a remarkably similar pattern. With the exception of instances in which the offender was already on an Order (which meant the PW already knew the offender and their circumstances), this would be:

1. Find out the offender's side of the story in relation to the offence and, if necessary, challenge this using CPS papers.
2. Talk about some of the factors that might have led to the commission of the offence.
3. Go through previous convictions.
4. Discuss sentence recommendations.

A PSR interview tends to start with the PW asking the offender for 'their side of the story'. This is done with two aims in mind. Firstly, so that the PW knows whether the offender broadly agrees or disagrees with what was presented in court. PWs have faith in the justice system and they believe that most convictions are fair. However, in some circumstances, they believe that offenders are wrongly convicted or they have to work with offenders who continue to protest their innocence despite being convicted. One might expect an offender's account of events to differ with that of the court – a witness, victim or offender may well not remember specific facts

about an event which, although undoubtedly happened, could make an offender appear more or less culpable. Interestingly, of the 13 PSR interviews observed, six denied committing the offence and only one of those six was planning to appeal the conviction. Although my sample here is far from generalizable (and most probably overstates the case) it does pose a problem for PWs when writing PSRs. Of the six offenders who denied their offence only one actually pleaded not guilty – the others pleaded guilty, because, as one offender put it, ‘I thought I would be found guilty anyway’ (RS1, Fieldnotes, 6 November 2009). The number of people who plead guilty to offences that they are not guilty of is unknown. It might be argued that the use of clear-up rates as the key national measure assessing the effectiveness of the police means that the police are under increasing pressure to only bring cases to court which have a reasonable chance of conviction. This can lead defendants to accept defeat in the face of a criminal justice system which seeks to secure convictions over justice (Sanders and Young, 2007). In this case it becomes the job of the PW to navigate potential miscarriages of justice informally. That said, CPS papers were seen as the benchmark against which offenders’ accounts were set. There was an assumption that the CPS pack represents the ‘most true’ account of the offence. Importantly, PWs propose severe sentences because they believe that a harsh community sentence can persuade the sentencer not to impose a custodial sentence as opposed to a belief that this is what the offender ‘deserves’. In this sense, PWs explicitly try to overcome accusations of being ‘soft’ that they see as common amongst sections of the media. Importantly, the offender’s side of the story is used to test an offender’s honesty with a view to framing sentencing recommendations but this was underpinned by anti-custodialism which was, in turn, complicated by a perceived need to strengthen probation’s image in the media.

The second aim of getting the offender’s story is to give the PW the opportunity to start identifying which criminogenic needs and risks the offender faces. This allows PWs to work out how tractable or otherwise an offender is. However, this information is more explicitly gleaned through asking the offender directly about their background, their employment situation, whether they use drugs or alcohol and so on. This part of the PSR interview is distinctly standardised because answers have to fit into a pro forma which eventually forms the PSR and OASys assessment. Some PWs went so far as to conduct the interview with a blank PSR with them, filling in the gaps when back in the office. Having questioned the offender about their background the PW moves on to pre-convictions. Where the pre-convictions are relevant to the conviction the PW goes over this in great detail. Having considered pre-convictions PWs move

on to sentencing recommendations. This part of the interview is particularly relevant to working out what rehabilitation, and supervision more specifically, means for PWs and is explored in more detail in the next chapter.

One other important finding to come out of the PSR interview occurs in instances where a PW considers the offence to be so serious as to have a very high likelihood of attracting a prison sentence. In such cases, PWs question the value of preparing a PSR in the first place. This is important in two ways: firstly, it indicates that PWs see sentencing recommendations as primarily being about keeping people out of prison or only for those who are very likely to receive a community sentence. Secondly, it suggests that the Offender Management Model (OMM) faces a significant obstacle in being implemented as intended. The intention behind the OMM is for all offenders to be subject to end-to-end management throughout their sentence both while in prison and when on licence. This is not to say that the PSR does not get done – targets make sure of that – but the attitude towards them puts the rigour with which the assessments are carried out in question. In these circumstances, PWs would try and avoid doing a ‘full’ OASys at the point of sentence, or neglect to consider all the options when proposing a sentence.

It was noted above that PWs do have faith in the justice system and they have to work within the limits of a system which is far from fallible. One example serves to raise an issue for PWs here:

Imogen then came in talking about a client who had appealed his conviction – the appeal was successful and so he was not guilty. She said that she had given him a rough ride while he was on his Order and now she felt bad about it. Daniel reassured her, saying that, ‘You are only doing your job though.’ (RS2, 7 June 2010)

PWs are willing to accept that they have to work within the framework of a potentially fallible criminal justice system but this does not mean that they accept the potential implications of it:

Imogen was talking about the PSR for the person who had been convicted of death by dangerous driving. She said, that ‘the law is wrong, it was just a mistake’ and that ‘it was adjourned for a PSR with respect to the length of sentence... The family of the victim don’t want him prosecuted – he killed his mother-in-law – isn’t that enough punishment?’ Everyone in the office agreed that he would be ‘going down’ but they weren’t happy with it. Daniel looked up the sentencing guidelines – he said that he could plead mitigation if they are young, experienced, have no pre-convictions and that there was a lack of recklessness whereas Linda questioned whether being young would actually help because, for example, insurance costs more for young people so they are probably more likely to be in an accident. (RS2, 1 June 2010)

This exchange illustrates a sense of justice amongst PWs but also poses a challenge. They know that offenders have to be punished but do not always know how to do so in a fair way. In the case above Imogen declared that ‘I will propose loads of unpaid work hours ... I mean, he’s not going to have any criminogenic needs is he?!’ (RS2, PO, 1 June 2010). Despite the assumption that the offender’s sentence would be custodial, Imogen was intent on proposing a community order and this reflects the political nature of PSRs. As noted above, unless a PW believe that the offender has very little chance of receiving a community sentence, they will endeavour to propose a CO or SSO. There was some confusion amongst PWs about whether they were allowed to propose community sentences (as was the case). PWs see prison as the most serious sentence with SSOs below them, and then a community order. With respect to prison and SSOs PWs started from the basis that a prison sentence is possible and then argue why this should not be the case. S.152(2) of the CJA 2003 states that ‘[t]he court must not pass a custodial sentence unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was so serious that neither a fine alone nor a community sentence can be justified for the offence’. The PW’s strategy here speaks directly to the sentencer to persuade her that a community sentence can be justified. This is how comments like Imogen’s come about: she says she will propose ‘loads of unpaid work hours’ not because she thinks that this will help the offender (she has already admitted that he has few, if any, criminogenic needs) but because this is the only way to persuade the court that a community sentence would be acceptable.

PWs see themselves as holding considerable power in terms of keeping offenders out of prison and will make reference to this in conversation. For example, Monica talked about how she had seen an offender who was working in a nearby café. Linda asked whether the offender had served her:

‘Yes’, Monica replied, ‘and so he should, I kept him out of prison! He said thanks for that though. He’s a really good musician, that’s really the reason I kept him out of custody.’ (Fieldnotes, RS2, 19 May 2010)

This desire to prevent offenders from going to prison limits and constrains the choices PWs have when making sentence proposals. There is a theme here: PWs tend to position COs and SSOs as an ‘alternative to custody’ rather than as a punishment itself, and they will expend time and energy trying to keep offenders away from prison and ‘real’ punishment despite the fact that they profess short prison sentences being ‘easier’ than community sentences.

However, there is a more important limit on PSR work. Whilst in RS2 I observed a conversation in which Evan had asked Natalie for advice on a PSR he was writing on an offender who had been convicted of not taking her children to school. Natalie suggested a curfew and the following conversation ensued:

- Evan: What will that do? Make her stay in the house where she's already spending all her time anyway?!
- Natalie: Well send her to prison then!
- E: It's not in the interests of justice to give her a curfew
- N: Well what else is there?! Give her a specified activity to take her child to school; she is depriving her children of their education and should be dealt with somehow.
- E: I thought about a specified activity. She could go to parenting classes but she may have already done them and I'm waiting for her social worker to get back to me.
- N: Well, how about supervision to make sure she is complying with social services?
- E: I think that's the only option. (RS2, 7 July 2010)

This conversation highlights many problems related to making sentence recommendations in the framework of the generic Community Order. It highlights the expectations placed on PWs to be 'doing something' and not to be seen as 'soft' as well as illustrating the way PWs want to punish and deal with people in the interest of justice. Most importantly for this discussion is the way it highlights the limited options PWs have when proposing sentences and the resultant use of curfew and UPW as default punitive options. Although the generic Community Order is arguably based on a 'smorgasbord' approach to sentencing (von Hirsch and Roberts, 2004) it is hard to describe it as such in the reality of practice. In fact, it appears to resemble Ford's (2007: 52) infamous maxim that, 'Any customer can have a car painted any colour that he wants so long as it is black'.

A similar issue occurs in the case of breach. Breach reports are similar to PSRs in that the PW must provide information about the offender's history although the focus tends towards a history of their compliance, or lack thereof, whilst under probation supervision as part of a CO or SSO. The CJA 2003 stipulates that breaches of an Order can be met with the addition of a more onerous condition (Schedule 12, Part 2, 9(1)(a); Sch. 12, Part 2, 10(1)(a)) and PWs are mindful of this when prosecuting a breach case. Unless an offender is deemed to have purposefully and repeatedly been non-compliant, PWs err towards avoiding breach (as will be seen in Chapter 8). However, when an offender is breached, PWs are faced with having to

recommend a more onerous course of action whilst simultaneously trying to keep offenders out of prison. In many cases PWs recommend a residence requirement ‘in order to get around this’ (RS1, 14 December 2009); a finding that resonates with Mair and Mills (2009: 20) research on community sentences.

Conclusion

Despite the clear anti-custodial sentiment that underlies many decisions on sentencing recommendations, there are some intriguing contradictions. PWs believe that a short prison sentence is easier than a CO, suggesting that a CO is perceived to be more painful than prison. This is seen as legitimate because the pain experienced when serving a CO or SSO is more productive than a prison sentence. PWs are more inclined to use punishment instrumentally, privileging its ‘effect’, than they are to see the value of the affective nature of punishment. This is despite the retributivist revival of the last thirty years (Duff, 2009). There is an acceptance that prison is appropriate for some offenders. Importantly, this is not because prison has a greater effect on offenders than a community penalty. Rather, it is an illustration of the way in which public protection has become the main aim of the criminal justice system, and, as we saw in the previous chapter, of PWs. Nevertheless, PWs’ attitudes towards punishment, and community penalties more broadly, are unequivocally utilitarian in nature. Although there is an acceptance that offenders should receive a punishment they deserve, the effect of that sentence is of greater importance.

A third contradiction arises from PWs’ attitudes towards public opinion about probation. The consensus amongst participants was that the public’s opinion towards probation was not accurate, and that the Probation Service should work to resolve this. In contrast to the values that underpinned the pre-sentence interviews I observed, the PWs in RS2 agreed that public opinion was wrong because the public believe that PWs keep people out of prison (RS2, 6 May 2010). PWs do not see themselves as explicitly anti-prison. Rather they see themselves making objective, professional assessments which make use of evidence to decide what sentence is most appropriate for either protecting the public or contributing to the type of ‘success’ discussed in the previous chapter. Interestingly, this points to two values that were identified in Chapter 2: that of anti-custodialism, and professionalism and objectivity. Moreover, the interaction between these two values creates a false consciousness amongst PWs whereby they believe they are doing

one thing (i.e. delivering justice appropriately), when it might be argued they are working towards a different aim altogether (i.e. preventing offenders from going to prison).

This chapter has explored PWs' practice ideals in the context of punishment, before moving on to an exploration of the way in which PWs go about dealing with having to be involved in the delivery of punishment. A primary finding from this chapter revolves around the idea that PWs are willing to accept that they have a role to play in the delivery of punishment, in line with the move towards a probation order becoming a sentence in its own right and the increasingly punitive nature of criminal justice policy (Garland, 2001; Pratt, 2005), but that they also work towards ameliorating the impact of such changes in policy. Thus, the content of PSR interviews and sentencing recommendations, a subject of little recent research, combine discussions about punishment but those discussions are often directed towards limiting the use of custody. Moreover, PWs detach themselves from the delivery of punishment by drawing on the idea that the punitive element of a community sentence is the restriction of liberty that attending an appointment entails and that what goes on in during appointments is more rehabilitative. This bears a striking resemblance to the Morison report (Home Office 1962) in which it was accepted that probation orders would be seen as a punishment by offenders despite punishment not being an explicit aim of such orders because of the restricting nature of appointments (Home Office, 1962). Thus, there appears to be an element of continuity within PWs' practice ideals which is being impacted upon by the new order. There is also evidence of Williams' (1995) value of anti-custodialism playing an important role in the preparation of PSRs.

A third important finding from this chapter revolves around changes to the legislative system introduced in the CJA 2003. Whilst a 'smorgasbord' approach was introduced, there was evidence that PWs' options are severely limited when proposing sentences, particularly those of a punitive nature. Within this broad finding is the idea that PWs see the purpose of punishment as primarily effective rather than the affective kind preferred by politicians (Freiberg, 2001). Purely affective punishment was seen by PWs to be counterproductive. This may explain why PWs defer to Unpaid Work when thinking about punishment and, when pressed, defend the use of Unpaid Work by referring to the ways in which the disposal can foster a work ethic and give offenders valuable skills. In turn, this adds context to the fact that Unpaid Work is the most widely used requirement in the context of community sentences (Mair & Mills, 2009) suggesting that PWs' practice ideals play an important role in the current shape of sentencing in conjunction

with changes in legislation and political posturing. In the next chapter, I move on to use the supervision process as an arena in which to explore the concept of rehabilitation in the context of late-modern probation practice.

Chapter 6: Rehabilitation and the Supervision Process

PWs argue that rehabilitation is a core aspect of their work, and that it is the part of their job they find most rewarding. This chapter uses the supervision process as the locus of the majority of rehabilitative work that was undertaken by PWs in this study. The chapter explores theories of rehabilitation before outlining PWs' beliefs about the aetiology of crime and the way in which they define and work towards rehabilitation. The relationship was considered critical to this task and the chapter explores the nature and aims of the worker-offender relationship in the current context.

Theories of Rehabilitation

Ward and Maruna (2007: 1) argue that a theory of rehabilitation consists of:

- a) a set of general principles and assumptions that specify the values and views that underlie rehabilitation practice and the kind of overall aims for which clinicians should be striving;
- b) etiological assumptions that serve to explain offending and identify its functions, and;
- c) the intervention implications of A and B.

Whilst probation practice may not have been explicitly underpinned by a theory of rehabilitation prior to the 1980s (Ward and Maruna, 2007), we can use Ward and Maruna's schema to identify a rehabilitative theory within work done by court missionaries and early probation officers, as well as in the work of probation officers in the 1960s. Thus, the work of the court missionaries saw the general principle and assumptions which guided their work in a framework of Christianity. The missionaries were striving for their clients' redemption and the aetiological assumption that led to an individual committing a crime in the first instance was that the offender had succumbed to temptation and needed to be guided away from further sin. Alongside this was an assumption that offenders could make moral decisions. Therefore, the intervention implication was one of religiously informed 'educative and contemplative techniques' to effect change in individuals (Hudson, 2003: 27). This aetiological assumption is classical in approach in that as long as people have a knowledge of God, they are considered to be capable of making moral decisions.

Hudson argues that the techniques used in the late-nineteenth and early twentieth centuries should be described as reform and that 'rehabilitation' signifies 'more individualistic treatment programmes that became established during the twentieth century' (2003: 27). Elsewhere,

Hudson (1987: 3) makes a useful distinction between reform which is effected *through* punishment, and rehabilitation which *accompanies* punishment. In this sense we can see the idea proposed in the previous chapter that in the context of PWs' work, 'punishment stops at the door'. This suggests that PWs are keen to rehabilitate, as opposed to reform. However, this is complicated by the idea that PWs equally saw punishment as more *effective* as opposed to *affective* (although punishment was seen to be affective in terms of reinforcing the legitimacy of probation in the eyes of the public, the media and politicians).

Stating that PWs rehabilitate as opposed to reform is insufficient in exploring what PWs aim to achieve, because rehabilitation itself is presupposed by different assumptions on the causes of crime, and, as a result, leads to a variety of interventions. The work of probation officers in the 1960s was more closely related to the treatment programmes identified by Hudson (2003) in that the Morison Committee (Home Office, 1962) had reaffirmed the idea that probation should be imposed *instead* of punishment and probation was becoming increasingly scientific in nature (Nellis, 2007). Morison (Home Office, 1962) argued that probation officers should rehabilitate offenders for the benefit of the offender and the wider community, not because it had been scientifically proven to reduce offending but because there was moral value in doing so. Thus, the aetiological assumptions of probation officers in the 1960s were positivist in nature: practice was based on the idea that offenders faced pathological and material deficits which had alienated them from society and caused their offending. In turn, practitioners made use of the 'social casework method' which relied on the relationship between the offender and officer, a need to treat the offender as a human and individual, as well as being able to spend time looking at the problems faced by the offender to help them (Biestek, 1961). The method was diagnostic in approach, with the officer being tasked with treating certain predefined symptoms (although it should be noted that treatment, and as such casework, was interpreted broadly as the provision of help and advice as well as scientific treatment (Home Office, 1962)). It is important to note that social casework did not immediately usurp the religious motivation of previous practitioners. As Nellis (2007: 43) points out, faith remained 'privately important' to some officers despite contemporaneous textbooks becoming increasingly secular. Thus, the theory on which probation work rested in the 1960s was a combination of the overtly religious methods of the missionaries and the newly scientific and diagnostic methods of the proponents of social casework.

Raynor and Robinson (2005: 14) argue that there is no ‘universally agreed definition of rehabilitation in the context of offending’. As such, there are various theories and models of offender rehabilitation. The correctional model of offender rehabilitation is concerned with correcting endogenous causes of offending (Raynor and Robinson, 2005) and has been operationalized through several interventions. The original, and arguably most well-known of these, is the Risk-Needs-Responsivity (RNR) model. In this model the offender’s criminogenic needs, or risk factors, take priority and direct the allocation of resources which are delivered along cognitive behavioural lines; ‘a general personality and cognitive social learning perspective of criminal conduct’ (Bonta and Andrews, 2010: 19). Bonta and Andrews (2010: 19) illustrate the emphasis on the idea that the causes of offending can be identified, and argue that RNR has resulted in a situation where ‘criminal behaviour of offenders can be predicted in a reliable, practical and useful manner’. Critics have argued that the model reifies offenders, who are put through the ‘black box’ of offender programmes with a reduction in reoffending becoming a foregone conclusion (Farrall, 2002; McNeill, 2003; Maruna, 2000). In opposition, these authors suggest that the means by which such programmes are implemented, and the relationship that is developed between a worker and offender, is key to the success of any intervention (see also Burnett and McNeill, 2005). Maruna and Ward (2007) critique RNR for its focus on offenders’ deficits, although as noted by Gelsthorpe, Raynor and Robinson (2010: 486) such critiques are prone to exaggeration because ‘it is very difficult to work effectively without optimism and a focus on positive goals’.²¹ On the other hand, the RNR model *has* been well tested and *has* shown positive effect sizes in terms of reducing reoffending (Andrews et al., 2006). However, as seen in Chapter 5, reducing reoffending is neither a simple matter, nor what PWs are striving for.

Others have critiqued RNR and the correctional model more broadly, because it fails to take issues of diversity into account by treating all offenders as if they can be dealt with through the same interventions:

It assumes that [treatment programmes] which have been developed for men will be applicable to women, that aspects of their lives other than their thinking patterns and individual deficiencies are relatively unimportant in reducing reoffending. (Shaw and Hannah-Moffat, 2004: 90–91)

²¹ Similarly, such techniques are critiqued for misunderstanding the desistance process, arguing that the field of corrections should learn from offenders themselves about what desistance actually entails (see Maruna, 2001 for an excellent exercise in doing just this).

These criticisms are undoubtedly valid for women yet the PWs with whom I spoke believed that they are valid for all offenders. As will be illustrated below, the correctional model of rehabilitation (and by extension the theory on which it is based) is insufficient for PWs in explaining criminal behaviour and is an inadequate means of working with offenders.

An Alternative to Correctionalism

Proponents of the RNR model have begun to take seriously alternative conceptions of a theory of rehabilitation (Bonta and Andrews, 2010; Porporino, 2010). One increasingly influential theory is the desistance-based approach which ‘forefronts processes of change rather than modes of intervention’ (McNeill, 2006: 56). The aetiological assumption of crime within this theory builds on strain theory, with advocates proposing the idea that ‘crime might best be understood as the product of obstacles to the pursuit of legitimate goals’ (Ward and Maruna, 2007: 121). Building on the idea that desistance involves a change in an offender’s identity, a desistance focused theory of rehabilitation utilises factors of success other than reducing or abstaining from reoffending, perhaps taking into accounts those factors identified in Chapter 4. As already highlighted, desistance often involves lapses, downturns and struggles; rather than being a negative development, such events are seen simply as part of a ‘journey’ (Weaver and McNeill, 2010).

Advocates of a desistance-based approach to probation have stressed that a straightforward operationalization of the theory is unlikely. Nevertheless, it might be argued that the Offender Engagement Programme (OEP) is attempting this, through the strategies highlighted in Chapter 2. The Good Lives Model (GLM) is aligned with, if not explicitly based upon, a desistance theory of rehabilitation. In contrast to RNR’s focus on reducing behavioural and cognitive deficits, the GLM takes a ‘positive’ approach to offenders with a view to improving offenders’ human and social capital:

[GLM] seeks to give offenders the capabilities to secure primary human goods in socially acceptable and personally meaningful ways. (Ward and Brown, 2004: 246)

Thus the GLM does not necessarily seek to reduce or eliminate offending but instead focuses on enhancing social capital, which it is assumed, will eventually lead to a reduction in offending.

Reintegrative and Resettlement Focussed Theories of Rehabilitation

Separate to correctionalist theories of rehabilitation, Raynor and Robinson (2005) identify reintegrative and resettlement focussed theories of rehabilitation. Here, the aim is to reintegrate offenders into the society from which they are seen to be alienated and the approach comprises interventions which help offenders gain accommodation, education, training and employment (Crow, 2001). This theory of rehabilitation is different from correctionalism in that it draws on sociological explanations of crime, emphasising the ‘social and/or economic causes or correlates with offending’ (Raynor and Robinson, 2005: 8). Raynor and Robinson make the important point that reintegrative rehabilitation ‘tends to work independently of a period of punishment. In other words, rehabilitation and punishment are conceptually divorced’ (2005: 9). In the context of the previous chapter this type of rehabilitation has the potential to be problematic for PWs who do not necessarily *want* to punish offenders. On the other hand, reintegrative rehabilitation has concrete measures against which probation and PWs can be measured. If the aim is to help offenders gain accommodation or employment then this can be evidenced relatively easily. The theory works on the assumption that once these tangible improvements to an offender’s life have been achieved, a reduction in offending will soon follow. Whilst it is the case that unemployment and homelessness are correlated to offending, to argue that the focus should be on these things exclusively neglects to take into account the myriad other obstacles that offenders face in terms of rehabilitation, not least with respect to drug or alcohol use, or mental health issues.

Normative Issues Related to Rehabilitation

Rehabilitation is often presented as an inherently positive exercise and, despite their differences, each of the models outlined above contains an implicitly benevolent aim (whether that be to improve offenders’ lives, or reduce offending for the benefit of the wider community). However, rehabilitation as a philosophy of sentencing has attracted negative connotations. The decline of the rehabilitative ideal (Allen, 1981) came about not just because of critical reviews into its effectiveness (Martinson, 1974) but also because it was seen by some to justify indeterminate sentences where such a sentence was not commensurate with the offence (Cullen and Gilbert, 1982; Rotman, 1990). Despite rehabilitation being a utilitarian punishment, it has been argued that it is possible for rehabilitation to be authoritarian (as opposed to anthropocentric), implying that rehabilitation is more concerned with remodelling offenders according to a ‘predetermined constellation of behavioral patterns’ than with seeing offenders as individuals in their own right

(Rotman, 1990: 8). This is linked to the ethically dubious imposition of coerced treatment (Seddon, 2007) which has been shown to be less effective than the same treatment delivered to voluntary offenders (Stevens et al., 2005). Slightly less concerning, but still a worrying concept is Day et al.'s (2004) notion of 'pressured treatment' whereby an offender officially consents to treatment but those decisions are impacted on and to an extent decided by the context in which they are taken. For example, an offender may consent to a rehabilitation programme in order to increase his chances of release from prison, or to receive a community sentence instead custody rather than because they are motivated *per se*.

The increased importance of evidence-based rehabilitation could mean that such issues become less controversial. If coercive rehabilitation was as effective as voluntary treatment then one could envisage an offender's consent becoming irrelevant as the increasing weight of the effectiveness of the intervention through reduced crime rates begins to outweigh any opposition from the offender. The danger here is that rehabilitation becomes framed by what Crewe (2011: 516) terms 'normative imperialism' which disregards 'viewpoints and values that are inconsistent with its own.' This raises questions about which offenders should be rehabilitated and whether it is inalienably correct for the criminal justice system to be pursuing such an aim. As Crewe (2011: 516) points out, it might also mean that offending behaviour 'comes to define almost all areas of thought and conduct' in prisons and it is easy to see how this could apply to probation. We have already seen an example of this in the previous chapter where OASys and the PSR pro forma dictate what happens within PSR interviews. Thus, there is a risk that the What Works agenda places so much emphasis on offending behavior that offenders create narratives for themselves in order to appease the expert's own predetermined view of offenders' needs and risks (Lacombe, 2008).

What does Rehabilitation mean to PWs?

