

HOUSE OF COMMONS

ORAL EVIDENCE

TAKEN BEFORE THE

JUSTICE COMMITTEE

CRIME REDUCTION POLICIES: A CO-ORDINATED APPROACH?

TUESDAY 2 JULY 2013

SAVAS HADJIPAVLOU, IAN LAWRENCE, RICHARD MONKHOUSE, MARTYN
OLIVER and RICHARD JOHNSON

Evidence heard in Public

Questions 1–57

Oral Evidence

Taken before the Justice Committee

on Tuesday 2 July 2013

Members present:

Sir Alan Beith (Chair)
 Steve Brine
 Jeremy Corbyn
 Gareth Johnson
 Mr Elfyn Llwyd
 Seema Malhotra
 Andy McDonald
 Graham Stringer
 Mike Weatherley

Examination of Witnesses

Witnesses: **Savas Hadjipavlou**, Business Director, Probation Chiefs Association, **Ian Lawrence**, General Secretary, NAPO, **Richard Monkhouse**, Deputy Chairman, Magistrates Association, **Martyn Oliver**, Chief Executive, 3SC, and **Richard Johnson**, independent consultant, gave evidence.

Q1 Chair: Welcome to all our witnesses. We have quite a crowded witness bench today, but I am very pleased to welcome you all. We have with us Savas Hadjipavlou, whom we know well from previous occasions, from the Probation Chiefs Association, Ian Lawrence from the National Association of Probation Officers, Richard Monkhouse, deputy chairman of the Magistrates Association, and Martyn Oliver, chief executive of 3SC. I suppose 3SC does not stand for anything these days, does it?

Martyn Oliver: It is Third Sector Consortia Management LLP.

Chair: So it has a real meaning. Thanks very much. Finally, we have with us Richard Johnson, who is a consultant in this field.

I am going to ask Mr Brine to open the questioning. What we are doing, of course, is to some extent revisiting the work that we did some years ago with our Justice Reinvestment report and looking, in this case, at the implications of the Government's "Transforming Rehabilitation" proposals.

Q2 Steve Brine: Thank you very much, Chairman. Good morning, everybody; it is all chaps together this morning. Thank you very much for coming. I will start with Mr Oliver. What do you see as the benefits of the "Transforming Rehabilitation" document and reforms—I am sure you have read them—and to what extent do you agree with the assertion of the Lord Chancellor that the reforms are evolution and not revolution?

Martyn Oliver: The benefits clearly are the inclusion of the cohort for which there is no existing statutory provision—the offenders who have served less than 12 months. They have perhaps the worst reoffending rates of all the cohorts of offenders, so putting those in is an enormous benefit. There are benefits in terms of the national procurement, setting up perhaps a black box approach to service delivery. It enables organisations on the ground to get

on with doing what they do best, and as long as contract holders and primes adhere to that very important principle, it will be a clear benefit. I also think perhaps we will find efficiencies in delivery; there are clear opportunities for that in this procurement, and for the incentivising of what works. There is a whole lot wrapped up in that particular statement. It involves clear diagnostics, clear and accountable pathways for offenders, and IT systems that can record and report on what works.

Steve Brine: We will come on to the IT systems.

Martyn Oliver: In terms of evolution rather than revolution, I will break that up into two parts. An evolution needs a bit of a kick-start, and these reforms seem relatively revolutionary, but the evolution will come over the period of the contract, where the sort of things I have been talking about in terms of the benefits will become clearer. That will enable deliveries to bespoke services far better as we go through the contract period. That is where the evolutionary aspect of this is.

Q3 Steve Brine: Mr Lawrence, bespoke services, bringing in people who have been in custody for under 12 months: what is wrong with that?

Ian Lawrence: NAPO is committed to engaging with the under-12-month custodial community. We made that clear from the start, so there is common ground between us and the Minister on that one. As for the rest of the proposals, I am afraid the best I can say is that they are a recipe for disaster. They pose a massive risk to public safety, and are untried, untested and in our view ideologically flawed. Chair, the result of the House of Lords debate last week was quite telling, in terms of the amendment that was carried, which forced the Minister to bring these proposals back to both Houses, so we are not in favour of the vast majority of what is intended.

Q4 Steve Brine: You say “untried and untested.” You say you are happy to engage with the under-12-month category; why wouldn’t we? I am pleased to hear you say that, but why have NAPO not then pressed Government to engage with the under-12-month category?

Ian Lawrence: Traditionally, we have. It is a community we do not see. It is not common knowledge among the public, but we do not engage with many of that current group, bar a few thousand young offenders. It is right to say that reoffending is quite high in that area. We would like to engage. We believe that there are huge amounts of public money wasted currently—£107 million a year on electronic monitoring, which, in our view, makes no discernible difference to long-term reoffending rates. We have been pressing for some of that resource to be targeted back into structured rehabilitation programmes, where our experts can work with this new community. That is what our plea is to the Minister.

Q5 Steve Brine: Just turning to the Probation Chiefs Association, do you have any confidence in the Ministry of Justice’s ability to deliver these reforms?

Savas Hadjipavlou: I have to qualify my response. The first thing to say is that we welcome the general proposals, in terms of their aims and objectives, particularly as regards bringing the under-12-months into supervision. However, we have some serious concerns about the architecture of what is proposed in terms of the detail of it. We do not really think that the programme arrangements, in regard to the time allowed for such a radical change, are enough. We do not think that the division of the case load between high risk and low risk will work. There is, as yet, no operating model that shows how that will work in practice. We think there are serious risks in relation to the work with partner agencies, which are crucial to reducing reoffending. The justice component—the probation component—is only a fraction of what needs to be done in bringing together relevant services to rehabilitate offenders.

Q6 Steve Brine: With regard to partners like Mr Oliver's organisation, two down from you, what are the risks of involving Mr Oliver in your work? Why is he bad?