Chapter 4 illustrated the way in which PWs' aims are not always in line with, nor supportive of, the official aims of the 'system'. The data in Chapter 4 suggest that rehabilitation is where PWs find most value in their work but simultaneously raised questions about what rehabilitation is, and how PWs achieve it. This chapter reflects questions I put to all PWs in interviews about the meaning of the term 'rehabilitation' as well as discussions that took place during observation in both research sites.

Several PWs raised objections to the word rehabilitation itself. Nick described how rehabilitation is problematic for him because of its medical connotations, which he believes imply that they were habilitated in the first place, when this may not be the case:

Rehabilitation is a medical term and comes from the sense that somehow they have been damaged or outcast from society as a result of what they have done... (RS1, Nick, PSO, Interview)

There is that sense of being able to rebuild this person back to - well, maybe not back 'cos they have never probably been there before. (RS1, Steve, PO, Interview)

The word is interesting 'cos it implies that people were habilitated and you are getting them back and I'm not sure that's true... (RS1, Una, PO, Interview)

Moreover, Daniel describes the way in which rehabilitation can imply that an offender has voluntarily opted out of society:

...personally, I think the word rehabilitation is loaded with judgment. It is a word that says 'we are going to have you back into society – you are on the out and we are going to have you back in.' I personally don't like it because it suggests that somebody has opted out and a lot of the people we deal with haven't opted out. They have made mistakes. Some of them are fairly innocent mistakes and some of them have opted out and chosen to go beyond what society says is acceptable so I have an issue with the entire term but I don't know what else you can use. (RS2, Daniel, PO, Interview).

These comments suggest that offenders commit crime as a result of a variety of factors. The correctional theory of rehabilitation presupposes the idea that offending is caused by internal factors. Thus the model arguably rests on the idea that offenders lack the thought processes required to live law-abiding lives and that crime is primarily a manifestation of this deficiency. PWs do not share this view. During a journey to visit an offender at home, the conversation with two PSOs, Margaret and Ali, turned to the causes of crime. They both believed that poverty, along with the use of drugs and alcohol were the key causes of crime (RS1, 5 November 2009). In turn, problematic drug and alcohol use, according to Ali, is a means of coping with difficult situations. Both of these factors are related to social rather than cognitive factors, and was supported by Ben:

...Maslow's hierarchy of needs, if you know that, then I would think that the base blocks have to be about food, substance and accommodation and then as you work up you need to address the finer points really, so I think without those basic matters we are always onto a bit of a loser if we are trying to get somebody to address being a trusting partner within a relationship where they don't actually have anywhere to live or anything to eat or a job to give them self-esteem. (RS1, Ben, PO, Interview)

Ben's description of rehabilitation is intriguing in that it could fall within Raynor and Robinson's (2005) resettlement and reintegrative theories of rehabilitation as the basic elements of rehabilitation. However, Ben sees resettlement focused rehabilitation as a prerequisite to theories of rehabilitation which deal with internal factors or social capital. Ben's comments on rehabilitation are interesting because he describes the role that risk plays in the project of rehabilitation, and demonstrates the difficulty in differentiating between reducing reoffending and rehabilitation. It is clear that risk is important in both defining what needs to change as well as what needs to be controlled. Nevertheless, for Ben at least, those material goods are key in terms of rehabilitating offenders:

[But] there are some cases where gaining a safe place to live for either the individual or for other people in the situation is crucial really, having that separation from their partner or whoever it is that that person is a threat to, yes it is crucial and the use of probation hostels for people coming out of prison, you know, managing that risk, often is around the environment that they're in and often matters to do with our accommodation and often things like having benefits, food, utilities is useful as well... (RS1, PO, Interview)

Some PWs did see endogenous factors as related to the onset of offending:

...whether you use rehabilitation or whether you use change, what you are actually trying to do is change people's ethos, if you like – some of their beliefs and things that they have that aren't pro-social so it is about *retraining the mind* and getting them to understand that it isn't the norm for everybody and that there are ways of changing within society as society is changing as well. (RS2, Monica, PO, Interview)

In fact, PWs accept that decision-making skills are critical when it comes to assessing an offender's propensity to reoffend. Whilst the cognitive behavioural techniques associated with What Works have been criticised for focusing on people's decision-making skills with little regard to the offender's social context, we see PWs attempt to combine the two in practice:

...there needs to be set things in people's lives to make them feel like they are a good person and achieving things, and sometimes if you don't have those factors in place then choices can get distorted and you can end up in the wrong places. I am not condoning offending behaviour – people make their own choice to do that, but I think there is not enough emphasis on what people have actually been through to get them to the point of being involved with probation. (RS2, Belinda, TPO, Interview)

Borrowing the journey analogy from the desistance literature (Weaver and McNeill, 2010), it might be argued that PWs see helping offenders gain the material goods as the first step in that journey and only then can the 'real' rehabilitation begin. For Nick, rehabilitation depends on

perception. He argued that offenders need to perceive the problem before they can actually do something about it, using the following analogy to explain:

I offer them the option of addressing of what is going on with them – that is what I call rehabilitation. It is almost like a patient who comes in with a broken leg and you can say, 'Here is a couple of aspirin, or I can try and treat you or I can rehabilitate you if you perceive that there is an issue'. But they have to perceive that there is an issue to start off with or else there isn't anything to work with ... It is complicated but it is about assessing where they come from, giving them some sort of information in terms what I feel has happened and letting them challenge some of the things that are going on and giving them options... rehabilitation for me comes from a person accepting that they have some issues that they want to work with me on. (RS1, Nick, PSO, Interview)

Interestingly, Nick's notion of rehabilitation requires the offender to be involved in the diagnosis of their 'problem' and the offender has to want to change. Nick's conceptualisation of rehabilitation alerts us to the importance of motivation which is discussed in more detail below. Moreover, his conceptualisation is reminiscent of Bottoms and McWilliams' (1979) non-treatment paradigm of probation practice in which the client's need becomes a collaboratively defined task. Nick does not go so far as Raynor and Vanstone (1994) who suggest that the collaboratively defined task should be 'relevant to criminogenic needs, and potentially effective in meeting them'. Instead, he believes that any problem the offender faces can be used to engage the offender in their rehabilitation, partly because this is considered likely to improve their motivation, but also because rehabilitation is seen as more difficult if these non-criminogenic needs are not dealt with initially.

Belinda's response to the question about rehabilitation illustrates many of the problems PWs have in defining rehabilitation:

I suppose it is about working with the person on an individual needs basis – looking at the real issues for people which would be something as simple as filling in a form for someone and giving them encouragement and motivation for people to actually make their own positive steps as well – you are there to guide people a bit as to where they are going and to help them navigate the system. It is little things that add to the whole nature of rehabilitation. Letting the person start setting goals for themselves and realising for themselves that they can change – a belief that people can actually do that and to give them that support that they maybe have never had before – a lot of people end up in the CJS because they have never had someone believe in it... that is my idea anyway... (RS2, TPO, Interview)

Belinda's comment says a great deal about what rehabilitation means to PWs. She talks about motivation; offenders defining problems and solutions for themselves; *real* issues; and a belief in

change. All of these were common themes amongst PWs in response to the above question as well as in discussions during observation.

The Importance of Motivation

According to Day et al. (2010: 4) motivation is best seen in the responsivity tenet of the RNR model but has received considerably less attention than risk and needs. However, if we accept motivation to be a key pre-requisite of the intervention associated with a correctional theory of rehabilitation, my research suggests that the RNR model has permeated rehabilitative work in the context of supervision primarily through the prominence of motivation. Whilst the correctional model takes motivation as a prerequisite for the successful ‘treatment’ of offenders, academics concerned with the process of desistance have identified what creates and sustains offenders’ motivations to desist. Giordano et al. (2003) identify changes in friendship relationships as playing an important part. Farrall (2002) and Laub and Sampson (2001) identify a variety of factors which include, *inter alia*, obtaining and sustaining employment, marriage and moving house as events that help people desist from crime. Maruna (2001) has called these events ‘turning points’ and describes the way offenders ‘knife off’ criminal (or criminogenic) aspects of their lives in order to stay motivated and focused on desisting from crime. It is perhaps not surprising, therefore, that PWs place a great deal of emphasis on offenders’ motivations to change:

...as a case manager my job is to motivate them. (RS1, Ali, PSO, Interview)

Unless you have got a severe mental health condition that would prevent you exercising your free will, I think everybody has the ability to change. Some of the barriers we face is that people are happy with the life they have and I do think you can’t change someone unless they are willing to change or if they don’t recognise that they need to change and that is the grassroots of the work we do here (RS1, Neil, PO, Interview)

Indeed, not having motivation is perceived by some to be the biggest barrier to rehabilitating offenders:

JP: what are the main barriers [to rehabilitation]?

Monica: Lack of motivation – for a lot of people, this is their lives – for some it is what their parents did and they haven’t had any opportunity for any different life. (RS2, PO, Interview)

If a PW thinks an offender is unmotivated, they are faced with two options. They either ‘try and look for people’s motivation and where it is lacking and try to improve that’ (RS1, Ben, PO,

Interview) or they accept that the person does not want to change, and revert to simply managing their risk by concentrating on the mezzo-level of probation practice. In this sense, an offender's perceived tractability appears to be based very much on their motivation (as opposed to the scores produced by risk assessment tools, for example).

There are structural limits to the way in which PWs can motivate offenders. PWs have the power to revoke Orders early if an offender has shown sufficient progress. Early revocation, for PWs, has three main purposes: to motivate an offender to make progress quickly; to congratulate the offender if progress has been made and, more pragmatically, to reduce workload. Often, offenders are eligible for early revocation but because they were sentenced in Crown Court, which had long waiting lists in both research sites, the process of revocation would have taken longer than the Order running its course naturally. PWs also described the way in which an Order that is revoked early does not earn the PW or the OMU the same credit, in terms of targets, as an Order which runs its full course. Here, we see the substantive aims of early revocation, and thus the possibility of PWs encouraging offenders' motivation, being elided by external structures.

Assuming that motivation is key to rehabilitation, it is important to ask how PWs actually increase offenders' motivation. The place to start here, perhaps, is with what PWs think causes offenders to be unmotivated in the first instance. The previous comment suggests that offenders are demotivated because 'this is what they have always been like'. However, PWs also think that a lack of motivation comes from a lack of ability:

We can keep taking them to water but they aren't always going to be able to take advantage – it's not always about 'not willing'. Sometimes they don't understand the concepts that we talk about and this issue of self-belief keeps coming up – it is difficult to know. (RS1, Steve, PO, Interview)

This is important because responsibilisation is presupposed by a sense of rationality, that offenders will take responsibility for their actions because they understand the benefits of doing so, and that the incentive of a crime-free life gives them motivation. However, Steve's observation highlights the fact that there are offenders who cannot be rational in their behaviour, and raises questions about what can be done with them. It is also important to note that motivation fluctuates, posing yet more problems for PWs when thinking about motivation. For example, Ali explained how:

...you get someone motivated – when they are sentenced they tend to be most

motivated – but then the waiting lists are really long. Four, five, six months before they got on the group and so by then you have had them on weekly for 16 weeks, you have to bring them onto weekly and they get fed up and then demotivated – it's difficult but I guess it is about money. (RS1, Ali, PSO, Interview)

In this sense, motivation is instrumental, in that offenders might feel motivated to agree to a course of action if they think that they will get something in return such as a more lenient sentence. Ali's comment also highlights problems associated with a lack of resources and the need to seize the moment an offender is motivated before it begins to wane. Importantly, this might point to the existence of 'pressured treatment', as discussed above.

Much of what goes on in a supervision session is about spelling out the disbenefits of living a certain lifestyle as a means of motivating offenders. For example, Edward describes how he motivates offenders:

There is often a lot of motivational work to be done as well such as looking at the benefits of them living law-abiding lives. A lot of it is selling – convincing people that they do want to live a crime free life. (RS1, PO, Interview)

Again, this is related to the 'creep' of responsibilisation seen across the criminal justice system. Edward's comment also contributes to understanding why PWs do not believe in probation as a deterrence; it is not that they believe the theory of deterrence is inherently flawed, but that offenders do not understand the implications of their actions. In addition to explaining the broader benefits that come from a law-abiding life to increase motivation, PWs also use short-term motivational techniques:

You have to get someone motivated to attend and do the course – it can be carrot and stick: 'If you get this out of the way then we can reduce the amount of times you have to come in' – if you get it completed then we can end the order early. You have to really motivate some people to get them through an order... (RS2, Kimberley, PSO, Interview)

Bottoms and McWilliams argued that allowing offenders to self-define their areas of need results in 'the client [having] greater responsibility, and also means that in certain contexts he must carry the consequences of wrong choices—for example in further court appearances' (1979: 178). The PWs in my study would certainly relate to that message. Indeed, for many of them, allowing offenders to define their own areas of need is explicitly about transferring responsibility onto them:

I trained with one of the best in terms of motivational interviewing and if you don't set that agenda then nobody knows where they are at or working towards and again

it is putting the responsibility onto them to think, 'I don't do very well in this area, how do I improve that?' (RS2, Monica, PO, Interview)

You need to go in softly. I say to mine that we have to work on these things in the sentence plan but first, you tell me what's up with you and if they bring something up then we'll work on that first. (RS1, Margaret, PSO, Interview)

Bottoms and McWilliams make a strong argument in favour of collaboration between the PO and offender when deciding what help the offender might need:

The caseworker does not begin with an assumption of client-malfunctioning; rather, he offers his unconditional help with client-defined tasks. (1979: 172)

PWs in this study do not profess to offer *unconditional* help because they acknowledge that offenders are court mandated to attend appointments and comply. On the other hand, they try not to approach offenders with pre-defined assumptions of client-malfunctioning, whilst accepting that this is difficult to achieve. As described in the previous chapter, PSR interviews were remarkably similar to each other in content and style. The same was observed in supervision sessions. My data suggest that this is because the point at which an offender's needs are identified, objectives are set, and timeframes put in place is bound up with the pre-sentence process. This process is strictly framed by OASys and results in PWs tackling offenders' needs in a way that is pre-defined by the PSR pro-forma and OASys. As discussed above, correctional theories of rehabilitation have been criticised for being 'deficits focused'. OASys is intimately tied up with this approach (for example through the focus on criminogenic needs to the neglect of non-criminogenic needs and the concomitant assumption that once those needs have been identified they can be 'fixed'), meaning that the work done in supervisions is inherently pre-defined and presupposed by a sense of client-malfunctioning (see also Maurutto and Hannah-Moffat, 2006). This means that PWs assume that being on probation is 'a bad thing' – no PWs accepted the proposition that an offender could be completely happy with their life:

... if someone is in a place where they were completely happy and didn't want to make changes and wanted to carry on offending I would start by breaking that down, accept that there are good and bad things about everything. So I would ask them what the good things are, what they get for it and then ask about the problems it brings and obviously if they are sat in front of you then that is an immediate problem: they have been convicted and have to report to probation which is an inconvenience. It is about identifying the positives and the negatives. You have to acknowledge that it isn't all bad, that there are reasons for going out there [to commit crime] – it does fulfil certain needs in their life but getting them to acknowledge the bad things and then increasing the negative side of things ... it is about ... developing a discrepancy and getting them to think that it isn't as good as

they thought ... (RS2, PO, Monica, Interview)

Monica's comment sheds light on the way in which PWs struggle to allow offenders to define, *for themselves*, the areas in which they need help, but also adds to the discussion about motivation. Here, Monica uses her own definition of 'something not being right': that attending probation is an inconvenience and that a conviction is something to be avoided when in reality, for many offenders, this might not be the case. For an offender whose parents have convictions, having one for oneself might not be so problematic. In short, PWs work on the assumption that someone cannot be happy if they are on probation and use this to increase motivation.

More substantively, analysis of the supervision sessions that I observed in both research sites suggests that governmental guidance on the pathways into and out of crime dominate the content of supervision sessions. I observed early on in fieldwork that supervision sessions followed a very similar pattern:

Observed a supervision with Keith. As with other supervisions I have seen this week, Keith started by asking a general question about how the offender's week had been before moving quickly through their family situation; their work; their drug and/or alcohol use before giving them the opportunity to ask questions and finishing off by arranging the next appointment. (RS1, PSO, 27 October 2009)

PWs in both research sites referred to short supervision sessions as 'hi and byes'. These appointments tended to be either a 'duty' appointment, or they were with offenders who were nearing the end of an Order, were on monthly appointments, or were 'plodding along'. A 'hi and bye' lasts just a few minutes and involves the PW discerning whether the offender has anything to report or discuss. When asked to cover an appointment for a colleague, a PW's first action would be to find out when the next appointment was due, suggesting that 'hi and byes' are primarily about ensuring that national standards are met. In these cases, supervision tends to be more about monitoring and risk management than rehabilitation. In turn, this suggests that risk management and monitoring is the common denominator of supervision; with rehabilitation relevant only when the PW believes something can be achieved.

When a PW does believe that an offender is capable of rehabilitation, supervision sessions are considerably more in-depth and the content of these sessions sheds light on how PWs conceptualise rehabilitation and the aims of community sentences more broadly. In one supervision session, Chloe asked an offender what his partner thought about him being on

probation. The offender replied, 'She was hoping it 'would learn me a lesson' to which Chloe responded:

'I see it as more than that – I want to equip you with the skills not to commit the same offence or, better, not to commit any offences ever again'. The offender said that he will not be committing any more offences because he knows he'll be 'going away' if he does. Chloe acknowledged this deterrent effect on him and reiterated that she wanted to give him the skills so that he could cope in these situations again. They talked a bit more about rugby and work and how he could use the skills he uses on the rugby pitch if he was to get into an argument with his partner again. She said that the point of the Order was to give him the skills that he could test to see if it works for him. (RS1, PO, 9 December 2009)

This interaction from a supervision session nicely illustrates what PWs are trying to achieve, as well as beginning to paint a picture of how a rehabilitated offender might look. In asking for the offender's attitudes towards a particular situation, Chloe articulated what she planned to achieve (imparting skills) and then talked about how he could use the skills he already had to avoid further offending. She acknowledged deterrence but focused on rehabilitation. Chloe is confident in her assertion that probation would equip the offender with skills which will enable him to cope in the future. In a separate supervision session, Evelyn asked an offender what he wanted, or expected, from probation:

Offender: You're here to sort me out.

Evelyn: Well, not sort you out, but help you. (RS2, PO, 22 June 2010)

Arguably, Chloe's comment reflects the confidence which pervades the interventions that are evidence-based whereas Evelyn is more focused on providing help in a way which is more reminiscent of Bottoms and McWilliams' (1979) non-treatment paradigm. It might be coincidental, but it is worth noting that Chloe had been qualified for three years whereas Evelyn had been in the Service since 1972. On the other hand, Chloe's comment reflects the idea from Chapter 4 that a complete cessation of offending is not always the aim of probation, nor of rehabilitation. In a similar vein, Evelyn did not talk about offending when discussing what the offender might get out of being on probation.

The Relationship

Discussions about the worker-offender relationship between PWs and myself were common in both sites and it was clear during fieldwork that the relationship was considered key to probation practice in much the same that probation practice in earlier contexts also relied on the relationship. It is fair to say that Ali's comment that 'nobody is born bad' would be accepted as a

truism by the PWs with whom I spoke. Here, we can see evidence of one of Williams' (1995) key values of probation practice, that of a belief in people's ability to change. Moreover, this belief is conveyed to offenders through the formation of a relationship with the offender and the PW. The 'relationship' has been a core aspect of probation work since its inception, with Davies describing it as the 'probation officer's main instrument' (1969: 121). Burnett and McNeill offer the somewhat negative assessment that the 'one-to-one relationship has ceased to be a defining characteristic of probation work' (2005: 222). Whilst this may be the case at the level of policy, the same cannot be said of practitioners' understanding and descriptions of the way they work, as others have highlighted (Burnett, 1996; Rex, 1999). In identifying the point at which the relationship 'fell from grace', Burnett and McNeill highlight the changing nature of the relationship which moved from supportive to surveillant in nature to such an extent that 'an onlooker might conclude that probation staff go out of their way *not* to form a relationship with their supervisees' (2005: 224). However, they go on to show how the relationship began to reappear in policy with, for example, the National Offender Management Model which was based on the idea of a relationship between the offender and the officer (NPS 2005: 25). Burnett and McNeill's (2005) thorough analysis of how, and why, the relationship underwent a change from casework to control is important and suggests that, somewhere along the way, the relational element of probation practice may have been lost.

Although there has arguably been a revival in the importance of the relationship, questions are raised about the effect of the rapid roll-out of accredited programmes under the What Works agenda, especially in light of the argument that What Works has led to 'a neglect of case management skills and a lack of recognition of the need for skilled supervision' (Raynor and Maguire, 2006: 28). As Burnett and McNeill (2005) note, practitioners continued to consider the relationship important despite changes in policy. Concurring with this, PWs who had been in the Service prior to the seeming decline in the relationship in policy, argued that it had never gone away and, along with recently qualified PWs, considered the relationship to be of paramount importance in the context of rehabilitation. Indeed, Karen, who has been in the service for 17 years, went so far as to say that 'the relationship that [offenders] had with their probation officer was what helped them to stop offending' (RS1, PO, 21 Oct 2009) and Steve, a PO for 20 years, said that 'essentially the job is the same as it has always been – it's all to do with the relationship between the officer and the client' (RS1, 11 Nov 2009). How, then, do PWs define the 'relationship', and why do they aim to create and nurture it? Is there evidence of the move

towards the relationship as a tool of surveillance as discerned by Burnett and McNeill (2005) or is it more of the supportive kind seen during the 1960s and 70s and in the OMM?

The first thing to say about the relationship is that PWs considered it fundamental to their work and, specifically, to rehabilitation in the context of supervision. Thus, looking at the relationship in more detail sheds light not only on what the relationship *is* but contributes to the debate on the way in which rehabilitation is achieved:

[the relationship] is very, very important... (RS2, Imogen, PO, Interview)

...[the relationship is] at the heart of the rehabilitation process. (RS1, Chloe, PO, Interview)

...that's one of the fundamentals of this job – having a good relationship with your cases. (RS2, Keith, PSO, Interview)

...supervision is where the relationship is most evident. (RS2, PO, Evelyn, 13 July 2010)

Although the relationship is seen as critical to both supervision and rehabilitation, PWs said that creating a relationship was difficult to achieve for a variety of reasons. Firstly, PWs said that it was feasible for them to simply not 'get on' with a certain offender:

...sometimes you have personality clashes with people. (RS1, Neil, PO, Interview)

That PWs accept that they might not get on with offenders suggests the presence of a value which demands the recognition of offenders as individuals. Difficulties also stem from the fact that there are so many factors to a good relationship that achieving them all is unfeasible:

It is extraordinarily difficult – there are so many variables and it will be very rare that you get them all right... (RS1, Nicola, TM, Interview)

There are also structural factors that impinge on the creation of the relationship:

I commented that the offender management model is supposed to be about protecting the relationship between PWs and offenders with which Evelyn agreed, although she said that sometimes you just don't get on with offenders and so a move of officer is necessary but this is difficult in the context of the model. (RS2, PO, 13 July 2010)

Here we see a tension between PWs who want to treat offenders as people with whom they might or might not get on, and a policy that explicitly encourages the establishment of relationships regardless of normal social interaction.

What is the Relationship?

At the most superficial level the relationship is about getting to know one's offender. PWs place a great deal of emphasis on knowing offenders' partners, families, where they work and so on.

An extension of this involves establishing a 'connection' with them:

It is important to get to know them first, get them to talk about themselves first and not introduce the offence too early. It is important to have a chat about normal things and show them something about yourself as well – show them that you are normal- this helps them to relate to you more... (RS1, Isabel, PO, Interview)

I have heard comments before ... like 'you must earn £100,000 or you must live in a massive house'. I went on a home visit with a colleague and the guy we went to see had no heating and my colleague said that he also had no heating and the guy was shocked – it is about saying 'I am a person, I am not a probation robot'. That is a big thing about building up the relationship and breaking down barriers. (RS1, Mary, PO, Interview)

One of the most striking findings about the nature of the relationship is the widespread view that the relationship is not about being the offender's friend:

At the end of the day it is a professional relationship, we are not their friends. We're here [and] they're here because they've been told to come here by court, not because they choose to come here. (RS2, Frances, PO, Interview)

...it's not necessarily a friendly relationship. (RS1, Ben, PO, Interview)

...you are not there to be their mate or be their friend. (RS1, Felicity, PO, Interview)

I don't see myself as their friend. Some officers do play the friend part but I think that can come and bite you on the bum when you have to recall or breach but you need some kind of connection with each individual person. (RS1, Nora, PO, Interview)

All of this represents a remarkable contrast to the 'advise, assist and befriend' that underpinned probation practice up to the 1990s. Burnett and McNeill (2005) highlight a need to be specific about what to call the relationship and Frances's evocation of the '*professional* relationship' was the phrase that was used most widely by PWs. Indeed, the *professional* relationship was a recurring theme amongst discussions about the relationship and the concept is dependent on the interplay between the relationship and enforcement of court orders. To limit the damage done by the breach process, PWs say that they lay down boundaries to such an extent that boundaries have come to be a defining characteristic of the relationship. In turn, boundaries are 'about

confidentiality and building trust but also about making sure they know that confidence might need to be broken' (RS2, Monica, PO, Interview).

Monica's comment refers to trust, something that PWs considered key to a successful relationship. Trust, however, contains various connotations in this context. For example, Ursula argued that trust is important because offenders 'have often been let down by services for the whole of their life' (RS1, PO, Interview) and so it is about helping offenders improve their relationship with authority, and thus society more broadly. On the other hand, Nick saw trust as revolving around treating offenders as people in their own right and, perhaps more importantly, as adults who have responsibility over the way they act:

...keeping your part of the bargain – that is very important with this client group, that you don't patronise them, don't treat them like children or that they have done something massively wrong or needlessly trip them up. (RS1, Nick, PSO, Interview)

There is a desire for trust to flow in two directions: from the offender towards the PW, and vice versa. PWs find it hard to implicitly trust offenders from the outset but argue that once a relationship has been created trust is forthcoming. Importantly this can only come about when the offender trusts the PW. This is not seen as problematic, however, because PWs believe that they can encourage this process through the formation of a relationship:

...a lot of people come in with trust issues – they may have been let down by other people so it does take a while to build that up. (RS2, Daniel, PO, Interview)

Interestingly, one PW said she did not want her offenders to trust her because sometimes she has to break that trust:

I don't want people to trust me because sometimes I have to break trust and confidence ... I think it is more about respect than trust. (RS2, Frances, PO, Interview)

Trust is an interesting concept within the framework of late-modernity because trust is 'directly linked to achieving an early sense of ontological security' (Giddens, 1991b: 3). Thus, the creation of a trusting relationship between the officer and the offender might be seen to represent PWs' attempts to 'inoculate' the offender from potential threats and dangers that life contains.

Although Frances' comment seems to contradict previous statements, she points to an equally important aspect of the relationship: respect. For PWs, the relationship is the means through which respect is shown to offenders. However, it is a permutation of respect which demands offenders to be seen equally but not as equals:

...not as an equal 'cos ultimately we do have authority in our role – but I think that it is about not coming down heavy handed and being respectful towards them and showing them that you want to help them make changes in their life. (RS1, Mary, PO, Interview)

Moreover, being aware of this power relationship is part of showing respect:

...the PO is in the power seat but we should try not to use that too much 'cos then they won't listen. (RS2, Imogen, PO, Interview)

In turn, showing respect to offenders results in respect coming from the offender:

I think it is more about respect than trust, he knows that I am a decent PO and give him the opportunity for him to talk and be heard even if I don't do what he wants, if he feels that he has been listened to then he respects me more. (RS1, Frances, PO, Interview)

As Ursula (RS1, PO, Interview) pointed out, 'we call them offenders which says a lot, doesn't it?'. Thus there is a tension here; a core aspect of the professional relationship is one which demands PWs to treat offenders equally but PWs use language which labels offenders in a pejorative manner.

For Steve, gaining an offender's respect was key to the definition of a good relationship. In this interview excerpt, Steve was recalling his final supervision with an offender convicted of a terrorism related offence:

...his final comment to me as he was going out the door for the last time was 'when I first met you I couldn't stand what you represented but now I have a great deal of respect for you and I have benefitted from the work that we have done together.'
(RS1, Steve, PO, Interview)

Steve was clearly proud of the outcome to this period of supervision. Despite the fact that the offender was still in denial about his actions, Steve thought that a good relationship had been created and that the 'forming of a relationship with any type of person is sometimes more important and effective in bringing about change' (RS1, Steve, PO, Interview). Steve's comment reflects the deep-seated desire to create a 'positive' relationship as well as the firm belief in the power of that relationship to effect change, in much the same way that Williams (1995) argued that the relationship formed the basis of probation's core values.

Creating the Relationship

How PWs create the relationship is distinct from what the relationship is. PWs found it difficult to articulate exactly how they created a relationship with offenders:

JP: So, how do you build the relationship up?

Nick: I'm not sure how I do it, or even if I do it effectively... (RS1, PO, Interview)

JP: So how do you build [the relationship] up?

Imogen: To some extent it comes naturally... (RS2, PO, Interview)

Moreover, PWs do not always know when a good relationship has been established:

...one of my people – it was her last weekly appointment before going to monthly and I was out so Belinda saw her and Belinda said that she didn't seem to like seeing someone else and that suggests to me that we have built something up there 'cos she didn't like seeing someone else. (RS2, Daniel, PO, Interview)

In contrast Ben described in detail the way in which he creates a relationship with offenders:

You have to start the relationship with the client as set out almost like an agreed contract, you know, like a football contract: 'I'm here to support you, but you are part of the contract is to attend and to engage', and that contract breaks down, if either of us renege on that, you know; 'if you stop coming, if you stop engaging then the contract is broken.' If I am not providing my part of the bargain in terms of rehabilitative work then I've reneged on it as well so that relationship is based around those concepts really, almost a verbal agreement, contracted agreement. (RS1, Ben, PO, Interview)

PWs described how one has to 'go in slowly' when building a relationship with offenders, in recognition of the fact that they were asking offenders to talk about sensitive issues:

Margaret: If they don't know you, they'll just say fuck off – like [another PW], the other day – were you here that day?

JP: Yeah...

M: Well, he didn't know that guy and just went straight in and started asking him difficult questions. Well you have to give 'em time before asking that kind of thing. You need to go in softly. (RS1, PSO, Interview)

However, through analysis of the data collected through observation and interviews it is possible to identify certain behavioural and communicative techniques that PWs use to create and maintain trust, respect and boundaries, the key facets of a professional relationship. They are: empathy, honesty, reliability, consistency, and fairness. Nicola (RS1, TM, Interview) called these 'interpersonal skills' and argued that they have been neglected recently, especially in the context of the dominance of cognitive behaviouralism.

For PWs, empathising with offenders is about recognising where an offender has come from and offering help with the issues that they face. Honesty is partly to do with laying down boundaries and being clear about why a certain decision has, or might have to be made. In addition to this, however, PWs argue that honesty is a means of helping offenders overcome their distrust of the criminal justice system; they see themselves as being in a position to ameliorate some of the exclusionary and deleterious effects of a system which deals with a disproportionate number of people from certain sections in society (Mair and May, 1997).²² Although PWs have to be honest with offenders, they do not see honesty from the offender as a prerequisite to the existence of a good relationship. Rather, being honest *with* offenders is seen to create honesty *amongst* offenders.

Reliability is closely linked with honesty; that one does what one says one will do is paramount to the practice of probation supervision. In this sense the use of the relationship involves the use of pro-social modelling:

You have to be reliable. It is the same as any relationship with your offenders; you have to be reliable, you have to do what you say are going to do. I have known people who make appointments and then don't keep them. That is not appropriate. You have to have that authority, that ability to be a pro-social model to give them structure. (RS1, Karen, PO, Interview)

Interestingly, pro-social modelling is part of Robinson and Crow's (2009) emerging relational approach. PWs place considerable emphasis on treating offenders fairly. PWs use the concept of fairness to differentiate between offenders' differing needs, risks and styles of learning. The importance of fairness, as with motivation, appears to reflect the pervasiveness of the RNR model of practice, in particular the notion of responsivity. Indeed, being responsive might be considered crucial in the formation of a relationship, with Belinda describing how she takes people's cultural differences into account when working with particular groups:

JP: Can you articulate what the relationship is and how you create it?
Belinda: The lingo that is used is the responsivity approach so responding to people's needs- for example, we work with people from the traveller community with low literacy levels and so it is about being aware of that and being sensitive to it – it is about making people feel supported in that environment. (RS2, TPO, Interview)

The final aspect of building a relationship is to do with encouragement:

²² In much the same way that they use sentence recommendations in PSRs to overcome perceived punitiveness in sentencing.

It's not just about talking about the rubbish in people's lives it is also talking about the things that are going well – focusing on the positives is important as well. Also you have to have an interest in them as a person and not just in them as an offender. You need to recognise that they have other interests beyond the reason they are here. (RS2, Monica, PO, Interview)

Despite the criticism directed towards the correctional model of rehabilitation in respect of its focus on offenders' deficiencies, it is clear that this has not permeated the language of rehabilitation. Rather, when it comes to rehabilitation, PWs are much more inclined to focus on the positive aspects of an offender's, with Monica's comment arguably bearing a greater resemblance to the GLM than to RNR.

The Aims of the Relationship

PWs prefer the term *professional* relationship to the *casework* or *supervisory* relationship. This implies that the aims of the relationship are different to previous contexts. 'Professional', however, is distinctly nondescript and says very little about what it is supposed to achieve. It should be clear that the relationship is considered key to rehabilitation but how exactly does it contribute to this aim? Leading on from the idea that the most basic relationship is about knowing one's offender there was a common belief that having a relationship encourages offenders to listen to what you have to say, as was clear in the following comment during a conversation amongst three PWs in RS1:

...[PWs] can't [facilitate change] without the relationship because the offender won't accept what you're saying if they don't know you – okay, they may not agree with what you're saying but if you have had time to build up the relationship then they might at least appreciate that what you are saying has good intentions. (25 November 2009)

The relationship can be seen, somewhat crudely, as a means with which to encourage compliance amongst offenders. Monica believed that if you have a good relationship with an offender then they are more likely to 'like' you and that:

...the more they 'like' coming in and working with you then they are more likely to comply with the order and you can assist them in changing their behaviour. (RS2, PO, Interview)

There was an assumption that if a good relationship exists, offenders are more likely to listen to what you have to say:

...it is massively important to have a professional relationship 'cos otherwise they aren't gonna listen to you. (RS1, Mary, PO, Interview)

As well as making offenders more likely to listen, PWs argue that it is more likely to make them talk:

It helps because you make a lot of decision about people's lives that they won't like - things they don't want to do, want to hear and talking about things they don't want to talk about and so if the offender feels like they can tell you things and can trust you, that you're not judging them then that is beneficial. (RS1, Edward, PO, Interview)

Beyond simply making the offender more likely to listen and talk, the relationship can also be used as a mechanism with which to coax people toward the road to desistance:

...there are these rules and the vast majority of people we work with don't fit the norms of society which is why they are offending and you have to coax them along, give them some leeway, but not too much and understand where they are coming from to be able to get them through things - it is the relationship you can build up with somebody that gets that. They don't want to let you down so they will work for it. (RS1, Karen, Interview)

One example here is the way in which Daniel described the support he offers his offenders when doing programmes:

If that relationship wasn't there then it wouldn't happen; the programmes are really hard work - IDAP is a nightmare, I am so happy that I am not on one of them. They are emotionally battering, they tear people to shreds and without that 'you can get through this' attitude then I don't think it would work. (RS2, Daniel, PO, Interview)

It is possible to argue that the nature of the relationship as defined by PWs means they are contributing towards the development of normative compliance in the form of altered beliefs, attachments and perceptions of legitimacy (Bottoms, 2002; McNeill, 2006). Moreover, one can see the rehabilitative potential of the relationship in the context of Roberts' (2004) argument that when offenders are supported by a PW during a programme the offender is much more likely to be able to apply what they have learned in the group setting to life outside the probation office.

Conclusion

During discussions with PWs after supervision sessions it was clear that some PWs felt a sense of insecurity about their practice. For example, PWs would ask me how I thought they had dealt with a particular situation. PWs were aware of the fact that their powers are limited by resources and rules. This meant that PWs were sometimes forced to work with people in a superficial way:

...they just say hello, goodbye, are there any changes? That is pointless but

sometimes you have to work like that. If the assessment is that they are low harm and reoffending then you have to match your resources but if the public knew that was supervision then they wouldn't be happy. (RS2, Natalie, PO, Interview)

This might be seen as a reflection of two distinct aspects of late-modernity. Firstly, it can be seen as a manifestation of Garland's (1996) thesis concerning states accepting their limits in terms of controlling crime. Secondly, it might be a result of the decline of the professional status afforded probation officers. I identified the source of this insecurity in the way supervision has moved from being a rehabilitative exercise to one which is primarily about case management. At times I sensed that PWs felt impotent to act and that this impotence came from a lack of resources, or a lack of confidence in their own practice. This occurred when they were unable to help with problems that were related to broader social and economic structures such as alcohol and drug use, accredited programmes or accommodation:

Keith said that [the alcohol worker] is the expert – he is the alcohol counsellor so it is Jim's job to make sure that the client understands what he's supposed to be doing. (RS1, PSO, 27 October 2009)

Ben said that [the tutor on the sex offender programme] is the expert and very experienced and so they should trust his judgment. (RS1, PO, 3 February 2010)

This also occurred when PWs were limited by managerialist controls on their discretion. Having chastised an offender for driving under the influence of cannabis, I asked a PW what he intended to do about it. His reply illustrates the way in which the criminal justice system (such as the inability of the police to apprehend all offenders or the rules forbidding PWs from restraining an offender) leads to a feeling of powerlessness. Moreover, because the offender's previous PW had left *and* he was only being seen monthly to comply with national standards meant that the PW was poorly equipped to exert any influence over the offender in terms of changing his behaviour. That none of these factors have anything to do with rehabilitation, but more to do with managerialist pressure and changes outside the offender's and PW's control, reduces the utility of supervision as a rehabilitative tool:

'What can I do?', he asked rhetorically. I suggested that he ring the police but he said they won't catch him and he can't physically restrain him. I asked him what he would do with the offender in respect of him denying the offence. 'I can't do anything – he doesn't give a shit and I will only be seeing him four times anyway.' (RS2, Evan, TPO, 23 June 2010)

It has been argued that PWs have been de-professionalised (Fitzgibbon, 2008). This has partly occurred through the changes in training, as well as through the increasingly technical and

managerialist means of supervising offenders. My initial interpretation of this aspect of the supervisory process was that PWs appeared to feel most de-professionalised in the area of delivering specialist support to offenders and led me to question how exactly it was that PWs' hope in the potential of the relationship was sustained, especially in light of data which suggested that they were unable to deal with the problems they saw as the causes of crime. Following discussions with PWs in RS1 as part of my feedback session, PWs informed me that rather than seeing this as evidence of de-professionalisation, it was a positive aspect of their practice. They described how they were encouraged to seek advice from experts and that their niche was the case management of offenders as opposed to targeting the specific problems that the offenders happened to present. They argued that their role was to provide holistic support, but that they were not a 'jack-of-all-trades'. They admitted that this pressure was partly to do with cost-saving but argued that value could be found in this way of working as it enabled offenders to receive support following the end of an Order or Licence.

It is clear that no one theory of rehabilitation sufficiently describes the way in which PWs rehabilitate offenders. Rather, they do so via interventions that are borrowed from a variety of policy contexts and theories. This includes seeing reintegrative and resettlement based rehabilitation as a pre-requisite to the more normative rehabilitation that they argue is achieved through the formation of a professional relationship. As we saw in Chapter 4, PWs' aims are sometimes in tensions with the official aims of the 'system' which are related to offender compliance, reductions in reoffending and meeting internal key performance indicators. PWs, on the other hand, focus on increasing offenders' human and social capital and measure this, slightly problematically, through reference to long-term absence or an ineffable change in offenders' behaviour and/or attitudes. These underlying aims and assumptions fall within Ward and Maruna's (2007) first element of a theory of rehabilitation.

PWs see crime as a result of both social and environmental factors, which contribute to poor thinking skills. In this sense, PWs' practice and values are aligned with Rigakos' (1999: 145) claim that 'the compartmentalizing of risk identities is actually a spuriously correlated constellation of traits that, in reality, hinge upon the actual predictors of socioeconomic status, ethnicity, gender and age'. Whilst PWs agree that crime is often committed as a result of poor decision-making, they also believe that society should take into account the factors that led the offender to make those poor decisions in the first place. Their aetiology of crime is neo-classical in nature:

In the neo-classical scheme, man is still held responsible for his actions but certain minor reservations are made. The past history and the present situation of the actor are held to affect his likelihood to reform. In other words, the actor is no longer the isolated, atomistic, rational man of pure classicism. (Taylor et al., 1973: 8)

Indeed, Taylor et al. (1973) argue that this revised form of classicism ‘created an entrée for the non-legal expert—particularly the psychiatrists and, later, the social workers—into the courts’ (1973: 9), perhaps explaining this belief. A neo-classical approach in late-modernity is problematic. Young (1999) argues that a neo-classical approach to crime strives for the total elimination of crime whereas actuarial (or late-modern) criminology seeks damage limitation and harm minimisation. The PWs I observed were clearly more at ease with the latter, despite the neo-classicism underpinning their ideas on the aetiology of crime. That PWs are no longer striving for elimination is partly because a late-modern context discourages striving for *telos* or preordained destiny (Bauman, 2000: 31). It might also be seen as a consequence of a managerialist probation service which does not necessarily seek to know what really happens to an offender relying instead on knowing that an offender completed their Order or that an OASys review was completed on time, for example. Importantly, however, this ambiguity allows a PW to create for themselves their own aims, values and interventions when trying to rehabilitate offenders.

A clear characteristic of supervision sessions is the prominence of governmental guidance on the 7/9 pathways to reducing reoffending. Alongside this, however, is the evidence that much of the work that actually targets these issues is referred to external agencies and experts. In the context of probation supervision the relationship is considered to be the intervention implication of rehabilitation in much the same way that Davies (1969) described the relationship as the officers’ key instrument. However, there is an explicit eschewing of the paternalistic nature of probation seen in the 1960s and the offer of unconditional help, as proposed in the 1970s, is most evident amongst POs who were trained in that era.

PWs use the relationship as a tool to convey their belief in an offender’s ability to change. Where PWs do not have this belief (either because the offender lacks motivation, or they do not have the resources with which to facilitate change) they revert to using supervision as a monitoring tool. When the relationship is deployed, PWs have a strong belief in its potential and believe that empathy, reliability, honesty, and positivity will help suitably motivated offenders to desist from offending. This links closely with a desistance based theory of rehabilitation where it is argued

that better relationships are instrumental in encouraging desistance (McNeill, 2006). Laub and Sampson's research suggests that once people have 'something to lose', they are more likely to 'go straight' (2001). Arguably, a relationship with a PW might encourage this process. The PWs in this study explained how a 'good' relationship encourages more open discussions amongst offenders and improves the chances of them complying with their Orders.

It is possible that the creation of a relationship can result in compliance with social norms as opposed to technical compliance with probation's rules. Whilst the rehabilitative work of PWs might be seen to be based on the 'bizarre' assumption that a combination of surveillance and guidance will help an offender go 'straight' (Maloney et al., 2001: 24) it is useful to view this practice through the lens of legitimacy. The way in which PWs describe the relationship suggests that they are working towards a desistance paradigm of probation practice. In her study of 60 probationers Rex (1999) found that offenders were more likely to desist if their officer was personal, committed and showed positivity and fairness. In turn, this appeared to create a feeling of responsibility and loyalty to the officer. McNeill (2006: 56, original emphasis) takes Rex's finding and postulates that relationships which consist of these virtues renders 'the formal authority conferred on the worker by the court ... *legitimate* in the mind of the offender.' Tyler's (1990) work on why people obey the law alerts us to the possibility of offenders being more likely to comply (both normatively and technically) if they perceive their sentence, and the way in which they are dealt, as legitimate. Indeed, PWs tried to be flexible in their approach, were aware of the need to be honest and open with offenders, suggesting that they are all (perhaps implicitly as opposed to explicitly) well aware of the importance of procedural justice in achieving legitimacy for offenders. Moreover, that PWs believed in the principle of allowing offenders to define their needs for themselves and being open to negotiate what help an offender requires points to the presence of legitimacy as a dialogic process in which legitimacy is created via a process of negotiation between both parties (Bottoms and Tankebe, 2012). Although PWs were not explicit about enhancing the legitimacy of the probation service or criminal justice system from the perspective of the offender, it would appear that this is one of the consequences of creating a positive relationship with offenders for which PWs showed such enthusiasm. Thus, PWs do not see it as their role to help people with alcohol issues, or accommodation issues. Rather, rehabilitation is a process of re-legitimation for offenders. This goes some way to addressing the problems that were raised in Chapter 4. Legitimacy is hard to define and measure. If we accept that PWs are pursuing increased legitimacy, then it becomes clear why they also find

it hard to measure their success. Moreover, it explains why the 'system' is measured primarily through tangible targets and performance indicators. However there is often more than one 'audience' for a legitimate criminal justice system. It is not only offenders who need to feel that probation is legitimate and the next chapter discusses the relationship between PWs and other stakeholders such as the public, local management, the media, and victims.

No one 'theory' or model dominates PWs' thinking when it comes to rehabilitation. Rather, they draw on a variety of ideas which were discussed at the beginning of this chapter. Perhaps unsurprisingly in the context of 'liquid modernity' (Bauman 2000), PWs feel able to pick and choose what kind of rehabilitation they attempt to accomplish. That said, there is clear evidence of the importance of several types of rehabilitation. For example, PWs see resettlement as a prerequisite to the more substantive rehabilitation that comes about following the implementation of correctional-type practice or desistance based work, and which they placed value on in Chapter 4. An important finding to come from this chapter revolves around the importance of 'responsibilisation' (Garland, 2001; O'Malley, 1992) and motivation (Day, Casey, Ward, et al., 2010).

A key finding of this chapter revolves around the relationship. All PWs talked about the importance of the relationship. However, they also struggled to define and describe the relationship with any level of complexity. It might be argued that the relationship, far from becoming irrelevant in probation practice as was seen in the late 1990s (Burnett & McNeill, 2005), has become reified. That said, this chapter has served to add depth to our current understanding of what constitutes the relationship in current probation practice. Far from being a 'woolly' concept, the relationship is defined by professionalism and boundaries and, in some cases, is seen to be contractual. Again, the ideal of professionalism pervades PWs' descriptions of this kind of work. The relationship is created through the use of a variety of skills and qualities such as empathy, honesty and fairness and depends upon the use of pro-social modelling. The chapter also sheds light on why PWs place considerable emphasis on the relationship, arguing that it engenders mutual respect, improved community and honesty between offender and worker.

Chapter 7: Lines of Accountability

The Probation of Offenders Act 1907 designated probation officers as ‘officers of the court’, a situation which persisted until the implementation of the Criminal Justice and Courts Services Act 2000 and the advent of the National Probation Service. Since then, policy has shifted accountability towards line managers, and that accountability then moves up the chain to senior management and NOMS (Hancock, 2007). Many of the changes in accountability have been implemented through the greater use of managerialism (Morgan, 2007). However, it would be naïve to think that PWs feel solely accountable to government. Rather PWs feel accountable to various stakeholders and, in turn, each stakeholder holds PWs to account via a different mechanism. This chapter deals with the issue of accountability and concludes by outlining a model of accountability in probation. As the following comment illustrates, PWs (particularly POs who had been in the service for several years) had picked up on the shift identified above:

I have been thinking about this [to whom we are accountable] recently – historically the courts have always taken precedence ‘cos they give us our work so if we aren’t satisfying them, they don’t impose sentences so we have to do that. There is a growing emphasis on meeting the needs of the public and the offender and that is the right way to go – I think there is a tendency for whoever shouts the loudest to get the best service but now we are looking at the bigger picture... about how right that is. (RS1, Una, PM, Interview)

Una’s comment about who speaks the loudest is important. When asked to whom PWs felt accountable participants cited various elements of the ‘system’ in the first instance. This ranged from themselves, to colleagues, line managers, the Trust, NOMS, and the government. In Chapter 4, I argued that PWs see public protection as the overarching and legitimate aim of the Service. Una commented further that ‘there is a difference between who the organisation serves and who the practitioners serve ‘cos I think that PWs prioritise offenders and not so often the victims’ (RS1, PM, Interview). However, the majority of PWs did not cite the public when first asked about accountability. Although the stakeholder that a PW cites first in response to this question might not be the stakeholder to whom they feel most accountable, it says something about the issue of accountability, if only that this stakeholder ‘shouts the loudest’. Table 3 shows which stakeholder PWs cited first in response to the question, ‘Who do you feel accountable to?’ More PWs felt accountable to their line managers and the local Trust, fitting with May’s findings on this issue (1991: 91). Interestingly, May (1991) did not ask his respondents about accountability towards the general public, perhaps highlighting a shift that is related to the recent move towards public protection (see Chapter 2). The most striking finding in the responses

presented in Table 2 is the lack of offender and/or victim (although one might presume that ‘everyone’ includes these two groups).

Table 2: Number of PWs who cited a particular stakeholder first, in response to the question, ‘Who do you feel accountable to?’

Stakeholder	Number
Line Manager	9
The General Public	6
Everyone	5
Courts	4
Myself	3
Local Management/Trust	3
NOMS/Government	1

Most PWs feel strong levels of accountability to groups who are above them in the hierarchy: line managers, the public, NOMS and the government. With the exception of the courts and ‘myself’, all other stakeholders that were mentioned first are management related. Table 2 is, however, simplistic. It was clear in interviews and during observation that PWs felt some kind of accountability to all stakeholders, leading to a mixed picture of accountability. In fact, all PWs elaborated on their first answer to such an extent that it could be argued that all PWs feel, in some way, accountable to ‘everyone’. It is thus important to unpick who PWs feel accountable to, and how accountability is achieved in that context. I have identified six main groups of stakeholders from the answers given to the question ‘who do you feel accountable to?/who are you accountable to?’ These are: local managers/the Trust, offenders, NOMS/the government, the public, themselves, and the courts. For each of these stakeholder exists a main ‘mode of accountability’ which is explored in detail below.

Accountability to Local Managers/The Trust

PWs saw risk assessments as a critical means of being accountable to local management. This was achieved through the process of managers ‘signing off’ OASys reports and PSRs in both research sites. Although this was partly to ensure they were done on time, it was also closely related to quality assurance. For example, Nick described how his manager had brought up the issue of OASys in supervision and encouraged him to improve on his practice because they were satisfactory as opposed to excellent (RS1, PSO, Interview). In addition, guidance was issued in team meetings on how the quality of OASys reports might be improved, several participants

were OASys champions (see HM Inspectorate of Probation (2010) for more information on OASys champions) and others were involved in auditing peers' reports. Although demands regarding improving the quality of reports may have originated centrally (i.e. in NOMS) there was a qualitative difference in the way in which PWs talked about these developments. For example, one manager in a team meeting referred to government-set targets passively: 'they have asked us to do this' whereas improving the quality of work was talked about actively: 'we want you to improve your assessments and risk management plans' (RS1, TM, 11 November 2009). It was clear amongst discussions between PWs and managers that there was a greater focus on the utility of a *good* risk assessment as opposed to a *timely* one.