Savas Hadjipavlou: We are not opposed to the involvement of the private sector; we are not opposed to the involvement of the voluntary sector in the right things. Indeed, we have suggested that there is a strong case for their involvement in interventions, which are rather more designed connected with rehabilitation outcomes. That is not the way the new structure is being delivered at the moment; it has been designed in a way to enable a substantial proportion of the services to be outsourced.

Q7 Steve Brine: Mr Monkhouse from the Magistrates Association, welcome back. You have served on a number of working parties with the MOJ over the years. What do you see as the main risks arising from either the pace of implementation or from the proposals themselves?

Richard Monkhouse: The main risk is one of trust and confidence. Sentencers, who deal with 95% of all cases that come into a courtroom, need to build up a relationship—which we have done with the Probation Service—both inside and outside court, and that does not happen overnight. One of the dangers is that where you are dealing with offenders who pass the custody threshold, magistrates have been managing to keep a lot of those out. Our custody imposition has come down significantly over the last 10 years because alternatives have been present. We do not want to see those alternatives go, and many of those alternatives are at local level, with local voluntary organisations.

We also cannot forget the number of people who do not reach the level of seriousness for a community penalty, and that is 70% of those whom we see. Those are people who live strange lives by our standards but also need help. One of the problems that we think may happen—we will try our best to make it not happen—is the demise of the local voluntary organisations that are there for those people who have not reached the level where we would pass them on to the Probation Service. That is a real worry.

Q8 Mr Llwyd: If I may, can I go back to the questioning about the under-12-month cohort? What are your thoughts on the Government's intentions to reduce reoffending? Are you concerned that the targets that they set will not be met in terms of turning these people around?

Richard Monkhouse: I am not so sure whether the targets will be met. One of the problems is that some of the pilots that were going to be put in place were not put in place. That would have given us evidence that this or that particular route might work. We have no evidence that anything will work. We are quite happy about giving those who come out after short-term custodial sentences supervision. We are not so sure that it needs to reach down as far as those who have been in for, say, under 28 days, because a number of those are in prison because of non-compliance. They are not in prison because of their behaviour; it is simply non-compliance. I am not so sure that that is all that necessary. However, we will deal with what we will deal with. People who are on short-term custodial sentences need that help because they lead dysfunctional lives; they have accommodation, health and family problems; and simply leaving them at the prison door is not assisting any of that, so we are quite happy that that is happening.

Q9 Mr Llwyd: Yes, in principle I am sure you are. Thinking of sentencers now, are they not in fact hampered by the long-standing problems with availability of drug rehabilitation, housing, dealing with mental health problems and so on? These still exist out there. Then this new scheme comes in; it seems to me that if we do not bring those things up to speed, people will still be hampered.

Richard Monkhouse: Bringing them up to speed, but also making them available everywhere.

Mr Llwyd: Yes.

Richard Monkhouse: I know that one of the problems in the area where I sit is that we deal with a lot of domestic violence cases, and yet in our area there are no alcohol abuse programmes. There are in the next adjoining area, but there are not, or were not, where we sit. That is a real issue because a lot of domestic violence cases are caused by alcohol. If there is not that treatment programme that follows or is within whatever sentence we give, the problems that are causing offending are not being addressed at all. We need to make sure that all of these programmes are available nationally at the same sort of level.

Q10 Mr Llwyd: Mr Lawrence has already commented on tagging—the new provision of so-called punitive elements within every order. Do you have a view on the efficacy of tagging, because the Department’s own assessment says it will be neutral in terms of reoffending?

Richard Monkhouse: I do not think we really do. We need to see what is going to happen. We have very good relationships, as I say, with the Probation Service. In those areas where we still have probation liaison committees, which are now non-statutory—more’s the pity—we build up that relationship, and we try to communicate with probation. We need to make sure that communication still exists in the new scenario. That is probably going to be more difficult than it is at the moment. It is through that conversation that we get to the organisations that are supplying the offender programmes. It is the relationship that is crucial.

Q11 Mr Llwyd: Yes, and they take time to develop.

Richard Monkhouse: They do take time to develop.

Q12 Mr Llwyd: I ask this on behalf of the probation chiefs. The integrated offender management schemes have already been set up in some areas. It seems to me they deal with the most prolific offenders, many of whom are short-sentenced prisoners. What is your assessment of the current or, should I say, existing coverage of these schemes?

Savas Hadjipavlov: They vary across the country. You are absolutely right to say that they do include among their catchment, as it were, some prolific, priority, short-sentenced offenders. Indeed, that is one of the things that people see add great value to them. They are almost universal, I would say, at the moment across the country in terms of particular partnerships. They are particularly valued by probation services because they provide a framework for bringing together the police and other agencies—a mechanism for those necessary conversations to take place at the local level. We would be very sorry to see them denuded or diluted, potentially, as a consequence of these changes. The Government have acknowledged that they are important to keep, but how that happens obviously is not at all clear at the moment.

Q13 Mr Llwyd: This may be a rather broad question, but to what extent can reductions in reoffending be attributed to a particular intervention or set of interventions?

Savas Hadjipavlov: It is rather broad.

Mr Llwyd: If you have all day—

Chair: We haven’t.

Mr Llwyd: No, we haven’t.

Savas Hadjipavlov: It is a very general question. The first thing to say is that much of what is done by way of evaluation and assessment in this field does not meet the higher scientific standards, if I can put it in those terms. There are a few randomised control trials

that allow for potential influence of different uncontrolled factors. None the less, there is a substantial body of knowledge that is emerging that suggests strongly that cognitive skills-type interventions—behavioural thinking skills interventions—do work, and I will comment in a moment on how much of that effect we might expect to see. The opposite is that punishment-focused interventions do not, on the whole, work—militaristic training camps, that kind of thing. The evidence suggests that they do not work. The essence of it is really trying to deal with the deficits that particular offenders present, in terms of mental health, drug addiction and so forth, but also teaching them pro-social skills, if you like.

Q14 Mr Llwyd: How prevalent are those schemes?

Savas Hadjipavlou: There are quite a few such schemes around. They work for the right group. There is an issue about making sure that you put the right offenders in the right scheme; and, therefore, assessment of need is critically important. Do we have enough? Almost certainly not, given that lots of people do not get access to them.

Richard Johnson: In terms of reoffending, there is fairly unequivocal evidence that loss of family, loss of home and loss of job are massive contributory factors in reoffending behaviour, never mind cognitive behaviour therapy.

Q15 Mike Weatherley: I have a follow-up question. You mentioned homelessness, mental health and so on, but what part of the reoffending is due to the drug addiction or the drug dependency? I know in my constituency more than half the crimes committed are drug-related, and I just wonder if that focus is missed. Maybe it does not need to be. I just wondered if there is a handle on percentage of reoffending.

Savas Hadjipavlou: I do not think it is missed. Certainly, every effort is being made to provide for these services. It has been a problem in the past, and to a degree now, that there is a discontinuity between people leaving prison and going into the community, and maintaining their access particularly to drug addiction services and alcohol services. A major issue is making sure that these services are available, as was suggested earlier on, in a consistent way, through health and well-being commissioning.

Q16 Mike Weatherley: My question was: is drugs the majority driver of this?

Savas Hadjipavlou: Drugs are certainly a very significant driver, yes.

Ian Lawrence: It is a major factor, Chairman.

Q17 Andy McDonald: Can I turn our attention to the introduction of new providers into this field? Perhaps these are questions for Mr Johnson and Mr Oliver. The MOJ started off with 16 large geographical areas, and I think we have moved to 21. The aim was to have these contracts delivered by a wide range of lead providers, including partnerships between voluntary sector organisations or voluntary sector and private organisations. What do you think might hinder private and voluntary sector organisations' willingness to bid as lead providers?

Richard Johnson: I suppose, in this context, my area of expertise is in the design of the contracts that would be utilised to outsource these services. As for the straw man that the Ministry of Justice has set up, with regard to the design of those contracts, it appears that a large proportion of these services are going to be procured on the basis of price. This is an outsourcing of probation services with price competition. In that regard, the organisations that are most likely to be successful in securing these contracts will be the large private sector outsourcing organisations. There are possibly two—maybe three—voluntary sector organisations or consortia that are potentially going to offer viable bids. Ultimately—and I hope it is “ultimately”—what might hinder them bidding is that this would compromise their

mission as third-sector organisations, because as the contracts are currently designed, this is not a rehabilitation revolution. You must be clear about that. This is about the outsourcing of probation services for the delivery of court orders at the cheapest possible price. In the delivery of that, third-sector organisations delivering the sort of services that you have been discussing will, I am afraid, be squeezed out, or at least take a side line.

Q18 Andy McDonald: Do I take it from that that you think there is a risk that VCS organisations will not be able to cope with the investment required or the delay in payment?

Richard Johnson: The investment is not an issue. The investment is not a big question in these contracts, actually. The big cost is going to be in terms of downsizing the probation services that you inherit—the cost of redundancies, essentially. The amount of investment required for the rehabilitative side—the recidivism-focused services—is going to be minimal, because it will be a minimal activity within the contracts as it is currently suggested that they be configured.

Q19 Chair: Can I clarify why you would have to downsize when you took on the role? I understand why you might find pay and conditions issues difficult. Why would you have to downsize, given that the requirements on the organisation are actually increasing the under-12-months? Why is it necessary to downsize at that point?

Richard Johnson: It is a key question. The answer is that the Ministry has made it clear that it is looking for a cost saving of around 30% through this procurement. If we take, for example, a typical probation area that is being outsourced in this way, they currently spend about £30 million on their services as defined by the court orders. The Ministry is looking for somebody to bid at around £20 million for delivery of those services, including the addition of the under-12-month supervision orders—still within the £20 million window. The organisation that is successful in securing the contract will be the one that bids cheapest. Whether they are then able to continue to deliver the service is a moot point. Actually, all they have to do is demonstrate no increase in reoffending to continue to receive their £20 million. Any PBR element related to a reduction in reoffending is over and above that and, as I say, is likely to be a minimal part of this.

Q20 Andy McDonald: Clinks recommended that the third parties engaged in this process receive their delivery costs up front. Do you think that is in any way realistic?

Richard Johnson: The proposal is for something similar to that anyway, in that the core funding, which will represent about 80% of the costs—the delivery of the court orders—is going to be paid as a monthly service fee. The PBR element—the payment-by-results, outcome-based recidivism element—will also be paid on a monthly basis and clawed back if there is no impact on reoffending. As I say, the investment cost up front is minimal and will be related to the transformation, which ultimately comes down to a 30% reduction in cost, which is an expensive thing to deliver.

Q21 Andy McDonald: We have heard, in the context of this conversation throughout, that there is a potential for the smaller voluntary sector organisations to be used as bid candy by the lead providers. Do you think that is a real risk?

Richard Johnson: It is a very real risk, and it comes down to the ability of the Ministry of Justice to evaluate these tenders and identify where and when that is happening. It is very possible for them to mitigate it, to check that organisations cited have signed indicative terms and conditions with the prime contractors, and then to follow that through to delivery and to check that they are delivering, but unfortunately, Government outsourcers

rarely do that. The Merlin standard that DWP introduced has no teeth and was not utilised during the procurement process, and so was not able to mitigate bid candy.

Q22 Chair: Does Mr Oliver have a view on that?