This local faith in risk assessments was reiterated by PWs when they talked about the need to do good risk assessments and risk management plans. However, risk assessments were often described in terms of 'covering one's back'. Bill (RS2, PSO, 24 May 2010) described how 'risk assessments are used for finger pointing' if a Serious Further Offence (SFO) occurs. I observed this in RS2 when Belinda found out that one of her offenders had been accused of stabbing someone. Initially, Belinda's main concern was to check that the risk assessment had been done rigorously, that she had done the review within the right timeframe, and that nothing had been missed at the pre-sentence stage. Whilst Belinda checked the files, her colleagues sought to work out whether the offence which the offender was being accused of would count as an SFO. Only once Belinda knew the answer to this question, did Belinda turn to me and say, 'Look at me, there's someone in hospital and all I'm bothered about is whether it's an SFO or not' (RS2, TPO, 8 June 2010). There was widespread recognition that there was a need to 'cover one's back'. Evelyn described how 'this isn't a bad thing necessarily, in this climate' before adding, 'not a bad thing for us to do, not that is a good thing to do generally' (RS2, Evelyn, PO, 15 July 2010).

Since risk assessments were considered a key means by which PWs felt accountable to local management, it is necessary to discuss attitudes towards the tools which help them do this in more detail. OGRS and OASys were by the far the most well used risk tools in both research sites. Although there was occasional mention of tools for certain offenders such as SARA or Risk Matrix 2000 (which are aimed at spousal assault and sexual offence perpetrators, respectively) these were in a clear minority. Attitudes towards both OGRS and OASys were varied and ranged from the generally supportive to the outright oppositional.

PWs argued that risk assessment tools ‘focused the mind’, ensured that key risk factors were not neglected and gave a guide in terms of assigning an offender to a Tier. All PWs were confident that risk assessment tools should be used as a guide. 16 of the 32 PWs I interviewed believed that OGRS was roughly correct in most cases and 14 said that they were confident to ignore the score and make their own recommendations if they disagreed with the tool.²³ Importantly, those in the latter group stressed the need to be able to defend oneself if deviating from the structured risk assessment. It is not possible to infer from this whether PWs thought risk assessment tools were generally accurate because the tools themselves are accurate at predicting risk, or whether PWs’ own assessments of risk have been shaped by the tools themselves. However, it would be fair to make the broad statement that the PWs who were more circumspect about the accuracy of the tools were also more likely to be experienced probation officers who had been practicing before the introduction of such risk technologies (for example, Ursula, Karen and Nicola, all of whom had been in the Service for more than 20 years, were the most confident in asserting that they used their professional judgement to override the scores produced by OGRS). This could suggest that more recently qualified PWs have been shaped by risk assessment tools to such an extent that their own professional judgement is becoming synonymous with that of the technologies. This research cannot test such a hypothesis but this does suggest an area for future research. Nevertheless, the general support for risk assessment tools as a concept contrasts sharply with concerns raised by academics and practitioners with respect to the tools’ impact on professional judgement (Mair, 2001; Mair et al., 2006). In spite of this, PWs raised objections to OASys on two counts. Firstly, they complained regularly that it took too long to complete and, secondly, some PWs, Karen in particular, saw OASys primarily as a tool which NOMS used to create statistics that are then used ‘to beat us round the head with’ (RS1, PO, Interview).

There was a distinct lack of awareness about how these tools worked and what the results meant. For example, discussions amongst PWs indicated a lack of clarity as to what counted as a first conviction, and whether cautions or warnings should count when calculating an OGRS score. This particular confusion possibly arose from the introduction of OGRS3 which, for the first time, took these sanctions into account. I noted that in RS1 it was often Case Administrators who completed OGRS and then inputted the score into OASys or a PSR pro-forma, yet they

²³ It should be noted that I did not ask every interviewee about the perceived accuracy of OGRS. These opinions came up during discussions about the tools more broadly and so this does not mean that the remaining 16 interviewees thought that OGRS was inaccurate.

seemed not to have been trained to do so properly – they were often the ones involved in such discussions. There were many instances in which PWs did not know what a score actually meant in practice – this was particularly the case for OGRS with several conversations highlighting confusion as to what a score ‘meant’:

Frances ... asked Kay ... what classes as high, low or medium in OGRS. Kay didn’t know so Frances looked it up. (RS1, 26 October 2009)

Karen (RS1, PO, 24 November 2009) was confused by the fact that OGRS produced a higher score for an offender’s general offending as opposed to violent offending because he had a history of violent crime. I explained that ‘general offending’ is broader and so includes violent crime but the PW found this difficult to appreciate. Moreover, there was disagreement amongst PWs about the weight given to risk and need in OASys. During interviews I asked, slightly provocatively, whether the focus on risk in OASys and the mantra of ‘resources following risk’ was an effective way of allocating resources. In response, there was an equal split between PWs who described the way in which risk elides need and PWs who were adamant in their assertion that OASys did take need into account.

Risk assessment tools were seen as making practice more objective, standardised, and evidence-based:

Everything has to be *evidenced* – everything is *evidenced* ... if you saw reports from years ago it would say ‘in my opinion’ or ‘my assessment of this is...’ whereas now OASys has taken us away from that. You might see the line but the assessment is based on what OASys is saying...’ (RS1, Ursula, PO, Interview)

Evelyn thinks that these tools have their uses – in that they provide an objective truth, ... ‘if they are done correctly’, she said, ‘they provide a useful counterpoint to the subjective/professional truth that an offender manager creates.’ (RS2, PO, 9 July 2010)

On the other hand, widespread use of risk assessment tools means that offenders are assessed to the extent that:

...we spend so much time planning how to manage someone’s risk that we have no time actually managing the risk! The focus is very much on doing that risk assessment, [ensuring] that [it] is on time and that it covers everything, so it’s not the best thing. (RS1, Mary, PO, Interview)

Moreover, the tools encouraged PWs to place considerable emphasis on the numerical score that tools create, to the extent that numerical risk scores are seen as the only way of measuring risk

(despite widespread criticism of OGRS in particular and the way that the numbers are seen as arbitrary):

Some PWs discussed SARA and complained that they ‘didn’t even know the point of SARA, that it just covers the same things as OASys and it doesn’t even come out with a score... it’s just yes or no answers and then low, medium or high risk just like OASys.’ (RS1, PO, 10 November 2009)

OASys was considered by PWs to be a useful, if cumbersome, tool for assessing risk. However, PWs believed that risk itself is a matter of perception and that, despite the aim of risk tools being to standardize and objectivise risk, an element of subjectivity remains. As Bill (RS2, PSO, 24 May 2010) pointed out, ‘Officers [in RS2] probably put less risky people into Tier 4 than other, big city areas, because risk is relative to what you know and what other offenders do.’ As described in Chapter 2, the risk society is not necessarily to do with society being more risky but that people are becoming more sensitised to risk and thus perceive risks to be greater. In conjunction with the data that suggest PWs use professional judgment in addition to standardised risk tools to assess risk, we can see ways in which the inherently subjective nature of risk is not necessarily overcome through the use of such tools. Perhaps more interestingly, the data suggest that professional judgement is the key determinant in assessing risk.

Returning to the idea that risk assessments are the main mode of accountability to local management, this discussion raises several issues. Although risk assessment is seen as key to their work, the way in which they are held to account via risk assessment is not wholly adequate. For example, questions must be raised about PWs being held to account via mechanisms which they do not fully understand. Moreover, the PWs with whom I spoke and the practice that I observed suggests that risk has not become the ‘dominant *raison d’être* of the Service,’ (Kemshall, 1998: 1) but that risk runs alongside need, welfare and rehabilitation. Rather, it was clear that some PWs believed that the presence of risk assessment tools meant that rehabilitation remained important because of the way in which OASys focuses energies towards this aspect of offenders’ lives. Thus it might be the case, as Hannah-Moffat (2005) argues, that risk and rehabilitation are seen by PWs as complementary, as opposed to competing, concepts within a late-modern frame. This opens up the possibility for using these concepts as alternative ways of holding PWs to account.

The existence of risk assessments allows for the possibility of resistance. However, it is important not to conflate resistance with discretion. OASys takes dynamic risk factors into account, allowing PWs to influence the score with their own professional knowledge and

experience. Thus, it is possible to appear resistant when the intention is to act professionally. However, it might be argued that the examples provided above are examples of PWs using discretion because PWs believed that their professional judgement was more accurate than the risk assessment tool. However, I did observe active resistance to risk assessment tools, predominantly when PWs made use of risk assessment tools in the context of other managerialist limitations.

Accredited programmes have strict eligibility requirements which are enforced to maintain a programme's integrity. There is a particular focus on ensuring that offenders' profiles on the programme adhere to the risks and needs that the programme is targeting. This means that an offender who has an OGRS score of 50, for example, might not be eligible for a programme which a PW identifies as potentially beneficial through the exercise of professional judgement. If this occurs, PWs can decide to deliver sections of the programme in a one-to-one setting although this is not always feasible or safe if an offender does not have the support networks that are required to cope with the issues that are raised as part of this work as Natalie explained in RS1 (PO, 20 July 2010). Alternatively, PWs (for example, RS2, Natalie, PO, 8 June 2010) were able to contact the programme tutor and argue their case for a flexible approach to the programme's eligibility criteria. Whilst PWs had success in this regard, this option can lead to a situation in which a PW has to justify their decision during an audit at a later date and so they expressed a reluctance to do so (RS2, PO, Daniel, 26 July 2010). An alternative means of circumventing this rigidity was to refer offenders to a different programme altogether:

Mary said she was going to propose ASRO [Addressing Substance Related Offending] but cannot because his OGRS is only 47 and it has to be 50 for ASRO. I asked he what she planned to do instead and she explained that she had changed it to TSP [Thinking Skills Programme] which has a minimum of 41. (RS1, PO, 19 January 2010)

Mary elaborated on this following my questioning and it was clear that although she believed ASRO was the correct course of action for this particular offender, the OGRS score was the determining factor in whether she could pursue the referral. Ultimately, she argued that there was 'no point' in going ahead, especially as there was a suitable, if less offence-specific, alternative. PWs also described the way in which OASys can be 'jiggled' with in order to get the 'right' score (RS2, Belinda, TPO, 26 July 2010). Whilst this means an offender might have access to a programme that they otherwise would not have, it can have wider ramifications when one considers the role risk plays in sentencing (for example, offenders that are designated dangerous

under the CJA 2003 and CJIA 2008 become eligible for indeterminate and extended sentences). Thus, this rigidity in eligibility requirements of accredited programmes inhibits the appropriate use of professional judgment. There is a tension here between the evidence on which accredited programmes are based, where it is alleged that the programme will only be effective with offenders who pose a certain level or type of risk, and a PW's professional judgement which suggests otherwise. It was clear during fieldwork that the eligibility requirements in conjunction with processes that require PWs to justify decisions more than once meant that PWs were unable to make use of their own judgement, despite risk assessment tools being intended to be guides as opposed to prescriptions. Despite these concerns, it was clear that accountability to local management was channelled through the use of risk assessment tools and there was considerable emphasis placed on them as a means of PWs proving to managers that they were working appropriately.

Accountability to Offenders

Accountability to offenders was commonly rephrased by PWs in interview as having a 'responsibility' to them. In turn, they couched this responsibility in terms of making sure that they do things when they are supposed to and making sure that they meet their needs:

JP: And how about the individual client? Are you accountable to them?

Ursula: I think, in the sense that we have to provide a service, so that when they are in prison we have to try and have contact with them whether that's by visiting or by video conference. And we should be attending their sentencing planning board and trying to get them to do programmes or work which we feel will help them in the future and then working with housing providers and people like that. (RS1, PO, Interview)

In this sense, responsibility, or accountability, to offenders appears to have more in common with the way in which PWs described the importance of reliability when it comes to creating a professional worker-offender relationship. Thus, being accountable to offenders through the building of the relationship might be seen as the way in which PWs feel accountable to offenders. Importantly, this is not necessarily about meeting targets or doing risk assessments. Rather, it concerns being responsive to offenders' needs and their way of life. Accountability to offenders is informal in nature; as long as a PW believes they are working in the broader interests of the offender, accountability should be achieved. However, several factors work against this. The previous chapter outlined some of the problems faced by PWs when trying to rehabilitate offenders, particularly problems related to motivating offenders. However, there are structural

limits to the creation and sustainability of a relationship which directly impacts on this kind of accountability.

The first of these relates to the long-standing issue of care and control in the Probation Service. This revolves around whether probation staff can effectively help people whilst also coercing them to behave in certain ways (cf. Haxby, 1978). Maintaining a relationship with offenders during and after a breach was considered difficult but ultimately feasible. In response to questions about how a relationship is 'mended' after breach, PWs argued that it was imperative to be honest in terms of what PWs expected from offenders and that as long as offenders understood this, any damage that might be caused could be repaired. Despite PWs arguing that they were always open and fair with offenders so that their decisions would be perceived as legitimate, there is evidence to suggest that this does not always occur (Digard, 2010). Moreover, there are circumstances in which PWs cannot be open with offenders if informing them about a decision would put a victim at risk, for example. Although PWs did not talk explicitly about the difficulty of having to balance care and control, it was clear that it had an impact on the formation of a relationship. Moreover, one could argue that these structural limitations on the creation of the relationship impact on the effectiveness of the relationship as a mode of accountability. If we look again to Tyler's (1990) work on legitimacy we can discern a potentially concerning development. Tyler (1990) argues that people are more likely to obey the law if they perceive those who enforce the rules as legitimate. This raises the question; do the structural limitations on the creation of a constructive relationship which, in some cases, damage that relationship undermine the usefulness of the relationship as a means of offenders holding PWs to account, and raises the possibility, or even necessity, of ensuring clearer lines of accountability between the offender and the PW.

Accountability to NOMS/The Government

PWs felt accountable to NOMS and the government through targets, specifically those related to timeliness. Over recent years, managerialism has been seen by some as a pejorative term, but PWs do not wholly subscribe to this view. For example, the PWs who worked in the Service during the 1970s and 1980s argued that the introduction of SNOP (Home Office, 1984) and national standards (Home Office, 1992) were seen as necessary:

...[when I started] there was so much fluctuation and differentiation in how different people delivered the job. National standards brought in some equity – that was the major thing – they made it so that the people were given the same guidelines

so it wasn't down to individual officers. That improved practice no end ... so if [offenders] didn't get on with their officers there was no room for people to be discriminatory – it wasn't widespread but it happened. (RS2, Evelyn, PO, Interview)

For Evelyn, national standards, 'embodied good practice', a view that was common amongst PWs in both research sites. Good practice in this sense is not only about seeing offenders at regular intervals or doing court reports on time, but it is more broadly related to standardisation, considered a positive development:

Frances asked me what I had observed so far and whether I had seen many differences between how people worked. I said that I had not seen very much variation. She was surprised but thought that it was good because it meant that 'we're doing something right, I suppose.' (RS1, PO, 11 December 2009)

Frances's comment suggests that the standardisation that managerialism intends to achieve has been internalised. However, it stands in contrast to the way in which PWs took time to stress to me that their work is focused on the individual, that work must be tailored to their needs and risk profile, and that this is something which demands flexibility. Whilst it is the case that a process can be standardised but responsive to individuals' needs, the fact that supervision sessions followed such similar patterns suggests that it is the content of rehabilitative work that has also been standardised extensively. Nevertheless, there was a pragmatic acceptance that targets have to be 'done' in order to get paid, be accountable and justify the service's existence (indeed, for the same reasons that casework supervision was introduced in the 1950s, and the spread of managerialism since the 1980s, as discussed in Chapter 2):

[Targets] are an integral part of our day-to-day working life – they are there for a reason and I can see why they are there. I have nothing against national standards 'cos there needs to be things in place to make sure things get done and without them then it would be chaotic – it helps me having national standards 'cos it means I know what to do and when to do it... (RS2, TPO, Belinda, Interview)

However, Belinda followed this comment up with:

There are problems with it 'cos things need to be implemented such as codes and authorised absences and disability scores and so many things get added on so you lose track as to whether you have done it and then you get told off for missing it when you didn't even know about it... but in regards to standards, whatever job you have – you have to accept that there is a process to follow. (RS2, TPO, Interview)

Targets are a significant aspect of probation work; targets were commented on by all PWs during interviews and was a common theme during observation. Daniel offered the following assessment of how targets feature:

Targets are like the coat hanger – something to hang everything off... It becomes automatic to do the targets – you just get on with it and then do the rest of the stuff. Targets are good ‘cos they make you do certain things – they ensure you see the higher risk clients regularly – you can’t let them drop off. (RS2, PO, 26 July 2010)

Daniel went on to describe, in interview, the way in which the Service is always working towards achieving targets:

Targets writ large. If you look at my desk the thing that is sat in the front of my keyboard is when my OASys [reviews] are due. It is always there and I am always looking at it. (RS2, PO, Interview)

This is not altogether negative. As already inferred, targets are considered to have positive attributes. However, when we look more closely at PWs’ attitudes towards targets, tensions begin to appear. PWs questioned the usefulness of targets which are overwhelmingly quantitative in nature and fail to take quality or an individual’s circumstances into account (see the discussion in Chapter 4). Whilst this is important, PWs also feel able to circumvent this impact of targets by focusing on the relationship that they create with offenders and by ‘carving’ rehabilitation into their work with offenders (RS1, Chloe, PO, 11 December 2009). However, targets have come to take on a threatening nature for PWs. When discussing targets in interviews in RS1, four PWs highlighted the possibility of redundancies and the impact of this on their attitude towards targets:

When we have our appraisals we have certain targets like 90% of Tier 4 ISPs [Initial Sentencing Plans] to be done on time and that sort of thing. I am more aware of those and try and hit those at all costs ‘cos that impacts on me and my future in the probation service, particularly with possible redundancies on the horizon (RS1, Mary, PO, Interview)

However, PWs argued that they have little influence over targets, particularly those related to compliance:

You can only hit targets if they’re in your control; whether a client comes in or not is not in our control. I always hit my OASys targets; I do ‘em in advance and then, click, and it’s done. Some people complain about it but I don’t, I just get on with it. But with clients... apart from dragging them in from court, what can you do? (RS1, Margaret, PSO, Interview)

I have no idea what my completion rates are; I don't know whether I am lucky, or really good, but I always seem to get by alright. (RS1, Frances, PO, Interview)

Bill (RS2, PSO, 24 May 2010) believed that targets ‘encourage people to resort to the minimum which helps them to think that they are doing a good job – if they have hit the target, then they [think they] have done a good job’. I observed this on regular occasions during observation:

Ali was on the phone to someone who had been breached for not going to UPW: you need to do the minimum amount set by the court of one day per week. (RS1, PSO, 2 February 2010)

Keith had offered me another opportunity to observe a supervision session at 3pm. At 3.30 I asked him whether the offender was likely turn up. He replied, ‘I don’t know if she’ll come but it doesn’t really matter’. I looked surprised and he explained that because she was ‘a Tier 1 offender’, she only actually had to see her OM three times during the Order and because Keith had been seeing her monthly she had already fulfilled her national standards. (RS1, PSO, 27 October 2009)

Keith went on to say that as long as the offender provided him with a ‘half reasonable excuse’, he would allow this absence. In this way, PWs use targets to legitimate their own work despite the issues that so many of them raised. The three PWs who raised this issue (interestingly, all of whom had come to probation from the police (Nick), prisons (Neil) or the military (Bill,)) all said that their work suffered or they were forced to work extra hours because they did work to minimum standards (as opposed to over and above the minimum).²⁴

PWs believed that if something goes wrong ‘the Service won’t back you up ‘cos they give you guidelines and if you don’t act within them they won’t take the blame’ (RS1, Neil, PO, Interview). Targets put pressure on PWs both in terms of making them achieve targets and then in terms of holding them to account. This is problematic when one considers the high caseloads in the Service:²⁵

Most [targets] embody good practice – none of them are completely irrelevant. The difficulties arise in the context of resources. Colleagues get concerned when getting an OASys done on time is more important than seeing an offender. (RS2, Evelyn, PO, Interview)

²⁴ They were not the only PWs to work more than their contracted hours. Rather, every PW reported that they worked more than their contracted hours at times but these three emphasised that this was the only way to work above and beyond national standards. Mawby and Worrall (2011: 29) present a ‘day in the life of a Probation Worker’; whilst I did not get the impression that the PWs in my research worked such long hours every day (as Mawby and Worrall have argued), this kind of a day is not out of the ordinary.

²⁵ I did not collate the caseload figures for participants. However, PWs in RS1 were all, at some point during fieldwork, above 100 per cent on the work management tool (see Phillips (2011) for more on this tool). PWs in RS2 reported having high caseloads but also accepted that the situation was not as acute as in other areas, with London being cited in particular.

I have already discussed specific problems that PWs have with the way the Government and NOMS measure the success of the service (see Chapter 4). Targets are intended to improve the performance of the service but they are also about strengthening accountability. However, it is clear that there is a lack of faith amongst PWs in this mode of accountability. Questions are thus raised about whether accountability is undermined when we look to PWs' attitudes towards targets as a means of holding them to account.

Accountability to the Public

In terms of being accountable to the public, PWs explained how it is hard to be accountable to a stakeholder who does not know much about what they actually do. Neil (RS1, PO, Interview) described how he felt the public expected them to have tabs on offenders 24 hours a day, 7 days week but explained that this was neither possible nor desirable. Daniel (RS1, PO, Interview) made the important point that inspection reports and other documents which are used to hold PWs to account are not read by members of the public, but by probation staff and other interested parties who read these. Discussions about accountability often led PWs to talk about the media. There was a general consensus amongst PWs that the service needs to 'sell itself' better through the media. Probation tends to be in the media either when a serious further offence occurs, or when the Service itself publicises the work done by offenders undertaking Unpaid Work (UPW). Although PWs were positive about the latter stories, there was concern that the Service *only* publicises the work done by offenders on UPW as opposed to other work that Service does. There was considerable disquiet about the focus on serious further offences. Thus, PWs feel that their accountability to the public is weakened by a public who do not know what PWs do *and* because the media are an ineffective tool with which to improve their knowledge.

With regards the public's lack of awareness about probation practice, it is arguable that PWs' perceptions are right, as Roberts and Hough (2002) have found in their work on public attitudes to crime, the general public has scant knowledge of the work of probation. Stories about probation in the media tend to contain themes: that offenders are being punished, and that they are paying the community back for their crime. Whilst these are two legitimate aims of the service (see Chapter 4), media coverage fails to take account of other work that PWs do, namely rehabilitation which, as seen in Chapters 5 and 6 is the work that PWs find most rewarding. With this in mind, I asked PWs about what impact the media might have on their practice.

Interestingly, PWs reported that the media do not have a constant presence *because* they believed that the media was poor at reporting what they did. In contrast, the media seemed to play a greater role in providing PWs with information about offenders than with holding them to account. This says much about probation in the age of information, a facet of late-modernity' (Aas, 2005).²⁶ PWs acknowledged that members of the public might not be supportive of some of the work they do with offenders, especially those offenders who have been vilified in recent years such as sex offenders. All of this highlights problems with the way in which PWs are held to account by the public.

PWs do not only feel accountable to the public via the media. Rather, PWs argued that the government is accountable towards the public and that so long as they do what the government prescribes, that was all that was required of them. This partly explains the frequency with which PWs resorted to minimum standards as described in the previous section. It is also about PWs 'passing the buck' to those above them in the hierarchy. However, it can also be interpreted as PWs overcoming the perceived problems stemming from the public's lack of understanding of probation's aims and practices. This view also ties in with Neil's comment that 'the public take it for granted that the criminal justice system is looking out for them' (RS1, PO, Interview). The question then arises about how accountability in this sense is achieved. We have already seen that PWs feel accountable to the government via targets but that, simultaneously, they have little faith in this means of ensuring accountability. It is also clear that the government has different priorities to PWs and that these different aims are sometimes in tension with each other. Moreover, evidence suggests that, despite government data indicating otherwise (Chaplin et al., 2011), the public believe that crime is rising (J. V. Roberts and Hough, 2002). Moreover, we know that the public get the majority of their knowledge about crime and criminal justice institutions from the media (Reiner, 2007) and so although no PW talked explicitly about the way in which the government should communicate the performance of the Service to the public, one can assume that the media plays a vital role here. Thus, there are several problems with the way in which PWs are accountable to the public. The crux of this problem is that the media are expected to play a role in holding probation to account when there is evidence that the media

²⁶ For example, an offender in RS1 was on trial for murder. Having waited all day to hear from the court about any progress, Mary logged on to the BBC website to discover that the offender had pleaded guilty at the last minute and had been sentenced to immediate custody. It is also interesting to note that although PWs' responses to questions about accountability tended to move towards discussions on the media, the media did not have a very prolific role in the day-to-day routines of probation staff. Rather, the media came up in conversation most frequently when PWs in both research sites asked whether I was an undercover journalist rather than a PhD student.

misrepresents the reality of crime and punishment in modern day Britain (Reiner, 2007).

Whether PWs are held to account directly, via targets, or indirectly via the involvement of the media creates significant issues.

Accountability to Victims

Victims were seen by PWs as a subgroup of the public and can be split into known and potential victims. PWs acknowledged the existence of both of these groups, although understandably their attention focused on known victims than members of the public who might become victims.