Martyn Oliver: In terms of what hinders VCS organisations in bidding, it boils down to risk, in my view. I agree that the payment mechanisms that are being proposed, if they are more service-related, probably will not be so much of an issue, but putting a bid in costs an enormous amount of money—millions of pounds. Individual VCS organisations just would not be able to risk that kind of investment for a contract they may not win. I strongly suspect that commercial primes will twin with some of the larger VCS organisations and put in a joint bid, and that will protect the VCS organisation from some of that investment cost. There is an enormous opportunity here for some of the smaller VCS organisations to get in on the ground, and getting in on the ground is really important, because if they are not involved in the design of the pathway and the operational solution, they will have that imposed upon them, and I do not think that would work. I think getting in on the ground is fundamentally important.

When we were working on some of the innovation pilots that got pulled, we noticed that the fabric out there was quite wide, yet full of holes and relatively unjoined-up. It is incumbent upon the procurement to make sure that that is addressed and, where there are holes and where there is disjointed provision, that is joined up. This procurement could enable that to happen.

I totally agree that Merlin is relatively toothless. Primes should be judged exactly as has been suggested—on whether they put their money where their mouth is. If they do that, some of the smaller VCS organisations could, if they can demonstrate that their solution—their impact—works, take a very good part in this. I fear, however, that this may be more about saying no than saying yes to some of the organisations. That is largely because there may be too many of them competing for the same resources. That is my major fear.

I also think that a lot of the work being done at the moment is being done on the basis of fundraised income in the voluntary sector. There could be an opportunity to replace that fundraised income with the income on a contractual basis. That will enable fundraising to be deployed in areas for which there is no market, and that might solve some of the problems that might be inherent in this procurement.

I would also urge the Ministry of Justice to talk to the Cabinet Office about joining up some of the social investment opportunities that may be around and making sure that what the Cabinet Office says in its advice to the third sector, in terms of securing social investment, does not scupper their involvement in this procurement. I will give you an example of what I mean by that. The Cabinet Office will say, “Go and borrow lots of money. That increases your gearing.” The tender comes out from the Ministry of Justice saying, “You are too highly geared. You can’t have a contract.” That kind of mixed message from two Government Departments that are a stone’s throw away from each other really does hinder the involvement of the sector.

That kind of thing needs to be sorted out, but this is all in the procurement. I agree with many of the fears that have been raised in terms of that, but it is not insolvable. I would urge you to really think about this. You have a fantastic sector at your disposal that only wants to reduce reoffending. It wants that social impact. For them, it is all about their reach. If we can resource them so that their reach is further, wider, deeper and broader, then we have a chance of cracking this.

Q23 Chair: Can I turn to the public sector that will remain? In a way, the Government are re-nationalising parts of the Probation Service in order to deliver the statutory services. Is that the right way to do it within the system, notwithstanding your

overall criticisms of this system? Do the two probation organisation representatives feel that that is the right thing to do within this kind of system?

Ian Lawrence: Chair, NAPO has never been opposed to the idea of a national probation service. In fact, we think that the demise of what was the national service has caused many of the problems that we are trying to help resolve. Any such service needs to be properly resourced and thought through, and the impact on staff and the reputation of Government is equally important. Our chief concern is the proposed division of resources between 17% and 30% of the staff, and the workloads. That is a ballpark figure.

We are extremely concerned about how it is going to play out, in terms of public safety and existing partnerships. Colleagues here have spoken glowingly about the usefulness of local partnerships. They exist and thrive at the minute among probation trusts. Thirty-one probation trusts won gold standard awards—a good deal more than G4S got at the Olympics last year, but hey. We are looking at a situation where existing partnerships work, and if they were invested in and developed, we could do what Mr Grayling wants. That is the crime of all this, if I may use that term: destroying what works to put in place an experiment. That is why we are fundamentally opposed.

Q24 Chair: Perhaps Mr Hadjipavlou has a thought about this. Can a system work in which you separate risk assessment from delivery?

Savas Hadjipavlou: We do not think it can work very well at all. There is a real issue in terms of creating a new interface between the contracted and the public sector, where there is inevitably going to be a flow of offenders between the two, not just in the direction of people being allocated to the contracted sector but people who either have breached or for whom the risk assessment has changed in the course of their supervision. We think that of the order of about 20% to 25% of the caseload will move across this sector. That movement will bring all sorts of issues with it, particularly in terms of case supervision, what happens with their interventions and so forth, and keeping track of all these changes because, arguably, they will have an impact on the payment mechanism.

The risk assessment tools themselves—I understand the Ministry of Justice is developing a new risk assessment tool—will inherently not be 100% effective. That is simply because there will be people who are either assessed as high risk when in fact they are not and the other way around. No risk assessment tool will be 100% effective and, therefore, in some—

Q25 Chair: That, in a way, is a problem we have all the time, is it not?

Savas Hadjipavlou: It is, but it is contained and managed within the same organisation. You do not have all the bureaucracy that goes with keeping track of these individuals in the way that this would bring about.

Ian Lawrence: It is about having skilled professionals who know what they are doing to manage that risk. My experts behind me here tell me that risk can change within the course of minutes, let alone hours and days. The skill that I have as a probation practitioner is what can make the difference between the degree of reoffending and, indeed, the gravity of that. The whole ethos of Mr Grayling's proposals, to my mind, destroys the strength that we currently have—the relationship between the practitioner and the offender. That is what needs to be developed.

Q26 Steve Brine: Very quickly on that, what the Lord Chancellor said to us in his evidence, and what he would say to you in response to what you have just said—I am sure you have read this—is: why on earth would another provider not have an ultimate interest in working with the public Probation Service in managing, escalating and de-escalating risk,

because they only get paid when they do the job and fulfil the contract? Why would they not want to be on top of that?

Savas Hadjipavlou: That is not strictly the case, as has just been described. There will be a certain amount of payment that will happen irrespective of the success in terms of caseload. The real difficulty here is that it has taken a long while to develop those crucial local relationships. They are being broken and a new player is being introduced. In fact, you will need the national public Probation Service to engage with local partners.

Q27 Chair: I am getting a slightly confused message here: that it is essential to be national in order to deal with these problems and it is essential to be local in order to deal with these problems.

Savas Hadjipavlou: It is. In answer to your earlier question, there are two clear issues; does it have to be public, and does it have to be national or local? In relation to the areas that are being retained as public, certainly we would support that. Does it have to be national or local? We certainly think that local is better, simply because that is where the action is, as it were.

Ian Lawrence: Can I come back to Mr Brine's particular point? The world is paved with good intentions. We do not doubt for one minute that anybody involved in probation delivery would want to do well. Our point is that the whole model that we have been presented with puts at risk the current co-operative approach among providers to the services that we give. Instead of being partners working to develop and reduce reoffending, these same people could soon find themselves competing against one another. The Probation Service currently works with organisations like Clean Break in north London, which I visited last week. It is an absolutely superb example of community rehabilitation in action. That organisation and others like it would now possibly be rivals to other agencies in the field. I cannot see how that is helpful.

Q28 Chair: But it is not a rival to the public Probation Service under this model, because the public Probation Service is not doing that job. The public Probation Service is doing risk assessment and court-related tasks.

Ian Lawrence: Chairman, they work in partnership with the Probation Service. There were probation practitioners at the event I went to.

Chair: They have to work in partnership with whoever is delivering the service.

Q29 Steve Brine: Exactly. They will simply be another chair around the table. We are pressing quite hard here because we have to test this. By all means consult, but I still cannot understand—maybe I am not very bright—why they would not have the ultimate interest in making sure that they manage risk with the public Probation Service and be that other chair around the table.

Savas Hadjipavlou: Your proposition is correct that they would have an interest in making sure. What we are questioning is whether or not, in practice, this is what would come about.

Steve Brine: Okay. That is a fair enough point.

Q30 Chair: At the moment, as trusts are confronted with the possibility of fundamental change, what are they generally doing to prepare for a potential reorganisation?

Savas Hadjipavlou: They have not really had any information as yet about what they need to do, other than in general terms. The steps are set out in the Government's response on 9 May, but there has been no guidance as to how the division between the public sector retained services and the services that will remain in these new organisations to be competed

should be carried out. There are a whole range of issues to deal with: HR, precisely which caseload goes where, and so forth. They are waiting to see what that guidance says they should be doing.

Ian Lawrence: Chair, that is why we would be pressing for a proper evaluation of the model, even to the extent that we could have a number of pilot schemes set up to test this over the next two years. That would give the public and Parliament confidence that what is on offer will work. There is a contradiction between the approach by the Minister on that. There is his refusal to do that, and his refusal to publish the results of probation pilots on reoffending in Stuffs, West Mids and Wales, yet he talked glowingly about the results from Doncaster and Peterborough HMPs last week. There is no evidence, and he says he does not want to roll the prison schemes out until he has seen the results of the pilots. We say: do the same in probation; let us all test this model; let us all be satisfied it will work.

Q31 Seema Malhotra: We have started to move into this territory slightly, just thinking further about the delivery landscape and the landscape in local partnerships. The Government have, to some extent, moved on some of the concerns that have been raised around national commissioning arrangements, how local partnership arrangements should be changed and whether there should be a reflection in contracts. To what extent have the Government assuaged your concerns about national commissioning arrangements and how they could have worked against existing local partnership arrangements?

Savas Hadjipavlou: The answer that is in the report, and the answer that has been given to us, is that they will have to be convinced that any bidder can demonstrate to them how they are going to manage these local arrangements. It will depend on the bid and the bidder's ability to develop those networks or continue with those networks. As we have said earlier, what happens in practice is often very different from what we all would like to see. The jury is out, I would say, and we will have to see what happens.

Q32 Seema Malhotra: Do I get the sense that you think the rhetoric has moved but you do not know what the reality will show?

Savas Hadjipavlou: The 9 May report has moved in a number of directions. It has acknowledged some of our earlier concerns, particularly around the division of the caseload, the importance of engaging with local partners, and making sure that PCCs are involved, set against the very compressed time scale that is aimed at for delivery. Bidding, or at least competition, will start in the autumn. How bidders will be able to get their head round all of this and produce convincing and credible bids remains to be seen.

Q33 Seema Malhotra: Could you also talk a little bit about the role of probation in constructing other partnerships and how this might change under new arrangements?

Savas Hadjipavlou: There are a variety of relationships. At the moment there are partnering arrangements and commissioning arrangements in place, and so forth. All that has to be captured somehow, because a bidder will need to understand what the state of play is, so there is that process.

Q34 Seema Malhotra: When you say "the state of play," do you mean the state of play on the ground at the local level?

Savas Hadjipavlou: The state on the ground—the "as is" position. A bidder would have to understand what they are inheriting, if you like. All of that would need to be captured. Arguably, that is looking back. If we believe the objectives to be reduction of reoffending, all those things that need to be put in place need to be commissioned or co-commissioned, so you will need to establish a whole range of relationships with the PCCs and health and wellbeing

boards, so that the right things are commissioned. The gaps that we all alluded to earlier in terms of drugs or alcohol or mental health need to be filled.

Richard Johnson: A slightly different view would be that we have, as we all know, a chronic level of reoffending right now. One of the reasons for that is a lack of integration at a local level. Partnerships do not actually exist effectively. It is possible, in outsourcing, to design your contract to incentivise partnership working. As these contracts are currently going to be configured, they will actually disincentivise it. They will drive contractors to look inwards and simply focus on delivering, as I say, the cheapest possible court orders.

Q35 Chair: Why is that so? Assuming you accept that there is some incentive to reduce reoffending and you know, as you yourself pointed out earlier, that having a house and a job are key factors, doesn't that incentivise partnership working? The provider cannot deliver all of that; he needs the housing agency and local business.