PWs most commonly seek to protect known victims of domestic violence or sexual assault cases by ensuring an offender does not know where her/his victim lives, by telling the victim if an offender is due to be released or recalled, and by monitoring offenders' attitudes and relationships with victims so as to take action if there was increased risk. This is done through liaison with the victim liaison officer (VLO). In both research sites the VLO was based in a separate area of the building to the OMUs in which I was based and this restricted the opportunity for close working:

Belinda said that the VLO used to come to team meetings but does not anymore – she felt like they even though they are 'only back there', they are separate from us because they are in a different bit of the building. (RS2, TPO, 21 July 2010)

It was clear that there was confusion about the role of the VLO and the Women's Safety Officer (WSO). PWs told me they were not allowed to have any direct contact with victims and instead would refer victims to the VLO if they thought it necessary. It was then up to the VLO to implement strategies to protect victims. Whilst there is logic behind the separation of these functions (dealing with victims and offenders requires different skills, for example), this raises issues in terms of accountability. For example, I witnessed a slight ambivalence towards victims – not in all cases and not amongst all PWs – but there was a feeling that victims were not really their responsibility; that as long they had referred the victim to the relevant officer then that was the end of their contact. In view of the fact that governments have, for several years, been in the process of 'rebalancing the CJS in favour of the victim', it would appear that this separation of function might limit the potential for probation to properly engage in this process.

Accountability to Themselves

Neil argued that he was accountable to himself more than any other group. I put this idea to other PWs and, whilst they agreed they had to be accountable to themselves, they did not

prioritise it over other stakeholders. The way PWs hold themselves to account is illustrated by the following comment:

...if anything went terribly wrong and I thought it was my fault then I would find it hard to live with myself – if I had done my best then it would be okay but if I thought any of my inaction had caused it then I would struggle and most of the people I work with would – not many people would shake it off. (RS1, Neil, PO, Interview)

This is a particularly vague notion of accountability. Only the individual PW can know whether they did the best work possible and the potential for a PW to be confident that they were not responsible must surely be influenced by the nature of offence that had been committed.

Moreover, whatever they feel they have done, or have not done, will be shaped by the prominence of targets in respect of a particular offender. I have already argued that PWs strive to achieve targets, whether they agree with them or not, and that the pressure of hitting targets can take them away from the offender. Thus, the notion of PWs holding themselves to account is severely inhibited by structures beyond their control.

Accountability to the Courts

Despite accountability to the courts becoming less important in both policy and practice, PWs believe that they should be held accountable by this stakeholder, mainly because much of probation's work originates in the court (RS2, Team Meeting, 27 July 2010), but also because the courts are the institution which imposes justice, of which PWs see themselves as an integral part (see Chapter 6). However, there are very few ways of being held to account by the courts. PWs talked about the need to be able to justify sentencing proposals in pre-sentence reports and that, 'if you can't justify [a recommendation] then you shouldn't be proposing it' (RS1, Neil, PO, Interview). However, participants were rarely called to justify their recommendations in person. RS1 had its own large dedicated court team and RS2 had a dedicated court officer (although all PWs were sometimes called to court if there were too many cases for the dedicated officer to deal with). This meant that although PWs in both research sites were responsible for writing PSRs and breach reports, different PWs presented these to the sentencer. I was able to spend one day with the court team in RS1, and half a day with the dedicated officer in RS2. Despite the different arrangements there was a perception amongst dedicated officers that the quality of reports suffered because PWs were not responsible for presenting their own PSRs and breach reports in court. Dedicated officers saw themselves as 'the shop window' of the Service (RS1 Court Team, Harry, TM, 14 December 2009) and believed that PWs in 'field teams' were more

interested in the offender, than in the image of probation that was conveyed to the courts. Understandably, those PWs who spend more time in court feel more accountable to them. During fieldwork in RS2, managers expressed a desire to increase the amount of time that PWs spent in court. The main rationale for doing so was to improve the relationship between the courts and PWs, presumably with the intention of strengthening accountability. PWs strongly objected to the proposal citing workload pressures and the unknown nature of court processes which meant they could never be sure how long a court hearing would take. Thus, PWs are indirectly held to account by the courts with the dedicated court teams mediating this relationship. This arrangement also means that dedicated court officers do not know the offenders themselves and so rely on the content of reports to make a case in court. Considering the emphasis PWs place on their relationship with offenders and offenders' individual circumstances, this seems like a situation which risks obfuscating the possibility of PWs being able to convey their knowledge of the offender to those who have the final say in what sentence is imposed.

Although PWs in court teams argued that they were focused on the macro-level aims reducing the risk of offending and protecting the public (RS1 Court, 14 December 2009), they had different aims at the mezzo- and micro-levels. PWs in court positions see concordance between PSR proposals and sentences, and professionally representing the Service as key to their role. Whilst field team PWs also see importance in these aims, it should be clear from previous chapters that they place more emphasis on other aspects of their role. Notwithstanding the impact of a physical separation highlighted above, this cultural tension can lead to poor co-operation between the two teams. For example, in RS1 Mary was reprimanded by a manager of a court team for not submitting a full PSR, despite explaining in the report that there was no interpreter available and that the resulting language barrier was compounded by a poor quality video-link. The report had led the court team to be unable to justify the proposal in the court and so had opted for a short custodial sentence. Having explained the situation to colleagues, Janine's assessment was that their behaviour had stemmed from the court officers' overriding desire to make themselves 'look good in court' (RS1, PSO, 8 February 2010). It later transpired that the offender was 19 years old and so should have been on a YOI licence following release from a short prison sentence a few weeks earlier. Thus, the offender should have received a different sentence to the one that the court team had proposed. Mary expressed satisfaction

when she found this out because it proved that the manager in the court team had made an error. It led me to comment in my fieldnotes that:

There was no problem with the fact that the offender will now have to be rearrested, that he was given the wrong information, or that the delivery of justice was poor. Rather, Mary felt that she had 'got one over' the court manager. (RS1, 9 February 2010)

This is just one example and is not intended to illustrate wide scale lack of co-operation between the teams. Rather it is suggested that the separation of function can lead to tensions in which self-interest gets prioritised over procedural justice. Again, the way in which PWs are accountable to the courts is found to be lacking. Arguably, because accountability is mediated by the relationships between teams which have different short and medium term priorities leads to constraints on the potential for important aspects of an offender's life being effectively conveyed to the courts, and that personal relationships get in the way of justice.

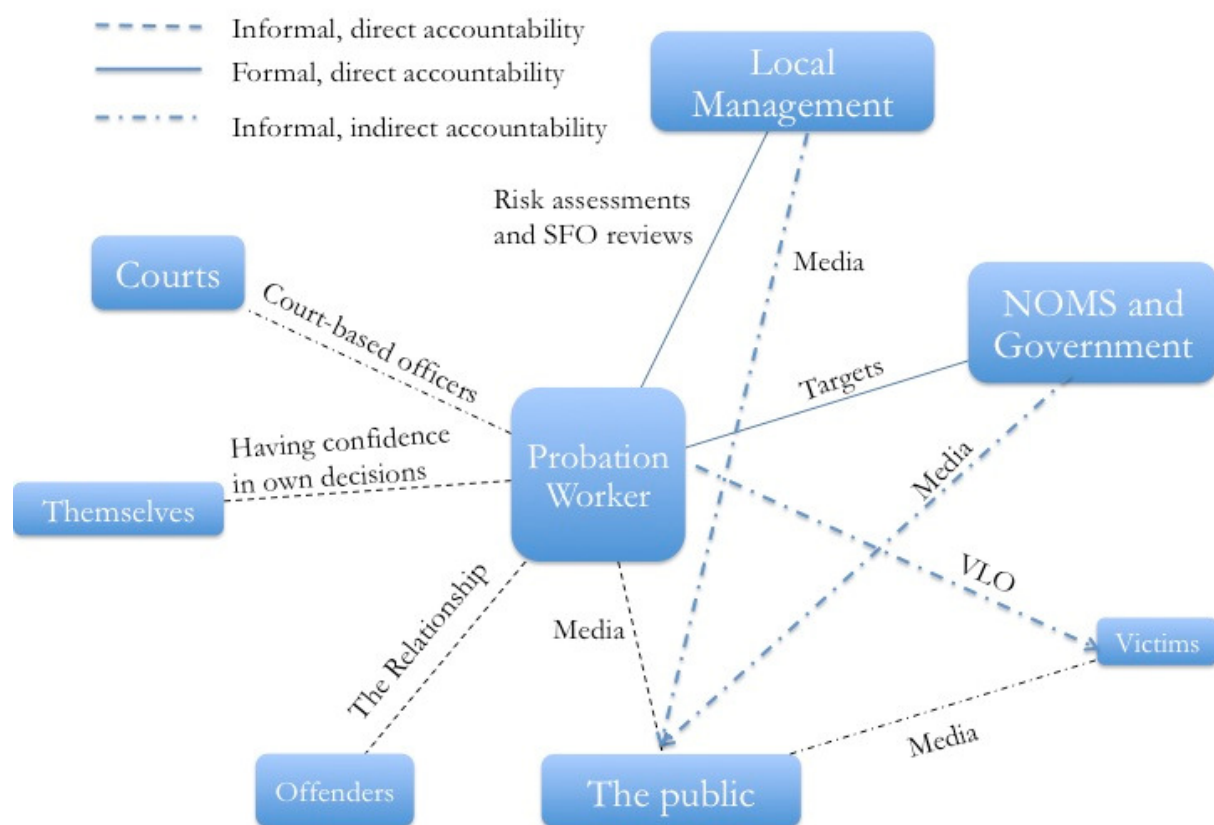
Formal and Informal Accountability

This chapter has highlighted the different modes of accountability and how these work in probation. This has important implications for the way in which PWs work, and opens up the potential for making changes to improve accountability in probation. Before proceeding, however, it should be noted that there is fluidity in the way PWs feel accountable to different stakeholders. For example, it is not the case that PWs *only* feel accountable to the government via targets; indeed, if someone was at risk of missing a target it was often the line manager or the team who got the first mention:

Margaret realised that she had forgotten to put someone's termination papers in and they were now a day late – she said that it would go against the team's targets and seemed very worried. (RS2, PSO, 11 December 2009)

Nevertheless, the modes of accountability described above appeared to be stronger for certain stakeholders. Figure 1 visually depicts these modes of accountability which have been split into formal and informal, and direct and indirect. Formal accountability is set down in policy and holds PWs to account through mechanisms such as targets and audits. There are clear repercussions for PWs if they do not comply with these mechanisms. Informal accountability does not necessarily involve repercussions but PWs still find these modes of accountability meaningful. Indeed, it is arguable that they find some of these informal mechanisms more meaningful, and a more accurate reflection of the work they do than formal mechanisms. Interestingly, formal accountability only exists in relation to local and national management. If

accountability is about making sure that PWs do their jobs in the interests of the public, then this might explain why few inroads have been made into the long-standing perception that probation is a ‘soft option’. PWs seem more comfortable with accountability when it is about ensuring they do what is considered best for the offender and themselves, than with the formal accountability that exists between them and management. On the other hand, PWs were not altogether confident with the way in which the media hold them to account. This tension stems from the idea that PWs have control over the definition of what it means to be accountable to offenders and themselves, whereas accountability to the public is defined and controlled by an external stakeholder, i.e. the media and the government.



Although PWs would agree with politicians, the public and the media that the Probation Service needs to protect the public, stakeholders understandably have different ideas about what constitutes ‘in the best interests’ of the public. From reading accounts of the Probation Service in the media, it might be assumed that punishing offenders is seen as being in the best interests of the public whilst the government is focused on making sure that PWs meet certain internal

targets. Meanwhile, PWs believe it is about improving offenders' human and social capital and victims think it is about not being safe from further crime and knowing what is happening to offenders. For local management managing risk is important, along with the importance of maintaining budgets and future income. What the public think is 'working in the best interest of the public' is a difficult question. On the one hand, they have to have faith in their elected government but is it possible to infer from this that that they inherently believe the government is holding PWs to account in the way the public would expect? Roberts and Hough's (2002) research shows that the public have a stronger appetite for rehabilitation than one might expect from media and political discourse and so to make this assumption is simplistic. Dick highlights this problem well in the following comment:

I think the difficulty is that clearly an offender would see as being what they want is not what society or the law or politicians would like to see is the outcome. Again, I will give a very specific example: I saw one of the officers cases the other day. He had licence conditions which stopped him going into the centre of [name of city] and he wanted to travel to [another city] to see family. Clearly, the only way he could do that was by going into his exclusion zone, so he came to discuss that and I was able to give permission for that to happen and then he asked me, 'How long do all these conditions go on for, and what about this one, where I have to do such and such?' What he wanted was for me to say, 'Oh, none of this matters, let's get rid of it,' but of course what I had to say, in terms of accountability to the public, was that, 'Those conditions are there for a purpose, to protect the victims and restrict and monitor you until we are satisfied that they can be relaxed, and they have to remain.' That's not what he wanted to hear, but that's obviously the right thing to do. (RS1, TM, Interview)

Conclusion

This chapter has explored PWs' perceived accountability. Continuing the theme from Chapter 4 where PWs expressed antipathy towards managerialist measures of effectiveness, PWs were similarly despondent around these measures being used to hold them to account. Again, the chapter points to the importance placed on the offender rather than the system, and highlights the need for more nuanced lines of accountability to be implemented. The chapter makes a distinction between formal and informal lines of accountability and unpicks some of the ways in which PWs feel accountable informally to offenders and the public. The accountability with which PWs felt more comfortable was directed away from the centre, a finding which adheres to arguments put forward by other commentators (Morgan, 2007: 110).

Within this broader discussion the chapter has highlighted some of the unintended consequences of managerialism and minimum standards where 'minimisation' might be considered endemic.

Whilst PWs do not necessarily 'like' this way of working, there was a certain element of resignation that meeting minimum standards can act as a way of reducing one's workload and covering one's back.

Morgan (2007: 99, original emphases) highlights this inherent problem to accountability: 'one cannot, by definition, be accountable *to* someone, unless it is clear what one is accountable *for*'. Stakeholders' differing aims are bound to result in conflict about how best to hold PWs to account. Many PWs see the increased tightness of accountability to be a positive development, yet there is a need to be clearer about how best to hold them to account. PWs have little faith in formal modes of accountability as well as in the way in which the media ensure accountability which leaves them with little choice but to elevate their own mechanisms of accountability to themselves and offenders. This highlights the need for PWs to be more involved in policymaking, whilst also recognising the need for other stakeholders to have an input. In this sense, changes introduced via the 2011 revision of national standards (Ministry of Justice, 2011a) are a step in this direction, in that they allow PWs to hold themselves to account in a way that is more acceptable to them. The discussion in this chapter has brought some of the implications of a managerialist probation service into sharper focus. This is a theme which I develop in the next chapter.

Chapter 8: The Impact of Managerialism on the Exercise of Discretion

This chapter explores the impact of managerialism on the exercise of discretion, in the context of changes in policy that encourage compliance as opposed to enforcement. The chapter draws on Bottoms' (2002) model of compliance and Hawkins' (2003) conceptualisation of discretion to explore how decisions to breach offenders are framed. This also sheds light on PWs' values and assumptions.

Recent years have seen levels of discretion curtailed to the extent that some probation staff have complained of it being virtually non-existent (Gelsthorpe, 2007a: 508). This curtailment has been partly implemented through the introduction and subsequent revisions of national standards (Home Office, 1992, 1995, 2000, 2005; Ministry of Justice, 2007, 2011a) which standardise the number and frequency of contacts with offenders as well as dictate the circumstances in which breach should be initiated by stipulating the number of times offenders can miss appointments without an acceptable excuse. As discussed in Chapter 2, the curtailment of discretion and the introduction of national standards resulted from a perceived problem of inconsistency, a lack of credibility and belief in community penalties which stemmed from both the Nothing Works movement, and a desire to toughen up community penalties in the face of accusations of 'softness' (Raynor and Vanstone, 2007). The revisions of 1995, 2000, and 2005 made the standards increasingly stringent. For example, the 2005 revision allowed offenders only one absence before breach was to be initiated. In this sense, enforcement policy was intended to deter non-compliance (Robinson and Ugwu-dike, 2012). Whilst discretion has been limited in other areas of PWs' work, it is most clear in policy when we look to the enforcement of community sentences leading up to 2007. The 2007 revision to national standards marked a change, with the guidelines stating that:

When an offender who has not provided an acceptable explanation in advance does not keep an appointment or otherwise does not comply with a requirement of the sentence, and if the failure to comply indicates that the public is at substantially greater risk, the Offender Manager initiates expedited and urgent enforcement action immediately, through a court or the Post Release Section of the Ministry of Justice, whichever is appropriate. (Ministry of Justice, 2007: 2f.3)

The 2007 Standards specify that if an offender has already received a written warning in the 12 months prior to an absence, breach must be instigated. Whilst this basic standard is the same as the 2001 and 2005 Standards, the risk posed by offenders is granted greater priority. This appears

to indicate a move towards offering PWs greater discretion when it comes to instigating breach proceedings because it gives them flexibility to decide whether an increase in risk is indicated by the failure to comply:

For higher-risk cases, where it is not clear whether an apparent failure to comply is indicative of a rise in risk to the public or not, the Offender Manager adopts an investigative approach, utilising protocols and agreements about shared risk management through MAPPA and including, where appropriate, a home visit. (Ministry of Justice, 2007: 2f.3)

This may be illusory, of course: we have seen how decisions on risk are constrained by risk assessment tools and the way in which targets affect PWs' working practices. Moreover, there is a lack of clarity as to the purpose of breaching instances of non-compliance. The 2007 Standards appear to elevate public protection in breach decisions and so they might be seen to simply represent a different way of containing PWs' discretion. This focus on public protection alerts us to the argument in Chapter 4 in which PWs argued that although this macro-level aim of probation is legitimate, it is hard to measure. Thus, compliance with national standards might be seen to be a somewhat crude means with which to evaluate public protection. On the other hand, the Sentencing Guidelines Council's (2004: 13) guidelines inform sentencers that 'the primary objective' of breach proceedings is 'that the requirements of the sentence are finished', suggesting that, perhaps counter intuitively, breach is intended to improve compliance.²⁷ In contrast, the Guidelines state that when dealing with a breach situation, the severity of the sentence must either be increased or the sentence should be revoked with the offender being sentenced again for the original offence (2004: 12). This suggests a punitive element to breach proceedings. Interestingly, the early versions of the Standards stated that enforcement rules exist to aid and improve compliance, a purpose that was not included in the 2007 standards. This lack of clarity means that PWs have considerable discretion in terms of why they breach.

PWs believed that there had been a move towards compliance away from enforcement:

When I first started [as a PSO in 2006] it was enforcement, enforcement, enforcement but now it is compliance, compliance, compliance. (RS1, Janine, Interview)

[In 2000] it was about enforcement to the letter of the law and then it moved to a situation where we shouldn't enforce unless we had a very good reason. Now it is

²⁷ Following the Coroners and Justice Act 2009 the Sentencing Guidelines Council has been superseded by the Sentencing Council. However, guidelines from the former organisation still remain in force where they have not yet been reissued under the auspices of the Sentencing Council.

hovering between the two. (RS1, PO, Neil, Interview)

A couple of years ago the message was 'get people back to court as soon as possible.' Enforcement – that was the big thing; we have to be showing that we are taking people back so we were being driven into that culture. Now, for whatever reasons, there has been a softening of that and we have to get people through orders to a successful conclusion. (RS1, PO, Steve, Interview)

Enforcement has moved from being considered a 'distasteful' aspect of probation's work, (Mair and Canton 1997) through one of its primary foci (Home Office, 2000: 1) and now policy might be characterised as somewhere in between the two. Despite this clear move in policy, little research has been conducted into the effect of this change in practice (although see Ugwudike (2010) for an insight on this change from an offender's perspective). PWs offered several reasons for this move (back) towards compliance. Steve (RS1, PO, Interview) believed it was about saving money; other PWs concurred with this view. PWs also saw a need to reduce the use of prison as an important factor:

'Cos of the custody project the recall guidelines changed... with the prisons being full... so they are reluctant to recall unless the risk changes. (RS1, Mary, PO, 10 November 2009)

Karen offered an interesting take on this:

They told us to be stricter but didn't really expect us to do it... but we did. Then the prisons were inundated so they had an about face so now you need permission to recall! (RS1, PO, 15 January 2010)

Here, Karen's comments echo the sentiments put forward by Senior et al. (2007) that probation is the criminal justice institution most vulnerable to change. Whether Karen is correct in her analysis is debatable: research into compliance, and indeed much of probation work, has found that decisions are characterised by discretion (Hannah-Moffat et al., 2009; Millard, 1982).

Moreover, Karen's comment suggests that the use of discretion in breach situations is connected to reducing the use of prison; that if a PW has the discretion to decide whether to breach, this decision is likely to be one that keeps offenders out of prison. However, the assumption that a greater use of community sentences will reduce the prison population has not been borne out in research on the impact of probation (Clear and Schrantz, 2011; Davis, 1969).

PWs believed that the focus on enforcement was illustrative of probation having ‘lost its way’ (RS1, Steve, PO, Interview) and that it had led to probation being delivered with little contact with offenders:

When I started it was about faceless people – if you were ten minutes late, then you were ten minutes late and it is unacceptable, never mind if you have ten kids at home who you had to get to school. It was unacceptable; late, no bus fares, breach... it was easy – no face, no contact, no knowledge of that person. (RS1, Janine, PSO, Interview)

PWs believed that this enforcement focus had led to the probation service losing its status as the humane face of criminal justice; enforcement meant that PWs were detached from their clients, and restricted their ability to encourage compliance through the use of the relationship and investigate the reasons for a failure to comply:

...when I first started we breached everyone and I think the relationships were quite bad but now we are focussed on compliance the relationships have improved (RS2, Imogen, PO, Interview)

Thus, the ‘return’ of compliance had been received positively by participants. However, they expressed a certain element of pragmatism in terms of what it meant beyond the confines of one-to-one work with offenders. As well as being about improving relationships, PWs believed that the shift towards compliance was a means for the Service to justify its work in ways that were not purely punitive or enforcement related:

JP: This reflects the move from enforcement to compliance. Is that a good direction?

Evelyn: Absolutely. It is good politically for us to say that we have supervised these orders successfully but it is also good for the offenders. (RS2, PO, Interview)

That Evelyn sees compliance as politically beneficial is in direct contrast to the original reason for the move towards enforcement which was closely tied up with Labour’s intention to make probation tougher. Whilst the situation ten years ago was one in which breach was considered a good thing, it has come to be seen negatively. Although PWs perceived these policy developments as positive, they raise particular issues in terms of their practice. Examining the way in which PWs make decisions about breach serves two purposes: firstly, it sheds light on what form this shift has taken and, secondly, it allows us to explore in detail what it is that probation officers try to achieve when they do and do not initiate breach proceedings.

Compliance and Managerialism

During the period of observation it became clear that managerialism has taken hold of this positive move towards compliance. A relatively recent addition to the targets that PWs have to achieve is ‘OM20: X% of orders of the Court and Releases from Custody on Licence are successfully completed’ (see NOMS, 2011: Annex C).²⁸ I observed that PWs were trying to ‘get people through’ their Orders (RS2, Evan, TPO, 23 June 2010) as opposed to engaging with them in a way that reflected their belief in the importance of the relationship and social capital. I investigated this observation further during interviews:

It is a new target. I don’t think it means very much. When you look at it you think, yeah that looks good and it is because you are getting people through and the service is demonstrating to NOMS and the powers that be that we have all these successful completions but in reality it doesn’t mean very much and that people have come to their appointments and as we just discussed, you can use your discretion to get people through their appointments if you want to. (RS1, Felicity, Interview)

JP: So you could say it is a case of getting people through, do you think?

Karen: Yeah, the discretion that you have to give someone... leeway is a way of enabling them to complete. (RS1, PO, Interview)

It has [changed] in terms of enforcement because we are desperate to get people through their orders so that has definitely changed and that was a very rapid swing of the pendulum one way and then back the other... on the positive side we are basically continuing to engage with the individuals for good ends. But, for some of them, all the PW is doing for the order is chasing them round and seeking to get them in and doing the basics and getting them through – actually effecting change in that circumstance is not possible. (RS1, Nicola, TM, Interview)

The managerialist aspect of national standards is seen by some PWs to undermine the whole move towards compliance:

Breach targets – if you get more than two Us [unacceptable absences] then you have to justify it with your manager and get it filed within ten days. What a load of bollocks – it is ridiculous. I know who the guy is and one person not turning up once could be more risky and a bigger indicator of someone going off the rails than someone else who can’t remember what day it is but I can’t breach them after one; what?! The other fella who is engaged and wants to do stuff but couldn’t organise himself if he tried – you have to start manipulating what you are doing. (RS2, Daniel, PO, Interview)

²⁸ This target is a locally agreed target. In the years 2010-11 and 2011-12 the majority of Trusts (including both research sites) were working towards a figure of 70 per cent for this measure. See Cumbria Probation (2011) and London Probation Trust (2011) for examples.

Despite the 2007 National Standards (Ministry of Justice, 2007) purporting to encourage an individualised and investigative approach, the way in which compliance is measured managerially, through reference to number of absences means that PWs have to resort to manipulation.²⁹ Two PWs described the way in which compliance was becoming increasingly process driven:

I'll be honest, I'm not necessarily convinced that having more bureaucratic processes to drive offender engagement will necessarily have positive effects. (RS1, Dick, TM, Interview)

A lot of it is still tick boxes and I get the feeling that as certain sections of our management get the idea about the compliance based model then it will turn again into a process- I don't think it will take long for that to happen. (RS2, Daniel, PO, Interview)

Although the majority of PWs concurred with the argument that there had been a positive and discernible move towards compliance, one raised the point that not much had actually changed:

JP: has there been a move from enforcement to compliance?

Natalie: I don't know. Probably it is the same thing with compliance sounding nicer than enforcement – we always want people to comply. (RS2, PO, Interview)

In this sense, we can see how little the aims of probation in this context have actually changed. Rather, the ways in which these aims are achieved are different. Whilst it was the government's belief in 2000 that probation was a 'law enforcement' agency (Home Office, 2000: 1), it might be argued that recent revisions to national standards suggest that whilst probation policy remains focused on encouraging people to comply with the law, they are doing so via different means.