Richard Johnson: I will look as far as possible for organisations funded by somebody else that I can signpost to, but given the contract that I have signed, and that I have gone from £30 million to £20 million and it is all about delivery of statutory services within that envelope, that will be my focus. It is not going to be about reducing reoffending, other than maintaining it at its current levels.

Q36 Chair: But you cannot do it without bringing in other people, because you have downsized; you have limited internal resources. As you say, you are looking for other agencies whose actions will enable you to claim that you have reoffending rates down.

Richard Johnson: It goes back to an earlier question about evidence of what is working. At the moment we see that court orders deliver a certain amount of supervision, and we see community sentences that maintain reoffending at current levels, with a general pattern of poor partnership working at a local level that does not contribute to improving the return to home, family and job. I will simply be maintaining that but doing it cheaper.

Q37 Seema Malhotra: I am sensing some disagreement.

Richard Johnson: I anticipated there would be.

Ian Lawrence: The notion that it is not working is absolute palpable nonsense. The Probation Service, for all the clients that come through its door, has now achieved the best reoffending rate figures since 2007; it is living proof that it works. We know where the difficulty lies in the main. It is in the short-term custodial community, and there is a lot of common ground between us about how we might usefully engage. Unfortunately, the Minister and others, it seems, conflate those two figures together and lump it all at the door of probation and the members I represent.

Richard Johnson: If we look at any international league tables of recidivism rates, we see that we have a national scandal in terms of reoffending rates in this country, particularly among young people.

Ian Lawrence: Let me tell you what a scandal is. A scandal is that my members cannot compete for the job—for their own work.

Chair: What we are trying to establish here is how this system, if introduced, would function. I would like to return to that focus.

Q38 Seema Malhotra: Can you talk about what it would look like if it were successful? We are hearing that if the contracts were this way or that way you would not have incentivisation. What would success look like if it was to work?

Savas Hadjipavlou: If you factor out the private sector/contracted sector/public sector issue and say, "What would work on the ground?", then there are lots of examples where

people are heading in the right direction in terms of community budgets, where people pool their money and work together in a locally agreed framework. That makes sure that they are working with the same person, with the same family and so on, but they are working in concert rather than dysfunctionally. The key issue is whether, by injecting this contract in the middle of all this, it will work better or worse. There is no evidence that it will work better, and, as Mr Johnson suggested, it might well work worse simply because partnership work is time-consuming. It involves a lot of effort on the part of the organisation.

Q39 Seema Malhotra: Are you saying that the changes in the way that new contracts and new partnerships might be set up will reduce the ability to have a strong relationship with the users of the services? Through that, you will be having a negative impact, particularly on reoffending rates. Is that part of what you are saying?

Ian Lawrence: We think so, because we have seen nothing to suggest the opposite. We have talked about agencies starting to compete with one another as opposed to working together. If it is about funding, people who were friends the other week are at each other's throats the next. Our point is: let's test it; let's see, because it is clear to me, just in the presence of this august body, that people are not convinced that the scheme will work or, if it does, that it will produce the results that are intended. Let us test it. Let the Minister come before you and explain why he thinks he should dismantle the service that has served 100 years for the public and impose this experiment.

Richard Johnson: In an ideal world, if you really wanted to make it work, you would attach to the head of the individual the cash that currently goes to probation, prisons, police, health, employment and housing.

Q40 Seema Malhotra: Attach to whom?

Richard Johnson: To the head of the individual, the service user, the person that is falling through the—

Q41 Chair: You are talking about the offender, are you?

Richard Johnson: Yes; in this context, yes.

Q42 Gareth Johnson: Could I enlarge on some of the points we talked about to do with payment by results? There is a consultation going on at the moment that I do not particularly want to pre-empt, but I would like to know a bit more about your feelings generally on how this is going to impact on the Probation Service. What concerns, if any, do you have about payment by results for providers, on the financial side of things, and is any opposition you have to payment by results an objection in principle to it, or is it a pragmatic approach, whereby you feel that, logically, it won't work, for whatever reason?

Savas Hadjipavlou: Payment by results is unexceptional. How can anybody argue against paying for the result that you get? The devil is in the detail of how this would work in practice. Certainly, our understanding of the intention is that the payment-by-results component will not be very large. If you take Peterborough and Doncaster as examples, it is around 5% or 10% of the service fee. At that level, it is hard to see that it would act as any incentivisation, in terms of what is claimed it will achieve.

The second concern is this notion of a black box. Again, even if it is a black box—that is to say, everything that happens inside it is a matter for the contractor and you just pay for the result—that is fine, but we have just been talking about an open system, with people coming in and going out, with all sorts of other services being necessary to the outcome. It is hard then to be able to ascribe a result to a particular contribution. How much of that will be down to the contract provider and how much would be down to others?

The third concern is unintended consequences or side-effects, or ‘creaming and parking’—all those things where the provider, pressed against a very tight bid price, will look for all sorts of ways to reduce their cost. Again, as a general proposition of course, who could argue against that? In practice, though, how it maps out will be very difficult.

Martyn Oliver: I agree with much of that. If you go down the PBR road, you have to accept that, if you tell people how to get money, that is going to change their behaviour. I do not think it really matters what the PBR element is. The Work programme is an example. You often get some of the clients further away from the labour market not really receiving very much of a service. That is not because people do not want them to go into work; it is because the payment for that individual is so low that it is not worth the investment in them to get them into work. I fear that this might inhabit this procurement if we are not very careful. The MOJ have learned all the lessons. In the innovation pilots that were stopped, the PBR element was so big that they were totally uninvestable and totally unworkable proposals.

Q43 Chair: Sorry, could you just repeat that? What did you say about the PBR element?