Exploring Discretion through Enforcement and Compliance

In 2009, 26 per cent of Community Orders were revoked for 'negative' reasons (16 per cent for failing to comply with requirements and 10 per cent for conviction of a further offence) (Ministry of Justice, 2010b: 46) and so it is reasonable to assume that all PWs have to breach an offender at some point. In light of the academic literature referred to above, as well as that in Chapter 2, in which it is argued that PWs' discretion has been curtailed primarily through the introduction of national standards and a focus on enforcement, it is surprising that PWs argued that the area in which they had most scope for exercising discretion revolved around decisions about initiating breach procedures. Whilst this is what PWs report, it must be set in the context

²⁹ This issue mainly applies to RS2. Although PWs are supposed to get manager approval before approving a second absence this did not appear to be enforced in research site 1, where Dick said that he only finds out what happens if an PW chooses to bring it to his attention (Dick, TM, 9 November 2009).

of an increasingly managerial form of compliance. Importantly, PWs argued that although they were under pressure to meet compliance targets, this did not affect decisions which were in the public interest; i.e., decisions that were aimed at protecting the public:

We have a target for successful completions and that doesn't impact on the work that I do – if someone is in a situation where we can avoid breach and keep them engaged then I will do that. If someone is in a situation where they need breaching then I will do that; successful completion isn't something that will be on my mind when I am making that decision. (RS1, Mary, PO, Interview)

However, the data generated in this research suggest that although PWs may not explicitly think about targets when making such decisions, any decisions are closely linked with the way in which compliance is measured. The case of breach and enforcement thus represents an important lens through which to investigate how managerialism impacts on PWs' decisions, what values underpin those decisions and how these two forces interact.

In order to understand how discretion functions in the Service, these decisions must be set in context. Commentators have proposed several models of discretion that are applicable to this context. Dworkin's (1977: 31) description of discretion as being 'like the hole in the doughnut, it does not exist, except as an area left open by a surrounding belt of restriction' is a useful place to start. He makes a strong case for discretion being a relative concept, one which depends on the purpose of the exercise of discretion in the first place as well as the limitations placed upon the actor in the first instance. However, Pratt (1999) argues that the doughnut metaphor treats the actor as 'essentially autonomous' when they are acting within this hole, an unrealistic prospect. Thus, Hawkins's (2003) model of surround, frames and fields is more appropriate in that he has built into his model the idea that an actor will be impacted upon by factors that are situated on various levels within an organisation. Thus the model works well in terms of PWs' macro-, mezzo-, and micro-level aims of probation. Hawkins (2003: 189) argues that rather than focusing on criteria or factors that are taken into account when making a decision, decisions can only be understood 'by references to their broad environment, particular context, and interpretive practices: their surrounds, fields and frames.'

Thus, decisions can only be understood if we know what the actor was trying to achieve as well as the constraints within which the decision was made. One could look at breach decisions by listing the reasons PWs decide to breach, or not, as well as the methods they use to avoid breach but this risks neglecting the broader contextual frame in which the decision is made. Hawkins'

(2003) concepts of surround, field and frames can help us to understand the decision to breach in a more contextualised manner.

In the context of this study, the surround is the political climate which impacts on probation policy: the nothing works claims, and a lack of belief in community penalties which led to the introduction of national standards in the first instance; and the rising prison population and restricted budgets which has led to a relaxing of breach requirements. Decisions are also made within a decision field; 'sets of ideas about how the ends of the law is to be pursued' (Hawkins, 2003: 189). In the context of probation this is the policy which dictates when breach should be initiated, as well as the targets which PWs have to meet. However, these ideas can also be informal: 'the values, expectations and aims held by staff at all levels in the organisation' (Hawkins, 2003: 190). The surround impacts on the decision field; and so we see the move towards compliance in the 2007 revision of national standards manifesting as a more investigative approach with a greater focus on changing risk than on technical compliance. The formal decision field, therefore, dictates that if an offender's behaviour indicates an escalation in risk or they have failed to comply more than once, breach must be initiated. This is fixed until the surround impacts on the field and the policy changes.

Altering the Decision Field

The informal decision field is dependent on PWs' beliefs, expectations and aims and opens up the possibility for PWs to alter, manipulate or resist the frame within which the field is situated. PWs find themselves in a situation where they can alter the field in which they make a decision to make compliance more or less likely:

If someone has been doing particularly well and then missed an appointment then there are times that it would be allowed to slide because breaching or giving them a warning would be more damaging to the progress we are making so there are times when we have to bend the rules, not break them, but I bend them in terms of being responsive. (RS1, Imogen, PO, Interview)

The most common means of altering the decision field is by making it more *flexible*. This involves changing appointments on an *ad hoc* basis, enabling offenders to attend at similar times to a friend, for example, or giving whole days rather than specific times for people to attend:

Linda was flexible about the work and what days he did it on; they arranged to do it on weekends. (RS1, PO, 19 May 2010)

...on the way Mary said that she did not know what to do with them – whether to

give them appointments next to each other so that they would definitely come or to give them on separate days so the other doesn't have to wait which puts pressure on the appointments. They ended the supervision by talking about appointments – she asked the offender if he wanted an appointment at the same time as his friend or not. He said at the same time. Afterwards, we talked about the appointments. She said that as long as they were encouraging each other to come then she didn't mind but if one of them starts to not attend then it could lead to trouble. (RS1, PO, 10 December 2009)

Interestingly, this is one of the main strategies put forward by Hedderman and Hearnden (2001) in proposing alternatives to an enforcement focus. PWs also *move* the field to make compliance 'easier' for the offender. This is achieved through conducting home visits or by doing 'telephone contacts' instead of requiring an offender to come to the office.

Keith then took a phone call: 'did you come in face-to-face last time? ... well we'll do a phone contact then...' (RS1, PSO, 9 November 2009)

I might do a home visit, save myself a breach. (RS1, Ali, PSO, 23 February 2010)

A conversation was going on around me about home visits... Nick conceded that if he did more of them then he might get fewer breaches. Mary said that she does home visits to one of her clients because of medical issues and said that this client only got through the order because she did so many home visits. (RS1, 1 December 2009)

Alternatively, PWs *pre-empt* the field, effectively making a breach decision less likely. This was involved providing offenders with appointment cards, ringing them up to remind them of appointments, or using the automated text service which was in place in both research sites:

The meeting ended with Karen giving him a card indicating his next appointment. (RS1, PO, 21 October 2009)

...the biggest help there is the ability to be able to send texts to mobiles – that is marvellous. I used to feel guilty doing it but then I found out that it was enshrined in guidance notes saying that it was alright! To me it made sense; what is the harm in reminding someone especially when they are coming less often. (RS2, Evelyn, PO, Interview)

PWs also *use* the field to their advantage, effectively 'playing the system'. This involves using, or trying to use, ambiguities in formal policies in order to provide some flexibility to appointments whilst adhering to national standards. For example, the following conversation illustrates the way in which PWs see the timeframe in which they see an offender post-sentence as more important than the fact that the offender has actually failed to attend an appointment:

Frances: I've got an induction at 12 but I've got a message to ring him. I'm sure he will be saying that he's not coming. Do I send a warning letter out?

Ali: it depends on his excuse.

F: how quickly do we have to see them after sentence?

Margaret: five days.

F: oh, well he can come on Monday then. Frances then rang the client; she didn't wait to hear the excuse but arranged to see him on Monday instead. (RS1, 29 January 2010)

PWs change the *conditions* of the field, thereby changing the criteria by which breach decisions should be made. For example, a PW might decide that an offender has very little chance of complying and so, rather than wait for them breach, they make a proactive effort to minimize the chances of breach by returning the case to court:

Daniel talked about the pre-sentence report from the previous week – the offender had been given supervision despite Daniel recommending a conditional discharge in the PSR. Daniel said it was a disaster – he will let him not turn up and then take it back to court and recommend a conditional discharge again. (RS1, PO, 26 May 2010)

Kimberley said that sometimes you get inappropriate people on Orders and that you have to take them back to court, in which case it wouldn't be more onerous, just more suitable – she gave an example of someone with a [community psychiatric nurse] who had said that the offender could not do UPW because he was unable leave the house so they took it back to court and got him a curfew instead [so he] can do the punishment while at home. (RS2, PSO, 17 May 2010)

Finally, PWs *extend* the field through the use of other agencies or people close to the offender. This enables PWs to base their decisions on more than one source of information. This provides PWs with extra information on which to base a decision in case of non-compliance, as well as helping PWs identify what, if anything, might have happened to an offender who was at risk of breach. By drawing on people from outside the Service, PWs effectively place some of the onus for decision-making onto other people:

Belinda was expecting an offender who had not turned up. She said that she was going to give him until 2.30pm [half an hour] and then ring his mum and his hostel to see where he was. She explained that he had been accused of stabbing someone and needed to broach things carefully with him but also that she wanted to find out a bit more about things from his mum especially. (RS2, TPO, 8 June 2010)

In addition to PWs having the ability to alter the informal field, the field can also change as a result of changes to formal rules. For example, team meetings often involved new procedures around breach procedures or home visits.

Staff were informed that if offenders missed two sessions of a group then they had to restart – this was to ensure programme integrity rather than some punitive aim. (RS1, Team Meeting, 11 November 2009)

Ultimately, ‘altering the field’ is the way in which PWs encourage compliance; many of these strategies are intended to make it easier for offenders to comply with their Orders and resonate with Robinson and Ugwudike’s (2012) work on compliance and legitimacy. All of this can be related to Bottoms’ (2002) model of compliance in which he teases out some of the reasons that an offender might comply with a Community Order as well as society and the law more broadly. Although his model presents compliance from the offender’s perspective, there is value in using it here. It is imperative that we understand why offenders comply when faced with the choice about whether they want to do so, or not. However, using such a schema can also alert us to some of the factors that are not within the offender’s control, but which have important ramifications for their compliance. The examples above most closely fit with what Bottoms (2002) terms *constraint-based compliance* and *compliance based on habit or routine*. The latter is most clear: PWs make it as likely as possible for offenders to form a habit around attending appointments by always seeing the same people on the same day and at the same time. This may, of course, be as much to do with the wording in the national standards (for example, where it is stipulated that offenders must be seen *weekly*) as well as with PWs wanting to maintain consistency in their own diaries. Nevertheless, the result is that PWs are focused on enabling offenders to form a habit in order to improve compliance. Bottoms (2002: 93) argues that *constraint-based compliance* has two sub-types:

One is compliance based on restrictions to one’s access to the possible target of non-compliance... The other sub-type [is] ‘structural constraint’; it occurs essentially when someone is cowed into submission by the coercion inherent in a power-based relationship, even when they are not explicitly concerned about potential penalties for non-compliance.

Bottoms admits the second sub-type is unlikely to be of much importance in the administration of community penalties and this seems to be the case here: there is always an explicit concern in encouraging compliance when PWs alter the decision field. In contrast, the first sub-type is clearly evident. However, because compliance is measured via attendance at appointments the link that Bottoms (2002) draws with situational crime prevention needs to be turned on its head; rather than restricting the opportunity for non-compliance, PWs expand the opportunity for compliance. We can see this if we look to the way in which PWs’ decisions about breach are framed.

Decision Frames

Decisions are made in the field, which PWs have the ability to alter, but decisions are also made within a frame; 'a structure of knowledge, experience, values and meanings that decision makers employ in deciding' (Hawkins, 2003: 190). Therefore, frames are the factors which PWs take into account when making a decision and, crucially, are influenced by a number of other factors (beliefs about good and bad; right and wrong, for example). Framing a decision is an inherently interpretive exercise but it is also dependent on the surround and field within which that decision is made. This raises questions such as: what frames breach decisions, how do these frames interact with the broader field and frame, and what, if anything, does this tell us about PWs' aims and values more broadly?

When faced with a potential breach situation, PWs must initially decide whether a failure to comply has occurred in the first place. In many cases, an offender is able to provide evidence for their reason not to attend, such as a GP's note or proof of a separate appointment at the same time. In other cases offenders cannot, or do not, provide proof and so the decision as to whether to accept an absence rests with the PW. This decision is most commonly framed by an offender's level of engagement hitherto:

If someone comes in at 9.20 and says they have missed their UPW 'cos their bus was late and usually they haven't missed any sessions or their order has been fairly good then you would use your own discretion and excuse them. (RS1, Ali, PSO, Interview)

These decisions, however, are not based simply on an offender's official attendance record:

JP: So that's based on you knowing them?

Ali: Knowing the client, yeah...

JP: So it goes back to that relationship I guess

A: Yeah, and I suppose you would know if they have got kids or not and if they ring up and say 'young 'uns been unwell today and the missus has been at work that's why I couldn't come in' then you would know... (RS1, PSO, Interview)

However, this frame puts certain types of offenders at a disadvantage:

JP: What happens when someone misses an appointment?

Brenda: If someone comes with a not quite valid excuse you need to take the circumstances into account. If you know someone, then you can be a bit more flexible; if someone regularly attends and then doesn't, then you need to be flexible. But, if it's someone's first appointment then you have to assume that they don't want to attend. (RS1, PSO, 5 November 2009)

Although national standards were introduced to improve consistency in practice, the fact that PWs frame these decisions in such a way might be seen to militate against such consistency. On the other hand, we can see the importance of PWs knowing their offenders, and the impact that this, and the relationship, has on their perceived ability to deal with breach situations according to that value base. Decisions not to designate an absence as a failure to comply are framed by both the official record of engagement as well as a PW's personal knowledge of that offender. Ten per cent of offenders in 2009 were breached for committing another offence (Ministry of Justice, 2010b). One might expect that because a reconviction can be used as a rationale for initiating breach procedures it would make a breach decision easier but this was not the case. Indeed, as we saw in Chapter 4, PWs do not necessarily perceive reconvictions as failures and the use of reconviction data is not always an adequate means of assessing the performance of the Service. The 2007 revision of national standards (Ministry of Justice, 2007) stipulates that there needs to be an increase in risk for breach to be initiated. This means, perhaps rightly, that even when an offender commissions another offence, PWs' decisions are framed by other factors:

The feedback now is that if there is a further offence but the charge sheet doesn't mark an escalation in risk, that is often met with a final warning before recall is taken to encourage people away from the prison system. (RS1, Chloe, PO, Interview)

Here we can see two influences from the *surround*, the increased prominence of risk management as well as a high prison population, impacting on the decision field which, in turn, interacts with the frames which shape PWs decisions. Again, it is an offender's compliance and engagement hitherto which frames these decisions although a change in risk takes precedence. For example, when Belinda's offender was accused of stabbing someone she immediately (following discussions with her manager and ACO) initiated recall procedures and, once located, the offender was returned to prison. Although risk assessment tools play a role here, these decisions are framed by what a PW believes might happen to them, as well as to the offender:

You have to think about it; you have to think about what would happen if something went wrong. I do think about what would happen if someone I was supervising committed a serious offence – how would it look, could I defend the decision I have made? (RS1, Frances, PO, Interview)

This comment alludes to the uneasy relationship PWs have with victims, the public and the media. Once a PW decides an offender has failed to comply *and* poses a higher level of risk, a breach is supposed to be initiated. However, it was clear this did not always occur. Even if a PW does not alter the decision field, decisions are framed in such a way to avoid breach proceedings.

The most common frame used in deciding not to breach a failure to comply is that of knowing the individual and their circumstances:

Chloe took a phone call and said to the client 'I thought it was out of character. Don't worry I was going to ring you before I sent a letter out.' (RS1, PO, 1 December 2009)

Margaret was heading out to see someone when she learnt that a letter had been sent to the wrong address. She said it was a good job she knew the offender because it meant that when he didn't turn up she knew something was wrong. She said that otherwise she would have breached him. (RS1, PSO, 8 February 2010)

Framing a decision using the offender's individual circumstances is particularly common when working with offenders who mental health issues or drug use:

Their lives are chaotic, they're not like us – they get up at 3pm and go for a hit first of all. (RS1, Karen, PO, 15 January 2010)

...I do let people off if they give me evidence or if their circumstances don't allow it... if one chaotic drug user can't come in then I would treat another chaotic drug user the same way and that has made things clearer for me in terms of fairness
... these are chaotic and vulnerable people and there are so many factors that having a tight approach doesn't help. (RS2, Belinda, TPO, Interview)

A common theme amongst PWs when discussing sentence proposals in PSRs, or in terms of devising sentence plans was that of not wanting to 'set offenders up to fail'. This frame was also present in decisions about breach. Following a duty appointment in which Keith had informed an offender that he would be leaving the decision about what to do after an offender had missed an appointment to the offender's PW, I asked Keith is he would initiate breach if the decision was his to make:

Keith said, 'Yes, but Janine works differently' so he will leave it to her. I re-asked if he would let him off even though he had such a bad (in my opinion) excuse? He said yes again and that you get a feel for people and that we're not in the business of tripping people up. (RS1, PSO, 6 January 2010)

Making a decision not to breach an offender can also be framed in terms of incentivising an offender to engage more fully with the PW or another agency. I observed a 'three-way meeting' between Brenda (RS1, PO), Marilyn (a PW in an approved premises) and an offender. Before the offender was invited into the meeting Brenda and Marilyn discussed what they intended to do about the offender's missed appointment in the previous week:

At the end of this discussion they decided that they would not breach the offender for not attending last week's appointment. Instead they decided that they would give

him one more chance, using the carrot of home leave on his birthday the following week to encourage him to attend. (RS1, 5 November 2009)

PWs' decisions are also framed by the nature of the failure to comply. In this example, Keith considers missing a skills4work³⁰ appointment to be less concerning than other appointments, despite it counting towards the offender's national standards:

Keith said that if they are generally attending then it's okay to let things go, especially as it was 'only' a skills4work appointment so nothing important. He said that had it been a supervision session he would have been stricter. (RS1, PSO, 6 January 2010)

This reflects the discussion in Chapter 4 in which PWs found more value in the one-to-one work with offenders as well as in the belief in the power of the relationship that is built up through supervision sessions. It also illustrates the way in which PWs prioritise a theory of rehabilitation which is focused on social capital as opposed to reintegrative theories of rehabilitation which see human capital as key. However, this attitude fails to consider the argument that improved human capital (i.e. having a job or improved educational attainment) has an impact on an offender's social capital. As with decisions about early revocation (see Chapter 7), decisions about breach were framed by workloads:

Karen thought about whether to recall an offender for not complying with their residency requirement and said, 'Not that I have time to do a recall.' (RS1, Karen, PO, 24 February 2010)

Decisions were also framed by how long an Order had to run, or how recently the Order had started. In both cases, PWs were reluctant to initiate breach proceedings. If an Order was due to finish soon, PWs argued that breach should be avoided, not necessarily because the offender had been rehabilitated but simply because they were near the end of the Order:

Mary [on the telephone]: he finishes in a month so I don't want to be breaching him. (RS1, PO, 18 January 2010)

Basically, I just have to get him through. He's been breached twice already so I need to make sure he does not get breached again. (RS2, Evan, TPO, 23 June 2010)

Interestingly, Evan's comment refers to an offender who denied his offence. In this context, Evan did not see the aim of the Order as being anything beyond ensuring he completed the

³⁰ Both research sites had dedicated employment, training and education advisors. In RS1, the advisors were employed by a voluntary organisation which delivered the service on behalf of the Trust. RS2 employed its own advisor who was a PSO. Despite the different arrangements, they all performed similar roles. Appointments with this advisor could act as national standards appointments but this was down to the PW.

Order. If an offender is near the end of an Order PWs expressed reluctance to breach because this would harm the offender's chances of completing the Order in the longer term. In the following excerpt, I was observing an induction (which must be conducted within five days of a sentence, or within three days of being released on licence) between Isabel and an offender:

The offender explained that he had missed his first appointment because 'someone' at the court had written the incorrect date on his appointment card, which he did not have with him. Isabel said this was fine, that she would cancel the warning letter because otherwise he would only have one warning left before possible breach. (RS1, PSO, 23 November 2009)

How much time the offender had been on an Order was further framed by what might happen if breach was to be initiated. In the next example, Ali decides not to pursue a breach because he is concerned that something *would* happen:

I asked if he would breach him. Ali said that he probably won't start breach proceedings, 'cos he has never been to prison and because he is taking the piss he will probably end up in prison if I breach him now'. I asked why he didn't want him to go to prison: 'because he will just learn from the inmates and come out and carry on committing crime'. (RS1, PSO, 8 January 2010)

On a different occasion, and with a different offender, Ali decided not to breach because he thought nothing would happen:

On the way down he told me that the client had missed last week's appointment so he was planning to get proof of her absence. Ali introduced me and then asked the client why she had missed last week. She said that she had forgotten because her appointments were usually on the third of each month. Ali said that this was not good enough, that she needs to write it down and that she is on monthly appointments and part of that is that she has to attend. He was quite firm about this before, suddenly, saying that he would pull the breach and then moved on to talking about her work situation. (RS1, PSO, 9 December 2009)

After the appointment I asked Ali what he planned to do about her missed appointment:

He said he would not be breaching her because she has two years left on her licence, so if there is a genuine unauthorised absence then he will have to breach her which he does not want to do. (RS1, PSO, 9 December 2009)

This example requires us to return to Bottoms' (2002) model of compliance. Altering the field and the frames that PWs use to make decisions about breach overwhelmingly occur behind closed doors, with very little input from the offender. Moreover, the offender does not always know why a breach might not be initiated, or vice versa. In the previous example, I observed that Ali was being particularly firm with the offender but then, somewhat abruptly, decided that

he would not breach her. Importantly he did not explain to her the reasons behind this decision. The offender in this case subsequently complied in a technical sense, but did so unthinkingly. Bottoms (2002) argues that unthinking compliance is most common within *habitual or routine based compliance*. Many of the ways in which PWs alter the field revolve around making these types of compliance more likely. Ali's case did involve a breakdown in the offender's routine but the subsequent compliance was not routine based. The above analysis, therefore, suggests that Bottoms' (2001) theoretical model needs to take modes of practice into account. Whilst Bottoms' (2001) model is useful in terms of considering why an offender might (or might not) comply with a community sentence, it fails to take account of the structures which govern the way in which compliance is measured. More importantly, however, this chapter has shown that compliance can be created by practitioners in such a way that compliance occurs in a way that is quite distinct from the offender's actions and behaviour. This mode of practice is an important form of practice, that is very much contingent on recent changes in probation policy and Garland's (2001) 'culture of control'.

The above analysis points to the existence of a particular mode of practice when it comes to making decisions. Firstly, compliance is created by the PW for reasons that might be unknown to the offender. Secondly, the focus is distinctly short to medium term. The aim is not to help an offender comply normatively; rather the aim is to get as many offenders as possible to complete their Orders. Thirdly, and critically, probation worker constructed compliance depends on the presence of managerialism when measuring and defining what compliance is. This suggests that although there has been a shift in policy towards compliance, the way in which it is framed does little more than encourage offenders to complete their orders rather than undertake a journey towards desistance. McBarnet (2003: 230) argues that this way of working can be likened to creative compliance in which practitioners tailor policy 'to one's own or client's interests'. In this context, the interests to which PWs are working are ones that are more to do with targets and short to medium term, technical compliance as opposed to the normative compliance that PWs believe is a more appropriate way of measuring the Service's effectiveness. On the other hand, one could see probation worker constructed compliance as being a means of PWs protecting offenders from the system of breach and the pressure to enforce Orders in order to give them a better chance at desisting. However, the ways in which PWs alter the field means that offenders are seen with less intensity and in situations which make it more difficult for the PW to create a relationship (i.e. an ad hoc phone contact would invariably be a short conversation). Moreover,

altering the field appears to avoid giving offenders the responsibility to take control of their lives, and be responsible for their own actions which PWs emphasise as critical in the project of rehabilitation.

Conclusion

This chapter has expanded on the ways in which managerialism has impacted on practice by exploring the exercise of discretion in relation to compliance and enforcement. This particular area of practice highlights the anti-custodial nature of PWs practice ideals with practice being defined by an unwillingness for offenders to go to prison. The chapter has described the way in which the structure of a shift towards compliance has interacted with managerialism to result in a sort of compliance which encourages PWs to work towards short term, technical compliance as opposed to the 'substantive compliance' (Robinson & McNeill, 2008) they expressed a preference for in Chapter 4. Importantly, whilst Bottoms' (2001) model of compliance remains a useful lens through which to consider offenders' compliance, it does not fully take the structure of probation into account. Thus, this chapter adds depth to current understandings of compliance by contextualising why else an offender might comply with a community sentence.

As was seen in Chapter 5, PWs endeavour to keep offenders out of prison. In this chapter we have seen that PWs use their own knowledge of the offender to alter the field and frame decisions to avoid breach decisions, for similar reasons. However, targets around breach and compliance appear to take precedence. Drawing on research into the regulatory framework, Robinson and McNeill (2008: 444) argue that 'an inflexible response to formal non-compliance has the potential to jeopardize future substantive compliance'. The PWs with whom I spoke see this as the case. Indeed, Imogen made a direct link between the 'return' of compliance and improved relationships with offenders which, in turn, are perceived to enhance the chances of substantive compliance. However, the 2007 revision of national standards did introduce a certain element of flexibility into the decision making process, yet it is still the case that substantive compliance can be seen to be being elided by other aims. Whilst flexibility is clearly an important part of encouraging substantive compliance, the discussion in this chapter highlights a need to introduce, alongside greater flexibility, alternative aims for the service; ones which do not prioritise numerical targets, but ones which take the intangible nature of rehabilitation into account, and enable PWs to work towards this. Indeed, this is a key message to come out of this dissertation; that PWs want to help offenders comply and eventually achieve secondary

desistance but that this is often confounded by managerialist policies. In order to fully understand what it is that PWs are trying to do, and the way in which policy impacts on their practice it is necessary to now highlight the tensions and similarities between the chapters in this dissertation and explore what this might mean for probation practice and policy in the future.