Martyn Oliver: The PBR element was so large that the projects were uninvestable and therefore unworkable. That lesson has been learned. From the voluntary sector point of view, we also need to understand a bit about what incentivises them. It is not necessarily going to be money; it is going to be what they can do with that money. That is a really important nuance that we need to understand, because it is not about paying shareholders or costs of capital for them; it is about how they extend their reach with those kinds of resources. The risk, for a voluntary sector organisation, is scale. A big prime can, to a certain extent anyway, have a contract fail and it will not make too much difference. There have been some famous examples of that over the last year or so. Voluntary sector organisations are in a completely different position. A large PBR element in a contract that fails would mean the end, certainly, of that organisation and, I am afraid, probably of VCS involvement in a lot of public services. We have a constellation of organisations, commissioners, delivery organisations and social investors, and their relative position is unhelpful.

Q44 Gareth Johnson: Mr Lawrence, is it a good idea to bring the outside organisations in to PBR?

Ian Lawrence: We are not opposed, in principle, to PBR. Indeed, many trusts operate that locally with different partner agencies. Our concern, as I have articulated, is the lack of evidence to support the particular style of PBR. We have concerns about the profit margin being so low as to raise the question again of why you are dismantling the Probation Service to create a gap for the private sector to come in and maybe work. Payment by results on a system that is proven would be acceptable. Mr Oliver talks about what happened in the probation pilots. Inside information it may be, but we would like to know too why key bidders pulled out. What were the profit margins? All these things Parliament and the public should know before we embark on a scheme of this magnitude.

Q45 Gareth Johnson: My experience of the Probation Service is that it can be a very capable organisation, but it does not have the monopoly of wisdom, if you like. It cannot make all the ills in the world better. There are other organisations that can come in and help improve things and can actually reduce reoffending. If you can incentivise those organisations financially to come in and help out, that surely has to be a good thing, has it not? There has been an inherent fear, has there not, in some public sector organisations that if you have companies coming in and saying, “We can reduce offending and we will make some money out of doing so,” somehow that is immoral and that cannot happen? Is that your stance?

Ian Lawrence: No, it is not, because many probation trusts already have innovative strategies and work with outside partners—some in the private sector as well. It is about the management of the whole exercise. We are saying that we would clearly need assistance to engage with the under-12-month community. That is absolutely clear. It is 50,000 new cases a year. We are not averse to new people coming on side and working with us. Our concern is the management of that whole model, which we think needs to be run by skilled professionals and needs the expertise and a sharing of ideas. We are not opposed to that, but again, to achieve the economies of scale suggested and dismantle and dismember the current structure in the way proposed strikes us as completely mad.

Richard Johnson: There is a fundamental flaw in the understanding of PBR here. It is prevalent across Government outsourcing at the moment. There are two forms essentially of PBR. This form is the simple form of cash on delivery. Instead of paying for a service up front, I am going to make sure that I get the service by paying for it when it is actually delivered. But people think what they are buying here is spend to save. In a spend-to-save model we are tapping into the £5 billion-odd that it costs us with our current rates of reoffending. That is a completely different sort of contract, procurement and service. In that model, you are looking to incentivise risk because there are big rewards, and those rewards come from, effectively, a profit share between the public sector purse in reduced reoffending costs and the provider of that service. What you cannot do in that spend-to-save model is try and introduce the notion of competition on price, because competing on price drives you back to this cash-on-delivery model—how cheaply you can deliver the service for me—rather than how much you can extend the social impact of this service, because an increased social impact delivers an increased saving to the public purse. They are different models.

Q46 Chair: That would be extremely difficult to create a metric for, which you could apply to a particular provider.

Richard Johnson: The biggest contracts that we have had in this country of PBR, of outcome-based funding, were in the welfare to work space. They were called Employment Zones, and they ran from the years 1999-2000 to about 2007-2008, and they were not competed on price. There was a fixed price for outcomes. They were competed on your ability to deliver more outcomes. The learning from those contracts was lost, and DWP also started to introduce price competition, which drove the service down to the bottom lowest common denominator rather than incentivising it with adequate reward to take risks to reach further out to socially excluded people or, in this case, offenders.

Chair: We need to move on. We are getting very short of time so I am going to go straight to Mr Stringer, if I may.

Q47 Graham Stringer: I want some numbers, just to clarify my own mind. We have talked about reoffending rates. How much reoffending do you find?

Richard Johnson: I will bow to the experts.

Savas Hadjipavlou: It is a re-conviction rate, rather than a reoffending rate.

Q48 Graham Stringer: Over what time?

Savas Hadjipavlou: Typically, a year.

Graham Stringer: A year.

Savas Hadjipavlou: Twelve months.

Richard Monkhouse: It is a binary measure rather than a frequency measure, so any reoffending is reoffending. If a prolific shoplifter now offends once a year rather than 32 times a year, that is not a measure of success. As a sentencer, I would have thought that is a significant measure of success, and yet the measure is binary. Do they reoffend or not?

Q49 Graham Stringer: If somebody reoffends after 18 months, that is a success.

Savas Hadjipavlou: In the way that it is measured, it would be. To illustrate it, if you take 100 offenders, 35% to 40% will reoffend within year one, another 20% within year two and so on. It flattens out in the end, but certainly you have to define a time frame just to be practical.

Q50 Graham Stringer: But it is not a good metric, given the length of time that the criminal justice system takes.

Savas Hadjipavlou: No. It is very narrow in that sense, yes.

Ian Lawrence: Can I just add that it is yet again living proof? The benchmark for this should be that people do not reoffend again. Understood. If we were able, collectively and properly, to engage the under-12-month community—it is common ground, as I have said—they would not be the reoffenders of tomorrow. Let us back-load PBR another way; let us get resources in at the start. Allow probation to work with other providers, with properly managed schemes, and you will not see those people coming back through the door in 18 months to two years.

Q51 Graham Stringer: In the change of the providers, apart from economies of scale, what other scope is there for savings?