Chapter 9: Conclusion: the implications of late-modern probation practice on policy

After thirteen years of Labour rule, the Conservative and Liberal Democrat parties formed a coalition government three months prior to the fieldwork for this research ending in August 2010. Although the election was not fought on a 'law and order ticket', the Conservatives, and to a lesser extent the Liberal Democrats, had made clear their intentions with regard to crime. Both parties called for more police on the streets, 'purposeful' prison regimes, and less bureaucracy in the criminal justice system (Conservative Party, 2010; Liberal Democrat Party, 2010). The Conservative Party's (2010) approach was couched in terms of mending 'broken Britain', 'fighting back against crime,' and 'putting the criminal justice system on the side of the public.' Although crime did not play a defining role in the election, the Conservative Party made it clear from the outset that its main concern would be reducing the public deficit and it proposed to achieve this via widespread cuts to the public sector, including criminal justice institutions. In its spending review of October 2010 the Coalition Government proposed to cut unprotected (i.e. all except for the NHS and International Development) departmental budgets by an average of 25 per cent. The Ministry of Justice was asked to reduce its budget by 23 per cent over the next five years (HM Treasury, 2010: 10). Alongside this sat David Cameron's commitment to the 'Big Society' which involves taking 'power away from politicians and giv[ing] it to people', primarily through the greater use of social enterprises, charities and community groups to deliver services on behalf of the State (Number 10, 2010).

Kenneth Clarke MP was appointed the Minister of Justice, whereupon he argued that the prison population was unsustainable and would have been unimaginable the last time he was responsible for prisons in the early 1990s, and that, contrary to the beliefs of his Conservative colleague Michael Howard, prison did not work (K. Clarke, 2010). In December 2010, the Green Paper *Breaking the cycle: effective punishment, rehabilitation and sentencing of offenders* (Ministry of Justice, 2010a) outlined the Government's proposals for a 'rehabilitation revolution', greater use of 'hard work and industry' in prisons, 'payment by results' (PbR) and a simpler sentencing structure. As part of this programme of work, the Government expressed its intention to reduce the prison population, concentrate on the rehabilitation of offenders as opposed to punishment and put significant aspects of Probation Trusts' work out to competition between the private, voluntary and public sectors.

These broader, political developments have had an important impact on probation policy and, to a lesser extent, practice. Firstly, the new Government has continued to develop ways of implementing research findings emanating from the academic work on desistance. As discussed in Chapter 2, NOMS is rolling out the Skills for Effective Engagement and Development training, and those involved in the Offender Engagement Programme (OEP) are looking at the concept of ‘quality in supervision’ (Shapland et al., 2012). Secondly, the Government has expressed a desire to reduce the amount of time PWs spend in front of a computer working towards targets (Blunt, 2010) and in April 2011 published revised national standards to this end (Ministry of Justice, 2011a). The 2011 revision of national standards is just four pages long (as opposed to 63 pages in the 2007 version) and contains little in the way of prescription in terms of when and how often PWs should see offenders. Thirdly, the Government has published two consultations on probation. *Punishment and Reform: effective community sentences* (Ministry of Justice, 2012a) outlines the Government’s plans for making community sentences tougher by including a punitive element within every sentence, fining offenders who are in breach of their sentence, using electronic monitoring more ‘imaginatively’ as both a punishment and incapacitative tool, and making greater use of Community Payback than is currently the case. In *Punishment and Reform: effective probation services* (Ministry of Justice, 2012b) the Government lays out its plans for extensive privatisation of probation within a framework of PbR. In effect, the consultation implements the Offender Management Act 2007 and means that Probation Trusts will take on a greater commissioning role than has been the case thus far. According to the proposals, providers will be paid a baseline amount to deliver services and will earn a top-up payment if certain targets related to reducing reoffending are met.

It might be argued that these reforms are contradictory. The Government is embracing the idea that retributive punishment is an ineffective means of reducing crime on its own and, relatedly, believes that the way to enable an alternative way of dealing with offenders serving sentences in the community is to allow PWs to use their discretion when it comes to seeing offenders, and to help them better engage with offenders through the formation of more constructive relationships. All of this appears to be based on a desistance based theory of rehabilitation and has resulted in PWs being freed, on paper at least, from many of the targets about which they complained during the course of fieldwork. In contrast, the Government appears to remain committed to the idea that the public want increasingly punitive, primarily custodial, sentences

despite academic research strongly suggesting otherwise (Roberts and Hough, 2002, 2011), and that the involvement of the private sector and a PbR scheme will inevitably lead to better reconviction rates, despite a lack of evidence showing this is the case.

Of course, the changes proposed by the Government might never fully be implemented, but certain aspects have already begun to impact on practice and PWs are beginning to feel this. It seems as though the Probation Service is about to face yet more change. Thus this research can be seen as a picture of probation practice and ideals at the end of a period in which successive Labour Governments micro-managed the Probation Service, were overwhelmingly focused on the delivery of accredited programmes which worked via cognitive behavioural techniques, and constrained PWs' discretion more than had been seen previously. This is not to say that the Coalition Government intends to completely overhaul probation. As we have seen above, punitive rhetoric still plays a part and politicians are still working towards the assumption that this is what the public want. Arguably the Coalition Government is placing greater emphasis on reducing reoffending as an explicit aim of the Probation Service than previous governments. However, it would be disingenuous to state that Labour were not interested in reducing reoffending. Rather, the different governments adopted different approaches to measuring and paying for reducing reoffending. The Coalition Government intends to pay for reductions in reoffending *post hoc* as opposed to Labour which paid programme providers for reducing reoffending in advance, using accredited programmes as a proxy for the actual reduced rate of offending. In this sense, it might be argued that Labour had more faith in the evidence that underpinned its interventions than the Coalition Government, and rightly so when one considers the dearth of evidence in support of PbR and competition. This context is important for understanding the policy and practice implications of this research. However, before moving on to this it is necessary to outline the main findings of this research.

Main Findings

The first main finding to emerge from this dissertation relates to PWs' values. Probation's values are often characterised as a belief in people's ability to change and a desire to help them do so, as Worrall and Mawby (2011: 11) and Deering (2011) describe in recent research on probation culture. The PWs in this study were reticent when it came to talking explicitly about their values.

For example, PWs were asked by managers to write their values on a 'talking wall' which had been erected outside the kitchen area in RS1. Only two comments were offered:

The values are fine, we just need to live by them, especially SPOs. A good example needs to come from the top. (RS1, 29 January 2010)

Our values are fine. They just need sticking to. (RS1, 29 January 2010)

No PW offered concrete examples of probation's values during periods of observation so I used interviews as a means of probing this in more detail. However, this question was often evaded, with a typical response coming from Ali:

Why fix something that isn't broken? Our values are great already, they just need to be reinforced and reminded again. They don't need changing. (RS1, PSO, Interview)

Although the description of probation's values offered above might be interesting, it is too broad to be of much use. For example, while in RS1, *The One Show* (*The One Show*, 2009) aired a short piece on a day in the life of a probation officer. During a conversation with staff about the programme, one manager said:

It was the normal PR stuff. People were asked if they believed people could change and the OMs said 'of course, we couldn't do this job without thinking that.' (RS1, Susan, TM, 9 November 2009)

It was clear from her comment that Susan believed this was a rather stereotypical representation of probation's values. Despite PWs' reticence, this research sheds light on probation's values with reference to questions about why something was done and what was being achieved. As we saw in Chapter 4, PWs work towards aims that are situated on macro-, mezzo- and micro-levels. They do this because they want to help people, but also because they believe that offenders need to be 'dealt with'. In Chapter 5 we saw evidence of PWs justifying the punitive element of their work through reference to justice but also, in Chapter 6, by describing the way in which they need to help offenders overcome the external factors related to the onset of offending. This research therefore supports findings from other research that a key value of PWs is that of a belief in people's ability to change. Moreover, it would appear that probation's values are considerably more implicit than they are explicit. PWs did not feel the need to reiterate their values; rather they were a taken for granted aspect of being a PO or PSO. This finding resonates with Mawby and Worrall's findings (2011). On the other hand, PWs perceive much of the rehabilitative process as revolving around two key concepts: motivating offenders to change by trying to get them to see how life would be improved if it were crime-free, and by trying to make

offenders take responsibility for their actions. This method of rehabilitative work is justified by PWs seeing the aetiology of crime in neo-classical terms. Here we can see traditional ways of probation as social work interacting with the correctional model seen in policy, an important clash between habitus and field (Bourdieu 1990), as found by researchers conducting similar work (Deering 2011; Mawby and Worrall 2011). Garland's (2001) culture of control is important here because it is in within his work that we identify the main changes in the field: the increased use of managerialism which affects the ways in which PWs go about achieving compliance; the notion of punishment becoming ever important with PWs accepting their role in its delivery whilst simultaneously arguing that punishment needs to be effective rather than affective. Similarly, PWs agreed that public protection was a legitimate aim for the service and that this could be achieved through reducing reoffending and managing risk. However, they saw face-to-face work with the offender as the most appropriate and effective means of achieving this, with the relationship being their key tool in doing so. The neo-classical approach means that supervision sessions are dominated by responsibility and a doggedness in assessing and changing an offender's motivation. Whilst PWs see the aetiology of crime as embedded in social structures, they appear to practice in a way which puts greater emphasis on internal causes of crime.

Another key finding to come from this research is the identification of a strong sense of social justice amongst PWs. This is evidenced by the way in which they describe offenders' journeys to offending. They see the majority of offenders as victims, to an extent, of social inequality and part of their role is to ameliorate this. We see this in decisions about sentencing proposals as well in decisions to breach. As seen in Chapters 5 and 8, many decisions are framed by a desire to keep people out of prison: thus one of the values of PWs is that of anti-custodialism, a clear link to the policies and practices of probation prior to the Criminal Justice Act 1991. These values manifest in PSR interviews where PWs probe offenders for any reason to advise the sentencer against custody, or if they believe the offender will get prison anyway, then a certain element of ambivalence to the report itself is evident. It is particularly notable that PWs are limited in their ability to affect wider social inequalities. Rather, their impact is limited to the criminal justice setting itself. PWs were unable in many circumstances to help offenders with housing or finding a job, two critical factors in in terms of reintegration.

This leads on to a third finding: the implicit belief in emerging ideas from the work being done on desistance. As discussed in Chapter 4, PWs saw success as being hard to identify but, ultimately, the ways in which they described success was closely related to the key findings from this body of work. The research took place prior to the roll out of the Offender Engagement Programme and participants did not use the word desistance. However, this research suggests that there is considerable benefit in acknowledging the skills and experience that probation practitioners have when trying to work out how best to engage offenders. It would appear that, despite the literature on the decline of the expert (Garland and Sparks, 2000), PWs have a clear set of skills which are important here. However, it is clear that their levels of expertise are diminished, not necessarily by the increased use of risk assessment tools – as has been suggested by others (May and Annison 1998) – but by the increased case management aspect of supervision, something which arose out of the prevalence of managerialism as well as a desire to improve the relationship between them and their offender. Again, this research points to the existence of an important clash between the habitus of PWs and the changing field in which they practice. Nevertheless, this belief in themselves as the expert is an important justification for what they do and was cited as such in many situations. In contrast, when I returned to RS1 PWs explained that what I had interpreted as deprofessionalisation was, in their eyes, evidence of them being experts in the delivery of supervision and case management and that this was necessarily broad. Furthermore, they argued that is their niche and justifies much of the work that occurs in the context of a supervision session.

Fourthly, PWs have a strong belief in the effectiveness of probation. More specifically, they believe that their main tool is the officer-offender relationship. When I asked PWs to tell me about their most successful offender, they all managed to do so. This might partly be seen as stemming directly from the What Works movement which, despite beginning life as a question, has slowly become a statement of fact. PWs have faith in the research that has gone into accredited programmes and POs in particular cited this research during fieldwork. However, this confidence might also be seen in the context of Millar and Burke's (2012) work on probation trainees in which they argue that probation training has encouraged PWs to strive for 'technical efficiency' which is defined by the focus on outcomes and the what works movement. This, they argue, has resulted in a 'culture of utility' which is in tension with a more humanistic approach. Whilst I would agree that a culture of utility exists in probation to a certain extent, PWs are able to separate these off from each other and, moreover, believe that it is through humanistic

practice which best enables them to achieve targets in addition to more substantive rehabilitation.

Fifthly, PWs believe that most of the credit for real, substantive success should go to the offender. This is partly to do with the way in which they see responsibilisation as an important factor in the process of rehabilitation. In order to enable this, they believe that offenders should be given the opportunity to devise their own needs and that PWs should be able to take offenders' circumstances into account when giving them that opportunity. Thus we see PWs bending, and sometimes ignoring, the rules but always with the offender's interests in mind. Although risk assessment tools standardise practice, PWs are keen to let offenders direct conversation in supervision if necessary. This is an example of the way in which PWs can, and do, resist efforts to constrain their discretion, as well as showing how PWs carve rehabilitation into their work.

Finally, the opinions and attitudes expressed by the participants in this study were overwhelmingly homogenous. Not every participant held exactly the same view but there was broad consensus in terms in relation to many aspects of practice. Mawby and Worrall (2011: 7) identify three 'types' of probation worker: 'lifers', 'second careerists' and 'offender managers'. One can identify these 'types' within this research but it was clear that the values that underpinned their practice were broadly similar. Although the 'offender managers' (for example, Frances and Chloe) were happier with using computers, the lifers (for example, Karen and Monica) were more sceptical of targets whilst the second careerists (Malcolm) did seem more focused on 'being able to 'make a difference' (Mawby and Worrall 2001: 9) they appeared to work in very similar ways, with little difference in the operationalization of those values in contrast to the argument put forward by Mawby and Worrall (2011). This may be an artefact of the different methods used in the two pieces of research, a point to which I return below.

There is, then, clear evidence of both continuities and discontinuities in the practice and practice ideals of probation workers. Whilst the 'indices of change' put forward by Garland (2001) are clearly present in terms of the changing structure of probation policy and practice there is also evidence that those core values that were identified and advocated by academics in the 1990s (Nellis 1995; Masters 1995) and found to be still present in the early 2000s (McNeill 2000; Robinson and McNeill 2004) are still important to PWs today. However, the operationalisation

of these values has changed in distinct ways. This research has enabled us to better understand the ways in which managerialism has impacted on practice. Moreover, it has shed light on how PWs make use of the relationship in late-modern probation practice alerting us to the increased importance of using the relationship to responsibilise offenders. All of this creates a very particular kind of probation practice; one which is the product of a negotiation between agency and structure (Henry and McAra 2012).

Throughout this discussion I have referred to similar recent research (Mawby and Worrall 2011; Deering 2011) and it is clear that despite certain differences, the finding that probation's core 'social work' values have persisted despite a range of changes in terms of theory and policy is central to them all. My findings support these broad conclusions. Moreover, that I observed homogeneity to such an extent suggests that, despite only being carried out in two teams, the findings presented here are generalizable to probation practice more broadly. Indeed, when I have discussed the findings in more informal settings (at conferences, for example), practising probation workers have recognised much of what I say.

A Reflection on the Period of Observation

In Chapter 3 I made the case for conducting an ethnography of probation. The period of observation generated a very particular set of data for analysis. Firstly, being in the field, surrounded by practitioners for a period of nine months allowed me to fully understand what PWs did on a day-to-day basis. It allowed me to look at the way in which space was used in the building and what this meant for probation practice (Phillips, forthcoming). It demonstrated the extent to which the computer is present in practitioners' daily lives and added considerable context to the oft-quoted figure of practitioners spending 75% of their time in front of a computer. Secondly, the period of observation allowed me to build relationships with participants - this had the effect of creating trust and openness between myself, as researcher, and participants as subjects. Moreover, observation allowed me to capture spontaneous statements which 'are more likely to indicate what would have been said had the researcher not been present' (Bachmann and Schutt 2003: 249). In turn, this has led to data which can be seen as accurate reflections of what it means to 'do' probation. Thirdly, observation allowed me to follow certain offenders as they progressed through the system from PSR to induction and into 'supervision proper'. In this sense I also built a relationship with one or two offenders whom I observed on several occasions. Fourthly, observation allowed me to unpick the differences

between what people said, and what people did - a common issue with research which relies solely on interview data as argued in Chapter 3. This had important implications: for example, it allowed me to conclude that although there might be different 'types' of practitioner, they work in similar ways and target similar things during supervision sessions. Finally, the time spent in the field meant that PWs were willing to talk to me at a later date, giving me an opportunity to clarify my own interpretations of the data and validate my findings more generally. This proved a useful exercise in terms of both questioning my understanding probation practice and practice ideals, and in terms of allowing participants some input into the final product.

This is not to say that the period of observation was without its problems. Part of building a relationship with participants meant that I was invited out to social events. I accepted these invites on two occasions but had to be careful not to overstep the boundaries between researcher and subject. It also meant that I was sometimes seen as 'one of them' - although I did not 'go native', there were times when I felt that things were getting too close (for example, when some PWs shared what would be considered an inappropriate joke with myself). It is part of human nature that we connect with some people better than others and this was the case during observation. As a smoker I inevitably spent more time talking to other smokers and there were other PWs with whom I spoke a lot (regardless of smoking status) whilst others with whom I rarely spoke, for whatever reason. Thus the data presented here might be skewed towards the people with whom I built a better relationship. This meant that, during analysis, I had to be careful not to attribute too much to one or two particular people by virtue of the fact that I had spoken to them more.

There is also an issue of power here: I was at the mercy of PWs' willingness to let me observe their sessions with offenders. They were able to deny access at any point and so there is a risk that I was only allowed to observe session which PWs considered 'good' in terms of presenting to me what they I wanted to see - indeed, I saw this often when it came to 'boring' clients (see Chapter 4). Furthermore, it might also have been the case that those PWs with whom I had a good relationship were more willing to allow me access. I will never fully know the extent of this but tried to mitigate it by making sure that I observed every PW from each team at least once.

Limitations of the Research

All research has its limitations, some of which were discussed in Chapter 3. However, others should be mentioned here because it has not been possible to cover every aspect of probation

practice and culture. The victim has appeared in various sections of this dissertation, yet the victim was remarkably absent during fieldwork. I have described how victim workers were based in separate parts of the building in both research sites, and this may have contributed to this absence. I was also mainly focused on the way in which PWs worked with, talked about, and reacted to offenders. This is not to say that victims are not a useful lens through which to examine probation practice, but that the focus in this research was elsewhere. This absence, however, does point to a need for future research in this regard and a starting point for this may be the argument that the informal and indirect lines of accountability to victims has resulted in PWs neglecting to take their needs into account.

I have been unable to fully explore issues of gender within this dissertation. The majority of offenders on probation are male and although I observed PWs working with female offenders, they were considerably fewer in number than the male offenders I observed. PWs expressed a particular attitude towards female offenders. They commented that female offenders are harder work than men, have more problems related to both criminogenic needs as well as factors related to their ability to attend (childcare in particular was an issue here). Again, this represents an area for future research. On a related note, Mawby and Worrall (2011) have raised the idea of 'feminisation' in the Service. It was certainly the case that the majority of PWs with whom I had contact were female (27 of the 39 PWs who feature in this dissertation are female). However, I did not observe any distinct differences between male and female PWs, nor did I notice a distinctly feminine ethos in either research site. Nevertheless, it is clear that an increasingly feminine workplace could have an impact on practice and this is an area for future research.

May (1991) used Likert scales to measure PWs' attitudes, allowing him to include quantitative and qualitative data in his work. This has not been possible here. As described in Chapter 3, I was conscious of the need to avoid imposing a priori definitions onto participants and so I chose not to include such a method of data collection. On reflection, it might be useful to use the values and assumptions identified in this Chapter as a means by which to ask PWs about these specific issues in a manner which would aid quantitative analysis. Such analysis would allow for different weight to be assigned to different aspects of practice. If we look to Liebling's (2004) work on prisons we can see that this kind of initial research, which begins by exploring workers' (and prisoners' in the case of Liebling) attitudes to prison life can evolve, through the use of

more quantitative methods, into a tool which can measure the moral performance of prisons. This research is a starting point in this process and this represents an avenue for future research.

Implications for Policy and Practice

The findings presented in this dissertation have important implications for the future of probation policy and practice, especially in the context of the Government's proposals outlined above. These implications are fourfold. In order to explore these issues, it is necessary to highlight some of the tensions in the themes in this dissertation. There are clear tensions between the arguments put forward in Chapters 4 and 6, and Chapter 8. PWs argue that they work towards an ineffable type of rehabilitation; one in which small steps and social capital take precedence over quantitative targets and KPIs and that this is achieved via a relationship with offenders which is built on honesty, openness and reliability. In Chapter 8, however, we saw the way in which managerialist compliance has pushed PWs towards a type of compliance which is medium-term in focus, measurable solely with reference to attendance and completion rates, and relies on decisions that are made in the office, with little input from offenders. In Chapters 5 and 6 we saw that PWs reconcile a perception that punishment is ultimately harmful to offenders' prospects of desisting with the acceptance that this was something they had to be involved in. The way in which PWs deal with delivering punishment, by detaching themselves from this aspect of their role, might also be seen to be in tension with the relationship that they prioritise in Chapter 6. On the other hand, PWs appear to work towards a value of anti-custodialism and so the punitive rhetoric that is present in current and future policy might be seen to encourage such an ethic.

Chapters 7 and 8 contain one of the main tensions in late-modern probation. Both chapters illustrate the impact of managerialism on practice and it is clear that the pressure of achieving targets impacts on the work that PWs do with offenders. In Chapter 7 these managerialist pressures force PWs to prioritise formal and direct modes of accountability despite them having a stronger belief in the more informal or indirect means of holding them to account. Chapter 8 sheds light on the way in which managerialism can be used to show how the Service is more compliance focused. However, this is an illusion if the aim of probation is more about helping offenders comply with wider social norms than the medium-term and technical kind of compliance that completion rates actually represent.

In Chapter 8 it was argued that many of the formal, direct means of holding PWs to account are inadequate from the perspective of PWs. These lines of accountability can also be seen as inadequate from the perspective of the public. We know from academic research that the public has a greater appetite for rehabilitation than politicians purport. Thus PWs are held to account via targets which prioritise short and medium term compliance over long-term rehabilitation and neglect to measure the facets of change in which PWs strongly believe means that this mode of accountability is clearly lacking. This inadequacy may be related to the decline of the expert's influence on criminal justice policy and the concomitant increased influence of populist punitiveness (Bottoms, 1995; Garland and Sparks, 2000). If this is the case then it is a somewhat depressing assessment of the way in which PWs, who know a great deal about what offenders need to desist and what they can do to aid this process, have been sidelined. Indeed, the supervision sessions that I observed during this research, and the way in which PWs talk about success reflects many of the findings from the desistance literature, suggesting that PWs have in-depth and intuitive knowledge about what it means to desist from offending.

The first primary policy implication of this research concerns the Government's programme of work which aims to improve the engagement of offenders by helping PWs gain skills to create better relationships via the Skills for Effective Engagement and Development (SEED) training (Copsey, 2011). SEED is based on the Strategic Training Initiative in Community Supervision (STICS) which revolves around acknowledging that the way in which the RNR model of rehabilitation has been implemented thus far has failed to take account of the real world nature of probation practice (Bonta et al., 2010). PWs in this study expressed their belief in the importance and potential of the relationship. However, they struggled to describe what the relationship is, and how they go about creating it. This points to a need for improving PWs' knowledge of the theoretical underpinnings and practical implications of this intervention. STICS is based on a wealth of evidence that supports the idea of using the worker-offender relationship to initiate change and so this programme of work is likely to have a positive impact on probation practice. In Chapter 6 I draw a link between the use of the relationship as a means of legitimating the Probation Service for offenders. Thus, the importance of any work which contributes to this task should not be underestimated. PWs struggle to define and describe the way in which they create a relationship. This highlights a gap in PWs' knowledge and it might be argued that the OEP is an apposite framework within which to address this issue.

The second implication is about enhancing offender compliance. That the public and offenders see probation as a legitimate response to offending is key to the functioning of the Service and the criminal justice system more broadly, yet the proposals outlined above are insufficient in this regard. From the perspective of the public, probation has to represent an adequate alternative to other forms of punishment; namely, the fine and prison. Offenders need to see community sentences as legitimate so that they comply because without compliance, there is little that PWs can do in terms of effective (or affective) punishment or rehabilitation. In order to do this, probation has to be able to fulfil all the functions of the criminal justice system: rehabilitation, punishment, public protection, deterrence and reparation. It is undoubtedly difficult to balance these aims, but PWs are faced with having to do so on a daily basis. Robinson and Ugwudike (2012) argue that the focus on enforcement has not led to the desired process of legitimation and that a reliance on inflexible rules has, in contrast, led to probation becoming increasingly illegitimate. This is partly because offenders themselves do not see an inflexible approach to rules as legitimate, and also because enforcement procedures are seen to have contributed significantly to the increasing prison population over recent years (Ministry of Justice, 2009). My research suggests that despite greater flexibility in the rules around enforcement, the kind of compliance that ensues still has the potential to militate against greater legitimacy for both offenders and the public. Whilst a looser approach to enforcement does allow PWs to be more flexible when it comes to compliance, issues arise when one looks to the way in which compliance is measured. Thus, the 2011 revision of national standards (Ministry of Justice, 2011a) may go some way to enhancing the legitimacy of the Service if, and arguably *only* if, the way in which compliance is measured is also more flexible and tailored to the offender's risks, needs, level of motivation and ability.