Ian Lawrence: You could certainly look at merging the current probation trusts. In fact, there were areas before, and they were merged, which produced economies of scale. Probation has worked under testing efficiency saving benchmarks for many years now and has delivered more for less, well in tune with the Minister's demands. That could certainly be done. You could repackage the current areas.

Richard Johnson: Contractors will also attempt to do what they call channel shift. So, rather than delivering things face to face, they will try and deliver it over the telephone or on a computer. I believe in America you can report in for your supervision order at something like a cashpoint machine, so they will attempt to reduce costs that way, if the court orders allow.

Savas Hadjipavlou: The difficulty with all this is that this is person-based work. The quality of engagement between the supervisor and the offender has generally been shown to be critical to how effective that relationship is. If you mechanise it or industrialise it, you will go the other way. In fact, one of the issues with the probation practice in the past has been that it tended to become an IT-based tick box. With discretion and so on, things have moved back to support that quality of relationship between the offender and the supervisor. It goes to Mr Lawrence's point that this is a professional role, which means that you are bringing about a change through skill, knowledge and the exercise of discretion, combining both a challenge to behaviour and support.

Richard Johnson: It is possible that integration will offer a cost saving, so if my drug rehab worker also delivers the supervision element, we will be able to kill two birds with one stone and combine the costs there.

Ian Lawrence: I have one last point on your question, if I may, sir. I have already alluded to the amount of money spent on electronic monitoring—£107 million a year. We think there are economies of scale possible there. The facilities management of the probation estate has been well documented by my union and others in terms of costing the taxpayer millions. So, yes, there is plenty of scope.

Q52 Graham Stringer: I am interested to go back to Sir Alan's question. Do we know the cost of re-nationalising the service and do we know the cost of changing trusts into mutuals?

Ian Lawrence: I know nothing about the costs. Perhaps you should ask the Justice Minister, who has withheld the risk assessment.

Q53 Graham Stringer: We have got you here at the moment. Does anybody have any idea of the cost?

Savas Hadjipavlou: We do not have particular figures. Certainly, in relation to the transformation itself, there will be costs linked to merging—assuming that they are merged—those areas that would come into one. There are several cases of trusts that are going to be coming into one.

Q54 Graham Stringer: Are there any other areas where there might be costs that have not been quantified yet?

Richard Johnson: It is not clear in terms of the transformation—which is a euphemism, potentially, for redundancies—where that cost will lie, how much of that cost will be absorbed by the Ministry and how much will be passed to the contractors. Going back to one of your earlier questions, it may be a barrier to organisations bidding in the end if too much cost is being transferred.

Q55 Graham Stringer: I have a final question that has been alluded to in many of the other questions. If there is a drop in operational performance, what are the real risks and consequences of that drop?

Savas Hadjipavlou: It depends where that is. We are doing a piece of work at the moment with the Department around identifying those areas, in terms of the contract, which are not as crucial, particularly in terms of reporting back and so on, so that some resource could be unlocked that way. Plainly, if the impact is on supervision and management, that will be of considerable concern because it would impact on public safety. As I have alluded to earlier, there has not really been any real change up to this point, but once trusts start to divide the caseload and work in a different way, we might expect to see some considerable pressure on them, and so that impact.

Ian Lawrence: There are two aspects. One is that the current propositions have completely destroyed the morale of staff in the Probation Service. I know there will be some chief execs who will tell you differently. You want to see some of the stuff that we get coming in from our members; they feel demoralised and disillusioned that they are now so devalued in the face of this. The fact is that there will be a drop in operational performance because of the proposed changes. Quite simply, Chairman, that will mean more people at risk of harm and the public being endangered. It is quite simple. People are under stress already, and what is being proposed is putting them under even more.

Richard Johnson: If that is the case, I am not sure how quickly you will be able to recover the situation, because you will have gone from the £30 million service to the £20 million service. You will have closed any number of offices, you will have made 30% of your staff redundant, and you will have reduced your service to a different form. How quickly can you recover what you have lost, which was maintaining the level of public safety that you had?

Richard Monkhouse: In terms of sentencers, the risk is that our move from a first choice of custody to a last choice as custody will change, and we will see a reversal back. That will then exacerbate the problem because more people will be going into prison on short-term orders, and that is not a desirable effect; it really is not.

Q56 Chair: If, however, in your area you had a provider that was achieving significant success in reducing reoffending, presumably that would have the effect of making the magistrates more willing to continue with the approach of using custody less.

Richard Monkhouse: We have already seen that. In the areas where there have been intensive alternatives to custody—Manchester is a classic example—the drop was greater than in other areas. We need those alternatives and we need providers to provide those alternatives. We still need custody as a last resort for those who simply do not comply or for the people who are a danger to the community, but if we do not have those, then the sentencing patterns may well change and go back to what they were 10 to 15 years ago, which is not a good idea.

Q57 Chair: That is 10 to 15 years ago under the present system.

Richard Monkhouse: Under the present system, yes, but alternatives have come in. There has been a lot of work done among partners—far more than there was 15 years ago. That has developed over the last 15 years. The relationship, despite the links between the sentencers and probation being on a less formal basis, still exists in many areas, but it exists on goodwill rather than on any statutory basis. Again, that needs to be developed. That will have to be built up with all of the new partners. The people we will see in court are not probation because we will be dealing with lower risk, so the problem is almost doubly exacerbated in the magistrates courts. We are forgetting all those people who rely on those other services that fall off the back, those voluntary services where we are fining or giving conditional discharges but we still signpost to a particular route for accommodation, finance, drug abuse and alcohol abuse, which have not touched the Probation Service, and yet there is an awful lot of very good work being done there to prevent those people from getting to the second stage, getting to that seriousness. That is the worry as far as we are concerned.

Chair: Thank you very much indeed. We are under some time pressure this morning, but we have had a very vigorous discussion and tested out ideas very helpfully, so we appreciate your assistance very much. Thank you.