The third policy implication of this research stems from the Government's intention to introduce PbR, and focuses specifically on what exactly those results might be. Chapter 4 alerts us to the need to measure compliance, and probation more broadly, with reference to where an offender started. Chapter 5 highlights the need to accept that not all offenders need punishing and Chapter 6 (in conjunction with Chapter 4) demonstrates that it is not always possible to identify exactly how or to what extent an offender has been rehabilitated. The concept of PbR has received considerable attention in the media (Travis, 2012; T. Whitehead, 2012), academic literature (Burke, 2011), probation professionals and representatives (Ledger, 2010) as well as in work by interested commentators (see <http://www.russellwebster.com/>). Although PbR has

been heralded by the Government as re-energising the criminal justice system's rehabilitative potential, many issues have been raised with regards to the implementation of such a framework. This dissertation has already highlighted problems with measuring the service purely via reconviction or reoffending rates which neglect to take account of changes in offending behaviour (whether an offender is offending more or less seriously, or with greater or lesser frequency, for example). Reoffending rates also fail to take into account the small steps that PWs (and offenders) see as critical to the desistance process, as well as being unable to incorporate the inevitability of relapse into its measure of success. One way around this is to pay providers for specific objectives such as helping an offender gain employment. Whilst employment is an important correlate in the onset of and subsequent desistance from offending, to make a simple link between this and reduced reoffending fails to take account of other factors that might have had a greater influence on offending behaviour (such as changes in relationships with family or friendships (Giordano et al., 2003)). Thus, a second and related issue with PbR is how the Government proposes to decide which agency is responsible for a given change in offending when so many agencies may be involved in the rehabilitation of one offender.

However, PbR depends on the existence of concrete measures against which payment can be made. Many of the small steps that PWs described in Chapter 4 and the nature of the relationship outlined in Chapter 6 are not amenable to being measured in this way. Ultimately, PbR can be seen to be an inadequate means by which to measure the Service. The introduction of such a framework risks prioritising the concrete, tangible measures of success which, whilst being important to offender desistance, are not all that is required. As I argued above, the Government's intention to introduce PbR appears to be at odds with the OEP, SEED and the focus on the quality of supervision, yet the Government appears to be intent on pressing ahead with this proposal. Such a move may not be received positively by PWs. However, there are more important ramifications of such a move. For Community Orders, Suspended Sentence Orders and Licences to be perceived as legitimate, the Service must be able to demonstrate its effectiveness in a reliable manner and arguably that the shape of PbR which the Government is currently proposing does not have this potential. Thus the Government's proposal to introduce PbR across probation within a few years has the potential to undermine its legitimacy. As I have argued above, it is the way in which the Service is measured which is critical to its legitimacy and the Government's proposals are contradictory in this respect.

The fourth policy and practice implication resulting from this research revolves around the Government's intention to open offender management and supervision up to competition (Ministry of Justice, 2012b). Whilst PWs accepted that Community Payback was a viable target for outsourcing, none believed that offender management and supervision should, or could, be opened up to competition. A significant issue with the privatisation of offender management is the idea that supervision will also pass to the provider. Whilst this is logical in terms of limiting the potential for miscommunication and duplication between providers, the move raises considerable issues in terms of results. Indeed, this is the nub of much concern about privatising offender management amongst PWs. As has been argued in this dissertation, supervision is about helping offenders desist from offending by using a professional relationship to motivate, responsabilise and encourage offenders along that path. Alongside this, is the expectation that things will go awry at some point and that offenders are unlikely to completely desist during the course of a community sentence (and beyond). Offender management, on the other hand, is about making appropriate referrals, ensuring that offenders attend appointments, and enforcing orders where necessary. Although these two functions of probation are currently delivered by the same people (PWs), they require very different skills and demand very different types of measurement. Thus there is a considerable risk that this conflation of supervision and offender management means that the concrete measures of success, which are much more easily attributable to offender management than supervision, will come to dominate the offender management/supervisory function of provider organisations. Again, this has important ramifications in terms of the Service's legitimacy. If provider organisations are unable to create professional relationships with offenders, then community sentences are less likely (in theory at least) to be considered legitimate: we saw in Chapter 6 the way in which the supervision process might be seen to be all about a process of legitimisation for offenders and so this proposal risks delegitimising probation from the perspective of PWs but also, importantly, from the perspective of offenders.

One way to counter these problems would be to consider the issue of accountability in more detail. In some ways, Chapter 7 of this dissertation is emblematic of the problems that have prevented community penalties from being seen as a viable sentence despite years of reforms, toughening up, pendulum swings and evidence-based practice. For the Service to be legitimate, it is important for it to be accountable to all stakeholders, yet Chapter 7 suggests that the lines of accountability are far from adequate in this regard. Although the public do have a say in what

projects offenders on Unpaid Work should do, they have very limited say in what else the Service does. The data presented in this dissertation suggest a need for formalising accountability to the public through more substantive engagement than simply asking them what they want offenders to do as part of their Unpaid Work requirement. How this might occur would require an in-depth examination of what the public want from probation, and how PWs want to be held accountable by the public. The first task here must revolve around improving the public's knowledge about probation (no small undertaking in itself). In turn, this points to the importance of the media in restructuring the way in which probation is held accountable, and thus legitimated.

Although PWs are wary of the way in which the media can hold them to account, to think that media attention is likely to diminish is naïve. To combat the perception that the media represent probation unfairly and inaccurately, several Trusts have recently begun thinking about how best to use social media to bolster their public profile ("Defending the faith: probation trusts and the effective use of social media," (n.d.)). Although these attempts may initially look like propaganda (see, for example, <https://twitter.com/#!/SurrSussProb> on 13 December 2011), they might go some way to overcoming the way in which the media represent the Service by going directly to the public.

In terms of accountability to offenders, I have shown that this is currently achieved through informal means and corresponds to a critical part of the relationship building process. The OEP was seen by some PWs to be a positive step; as a way of transforming a PW's accountability to their offender from an informal mode to a formal mode. In the context of Chapter 4 this might not be surprising. PWs were concerned that the OEP treated offenders as consumers, implying that they had chosen to commit crime, and chosen to be 'on probation' when this was not considered to be the case. Thus when rethinking the way in which offenders might formally hold PWs to account it is important to consider how the offender as power holder (i.e. the person who is in the best position to be able to identify their needs), is reconciled with the offender who is on probation against their will, and who is serving a punishment imposed by the court. It seems, therefore, that the debates about care and control need to be revived because they are as relevant for the PWs in this study as they were for probation practitioners during the 1960s and 1970s.

If we do conceive of offenders as consumers it raises particular issues with regards probation practice. The idea can be seen to fit within several practice ideals already discussed in this dissertation. For example, PWs in Chapter 6 expressed a desire to ensure that offenders were able to define their own priorities. However, this was restricted by the structures of risk assessments (OASys and PSR pro-formas), to such an extent that offenders must fit into boxes in the first instance. This suggests that if accountability to offenders is to be strengthened there might also need to be a relaxation of the strict risk assessment procedures described above.

Concluding Summary

Despite PWs being faced with changes in the broader political context, it would appear that they have continued working towards idealsthat bear a strong resemblance to previous contexts. Indeed, it might be possible to argue that they have continued to do so until the Service found its way back (as it always does) to the ethos of advise, assist and befriend (Canton, 2011) in the form of the OEP. All this suggests that the changes implemented during the 1990s and 2000s were ineffectual in terms of altering the ideals of probation practitioners.

Ultimately, this dissertation has presented many of the issues faced by PWs in an era of late-modernity. The increased importance of risk, the creation of a punitive Probation Service and the pervasiveness of managerialism, whilst not being new concepts, have made demands on probation staff to an extent not known in the organisation's past. Despite this, there is strong evidence of a practice ideal which see is underpinned by a desire to treat offenders holistically, alongside a strong belief in their ability to change. Importantly, offenders are seen as victims of social inequality. In contrast, several aspects of late-modernity have been internalised and are not questioned by staff: for example, PWs accept their role as the deliverers of punishment and the impact of risk assessment tools has been to make PSR interviews and supervision sessions remarkably homogenous.

This research has shown how observation and interviews with probation staff can serve to shed light on the practice and practice ideals of probation. Rather than relying on interview data and questionnaires, as is often the case in probation research, the research has taken a grounded theory, social constructionist approach, allowing PWs themselves to inform the research agenda. What results is a nuanced view of the embeddedness of PWs' modes of practice. The data presented here suggest that many of the Government's proposals will not serve to improve the

way in which the Service performs from the perspective of practitioners, the public or offenders. However, the dissertation sheds light on how the Government might go about such a task. If the Government were so inclined to take a message from this research, that message would be to look at how the Service is measured as this has an important and wide-ranging impact on probation practice, the service that offenders receive and the perception that the public has of probation. In turn, rethinking the measurement of probation would lead to the Service having greater legitimacy in the public sphere and may finally help to afford probation the importance that its founding members and current workforce think it deserves. To reiterate, that Service, in the eyes of the PWs with whom I spoke, is one which has at its heart a critical role to play in the delivery of justice but which also works to help offenders overcome internal and external factors related to the onset of offending through the creation and utilisation of a professional worker-offender relationship. The language and packaging of probation may have changed beyond recognition over recent years, yet the values that underpin practice are remarkably similar to those of the missionaries, the rehabilitative idealists or the early correctionalists. Moreover, their aims are still ineffable, hard to pin down and vulnerable to being perceived as failure. For all the change the Service has faced, these are the true continuities of probation practice and it is imperative that governments bear this in mind when implementing further reform, because only then will probation practice be true to the intentions of its staff, work in the interests of offenders and protect the public from further harm.

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Appendix 1: A Review of the Pilot Interviews

As part of the pilot process for this research I interviewed four PWs in a probation area for which I was conducting a separate piece of research. Two of the participants had been in the Service for more than 20 years and two had been qualified for around 5 years each. The interviews were conducted with two aims in mind: firstly, to confirm whether the themes which had been identified via the academic literature were likely to prove relevant to practice, as well as to begin to identify aspects of practice which would form the main foci of the dissertation. Secondly the pilot interviews were intended to test PWs' interest and enthusiasm for my project. If PWs were not interested in the project then securing interviews and observation during fieldwork might prove difficult.

When talking about rehabilitation, the PWs invariably began talking about the social work ethos in probation. It was clear that the 'social work ethos' had connotations of 'how things used to be done.' One PW described this context as 'the fuzzy era.' Nevertheless, social work seemed to be a phrase which was implicitly understood and important in the world of probation officers. The PWs agreed that there must be some element of the 'social work ethos' to probation work and that this has been in decline over recent years. One PW put this down to changes in training, representing a possible area for investigation; is there a difference between PWs who have been trained under different training regimes?

In terms of what rehabilitation meant, one PW said that her job was to help people turn their lives around for the benefit of both offender and the general public. However, they appeared to yearn for a working environment in which rehabilitation was more feasible. Rehabilitation was seen as the most important yet most difficult part of the job. Rehabilitation was seen as difficult because of two things: a lack of time; and a lack of knowledge about how to really do it. Three of the PWs talked about how little time they could spend with offenders and two cited a recent visit from their Chief Officer who had said that they should only be spending 10-15 minutes with each offender per appointment. Another PW talked about how other systems such as risk assessments and targets detract them from the needs of the offender. Rehabilitation was seen as important because, in the words of one officer, 'locking someone up and throwing away the key, the death penalty or rehabilitation are the only ways to achieve ultimate public protection'. Interestingly, I noted at the time that this suggested a disinclination towards theories of

desistance, in that the PW seemed to suggest that rehabilitation can only be instilled in an offender and not occur as a result of other events in an offender's life.

Talking to people was considered an important aspect of how the PWs 'did' rehabilitation. One PW said that he feels like a policeman until he gets into his office with an offender and closes the door, giving him time to get to the real problems. One PW described their job as motivational and seemed to defer responsibility for actually doing rehabilitation to the groups to which she referred offenders. There appeared to be some confusion and contradiction about the aims of some of the requirements; on asking one officer whether he thought that Unpaid Work was a punitive tool the answer was an emphatic 'absolutely'. However, he then went on to talk about how Unpaid Work instils a work ethic in the offenders, suggesting a more rehabilitative current to what he perceives to be a punitive tool. This apparent contradiction heightened my sensitivity to a combination of different penal philosophies. The discussions I had with participants about rehabilitation illustrated the way in which rehabilitation has become a murky topic; the discussions were beset by a lack of precision in terms of definition and method and so it was clear that investigating PWs attitudes towards rehabilitation should be a key focus of fieldwork.

There was an ambivalence towards risk assessment. One PW said that risk assessment tools are little more than tick-box exercises and are only useful if one has the time to act on what the risk assessment advises. There was a general view that for a risk assessment to be a useful exercise, PWs had to have the time available to act on it. However, all of the PWs with whom I spoke argued that this time is seriously lacking. One PW said that one cannot manage risk without looking at rehabilitation because risk management is actually the long term reduction of risk. This alerted my attention to the purpose of risk assessment and raised questions about whether risk assessment was seen as a means to protect the public, rehabilitation or both.

Risk assessments were seen as tool with which PWs were held to account. However, the PWs did not think this was a particularly effective means of doing so. One PW incredulously described the way in one might be asked 'why didn't you notice that he [the shoplifter] was going to stab his girlfriend' (F1), and suggested that this kind of questioning was a significant motivator when conducting risk assessments. I thus considered the idea that risk assessments are seen as tools for personal protection, rather than public protection. This discussion also highlighted a need to look more closely at the way in which PWs are held to account.

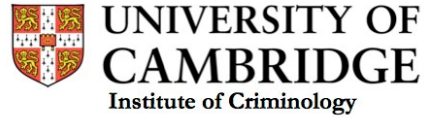
The PWs attitudes towards managerialism were unequivocally negative. However, I did not delve into the meaning of managerialism and so the discussion was lacking in terms of how PWs react to targets and so on. Nevertheless, it was clear that PWs had an uneasy relationship with these ways of measuring the Service and the interviews served to reinforce my initial impression that targets were impacting on practice in potentially problematic ways. The interviews highlighted the need to explore this in detail and in a nuanced manner because PWs appeared to have a tendency to jump to pejorative assessments of managerialism whilst also believing that some targets played a positive role within the Service.

Targets were seen negatively, primarily because there were considered to be so many of them. PWs believed that the Service was driven by targets which were unrelated to helping offenders. Nevertheless, the PWs said that targets were so embedded in probation practice that they were forced to meet them and get on with the job regardless. The interviewees said that they attempted to overcome the way in which targets detracted from their work with offenders by working more than their contracted hours. As a result of these discussions, and having read academic work on resistance to changes in policy, it was becoming clear that there was a need to explore the ways in which targets had impacted on practice and whether PWs resisted these methods of measuring their performance.

I expected the officers to describe the way in which discretion had been curtailed. However, the areas in which discretion remained and the areas in which they wanted more discretion were surprising. It was clear that the PWs had thought about levels of discretion and expressed well-thought out opinions on the topic. One PW thought that work around breach was the area in which they had the most discretion. The same PW seemed to believe that it was right for discretion to be restricted as there was a belief that there was a temptation not to instigate breach proceedings, for example, because it created more work. On the other hand, the PWs expressed consternation towards new rules which required PWs to obtain SPO authorisation when making a decision concerning breach. It was clear from these discussions that discretion represented an aspect of work in which PWs were particularly interested. It was also evident that changes in policy were having an impact on PWs' practices, and that there was evidence of some resistance to these changes.

The overwhelming impression gained from the pilot interviews was one of enthusiasm from PWs for my research. They all spoke in depth about the issues I had asked about and all thought that there was a need to explore the relationship between policy and practice. It was also clear that the themes I had identified within the academic literature were pertinent and interesting to PWs in the field. However, it was also clear that interviews were not going to be wholly sufficient for the research. It was difficult for me to gain a full picture about how exactly targets impacted in practice, for example, because PWs' responses appeared to be affected by their general attitudes to targets in the first place. Thus the pilot work reinforced the idea that fieldwork should contain a period of observation in addition to interviews.

Appendix 2: Consent Form



CONSENT FORM

Project: The Rehabilitative Ideal in Probation

Name of Researcher: Jake Phillips

I agree to take part in the above study and understand that my participation is voluntary and that I am free to withdraw at any time, without giving any reason. I am aware that I can refuse to answer any question if I so choose. I am willing/unwilling* for the interview to be recorded. I am aware that all data collected during the interview will be held securely, dealt with confidentially and anonymised before being included in any subsequent report, publication or academic work.

Name of Participant

Date

Signature

Researcher

Date

Signature

* Please delete as appropriate

Appendix 3: Excerpt from Fieldnotes

The following is an extract from my fieldnotes. Each day was different, but this can be seen as typical:

Arrived at 10am. Frances immediately invited me to a PSR with her. She said it would be boring but I could come, if the offender was happy for me to observe, of course. She explained that it was a TWOC case; that the client had taken his step dad's car. We went downstairs and met him in the reception and went into an interview room. Frances introduced me as a student from Cambridge and he said he was happy for me to observe. Frances began by explaining that the PSR was in four parts- the offence, his life so she could paint a picture of his life for the court, his risks- of reoffending and what risk he poses to others and then the sentencing proposal. She stressed that the decision lay with the court. She had noticed that he was being sentenced by the district judge and turned to me and asked if I had heard of him- I said yes. She said he was notorious.

They began with the offence- he was very vague. Frances tried to get more information about why he did things but he wasn't giving much to the interview. Frances struggled at times to get him to think about his actions – she persevered for about ten minutes and then moved on to his family and friends, what he does during the day, his work and education. They then went through his pre-cons, the work he had done with the YOT, his ASBO and then the sentence proposal. They talked about prison; she asked if he would cope, he said yes. Frances said 'it must be scary though?' He displayed quite a lot of bravado but did say that it was a scary thought and Frances tried to delve a bit deeper. He said he knew people in prison so would be okay but Frances got him to admit that it wouldn't be easy [I couldn't tell if he was agreeing with her for the sake of it or whether his admission was genuine]. They then discussed other options: supervision and responsible road users group. Frances explained what these were. Frances also mentioned a curfew. The offender asked what the point of this was, as he had committed the offence during the day. Frances explained that it would be a direct punishment and elaborated by saying it might change his lifestyle and give him a chance to stay in and think about his actions. Frances said she wouldn't be proposing custody but it was up to the judge. She then gave him some paperwork to fill in about diversity and a needs assessment. She asked him if his reading and writing were okay before asking him to fill it in. At the end of the form he was asked to say if he was likely to reoffend or not. He said he didn't know but expected to breach his ASBO because even if he did nothing then he would breach it 'cos he couldn't stop people coming into his garden to talk to him, or seeing people in the streets. Frances pushed him on this, asking why this was so and that he couldn't breach it by doing nothing so he would be responsible for breaching it but that he could do things to make it less likely. 45 minutes.

Afterwards, Frances said that he was probably a PPO cos one of his workers works with PPOs and was part of the integrated offender management team. She said she would give me the PSR to read. Frances said that she would be proposing supervision and RRU and would need to decide about a curfew or UPW but that one of these options would be included because the judge had asked for her to consider punishment as a sentencing aim.

Back in the office Chloe asked Karen if she would cover a Tier 4 for her; she said it would be a 'hi and bye' and that he just needed to check in and give him the next appointment. Everyone was printing out their own appointment cards 'cos no more were being ordered [Is this to cut costs? Or is it just an admin thing?]

...

Asked Karen if she had got in touch with the solicitor about the outstanding robbery form the PSR from yesterday. She had had no luck so won't propose anything 'cos the seriousness of the offence will effect the sentence considerably. We talked a bit about OGRS which she was doing for the client from yesterday. She showed me the OGRS programme: the only factors it takes into account are age now, date of conviction, date of assessment, date of first conviction and number of sanctions. Karen said that she doesn't have much time for OGRS as it is too biased towards age and she went into detail about how offenders who have been in prison have really low OGRS scores which she thought was ridiculous.

...

Mary commented that no one has written on the 'values' talking wall yet.

Karen: it's patronising: of course we believe people can change. We wouldn't be doing the job otherwise.

Mary: Yeah, the majority of people think this. It's a paper exercise...

Karen: ...so they can tick some European Excellence framework.

Karen has got computer problems. People began talking about holiday harmonisation and unions. Karen said that probation was a soft touch and complained that there was now no time to get to [union] meetings and that people need to make more of an effort. Karen then asked Jim about the PSR I sat in on yesterday 'cos Jim knew him. Karen explained that he minimised his behaviour a lot and that she is taking a lot of what he says with a pinch of salt. She said he would end up in prison. I asked if he needed to go to prison. She said, 'no, that TSP and supervision is probably best', but that it is hard to know exactly what he actually does because of the way he presents himself.

...

Mary was talking about a PSR she was writing up. She said she was going to propose ASRO but can't because she has noticed that his OGRS is only 47 and it has to be 50 for ASRO so she changed it to TSP which has a minimum of 41. Karen got her workload figures through; she is on 89 which is good according to her. She said that her time off is beginning to catch up with her but it means that she will be given more work. She then carried on with an OASys she was doing. She said that the risk of violent reoffending was lower than normal offending. She doesn't understand why this might be the case as he had been done for a violent offence. I tried to explain why it might be but she didn't seem to understand.

Appendix 4: Interview Schedule

I used the following interview schedule during all interviews as a prompt. Most interviews followed this pattern but others deviated, depending on where the conversation took us. I concentrated on asking PWs the main questions. The schedule is thus provided as a guide for readers, to give an idea about what kinds of questions were asked.

Role, duties, responsibilities and accountability

1. To begin, please tell me a bit about your job...
 - a. How long have you been in the Service?
 - b. What do you do on a day to day basis?
 - c. What is the main purpose of your job? How do you achieve this?
 - d. Is there is still an element of 'advise, assist and befriend' in your work?
2. Why did you decide to work for probation?
 - a. What did you do before?
 - b. Is it what you expected?
3. Training:
 - a. PO:
 - i. When did you do your training (if I don't already know this)?
 - ii. What did you think about the training?
 - iii. What was the most important/interesting thing in your training?
 - iv. Was it what you expected?
 - v. How is life different as a PO compared to a TPO?
 - vi. What further training have you done? Do you want to do?
 - b. PSO
 - i. What training have you done while in the service?
 - ii. Are you working towards the NVQ?
 - iii. What has been the most important/useful/interesting training you've done?
 - iv. What training do you think you need? Why?
4. Who do you think you are accountable to? Who has the most interest in the effectiveness of your work?
 - a. Why do [the offender, the Service, colleagues, your SPO/ACO, the public, the

government, NOMS, the trust] take precedence over others such as the offender, the service, colleagues, the public, the government, NOMS?

Rehabilitation

5. I want to get a bit more information about what rehabilitation means for you...

- a. How do you rehabilitate people?
- b. When you think of rehabilitation do you think of it in terms of benefiting the individual more or the community at large? Which of these takes priority in your work?
- c. What things stand in your way of rehabilitating offenders?
- d. Do you think that accredited programmes are more relevant when trying to rehabilitate someone? What role do you play when someone is on a programme which has been imposed for the purpose of rehabilitation?

6. I have heard quite a lot of discussion about the 'relationship' between offenders and OMs.

Can you explain what this is?

- a. Why is it important?
- b. How do you create and nurture this relationship?
- c. Where does trust come into this? How do you know when to trust an offender?

7. Please tell me about the most 'successful' client you have ever worked with?

- a. And so how do you define this as successful?
- b. What is a model client? Would this person be described as a model client?

8. How useful is OASys in terms of thinking about/doing rehabilitation?

- a. How do you use OASys? How does it facilitate your work?
- b. What is OASys used for? What are its key benefits for your work?
- c. What are the main problems with it?

Punishment and deterrence

9. What is the main aim of a Community Order? Of a Suspended Sentence Order?

- a. What are the main differences between the two in terms of your work? In terms of the impact on an offender?

Managerialism

10. How do targets feature in your work?
 - a. In what ways?
 - b. How are they useful?
 - c. How are they a hindrance? So, do you circumvent targets sometimes? Which ones?
 - d. What targets are more important?
11. What do you think about the workload tools that dictate how much work you get given?
 - a. Are they useful?
 - b. How accurate an accurate measure of what you actually get done in a week are they? Can you give me any examples?
12. The previous two questions have been about managerialism- how management tools are used to decide on and prioritise work- what other aspects of managerialism are at work in the Service?
 - a. What do you think about the management structure?
 - b. What do you think management are there to do?

Discretion and compliance

13. I'm interested in what discretion you have in your work. What do you understand the word discretion to be about? Where are you free to make your own decisions rather than be bound by National Standards or other regulation?
 - a. Where do you have enough discretion?
 - i. Why?
 - b. Where do have you too little?
 - i. Why?
 - c. How have things have changed in terms of the amount of discretion you have?
 - d. Is it possible to have too much discretion?
 - e. What limits are there on your discretion? Ones that maybe fall outside the remit of policymakers in the Probation Service?
14. Can discretion be useful in terms of increasing compliance?

- a. What is compliance? As opposed to enforcement?
- b. How do compliance and enforcement relate to each other?
- c. Is it right that compliance has been elevated to higher priority than enforcement?
Why do you think this happened?

Risk management

- 15. How do you decide on the risk that someone poses?
 - a. Do you trust the risk assessment tools you use? Have they ever differed from your professional judgement or gut instinct?
 - b. Once you have measured someone's risk how do you 'manage' it?
 - c. Apart from someone being classed as less 'dangerousness' what other advantages are there in someone's risk level being reduced?
 - d. Have you ever reduced someone's risk status despite not being convinced that there risk level has actually reduced?
 - e. Risk is a dynamic factor- how often are people upgraded/downgraded- is it tied to the review system built into OASys or is it more flexible than that?
 - f. What factors might you take into account when changing someone's risk status.

Values

- 16. Have you contributed to the work on values that is going on in the region at the moment?
 - a. What did you do/say? Why not?
 - b. What do you think about the values that are listed on the poster?

The future

- 17. What are your plans for the future?
 - a. What do you think the future holds for probation?
 - b. [RS1] will become a Trust on 1 April 2010- what will this mean to you?