



Ministry of
JUSTICE

Punishment and Reform: Effective Probation Services

Consultation Paper CP7/2012

This consultation begins on 27 March 2012

This consultation ends on 22 June 2012

March 2012



Punishment and Reform: Effective Probation Services

Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

March 2012

© Crown copyright 2012

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or email: psi@nationalarchives.gsi.gov.uk

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at effectiveprobationservices@justice.gsi.gov.uk

This publication is available for download at www.official-documents.gov.uk and on our website at www.justice.gov.uk

ISBN: 9780101833325

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID 2483819 03/12

Printed on paper containing 75% recycled fibre content minimum.

About this consultation

- To:** This consultation is aimed at probation professionals, victims, the judiciary, service providers, users and other stakeholders. We also invite members of the public to respond.
- Duration:** From 27 March 2012 to 22 June 2012
- Enquiries (including requests for the paper in an alternative format) to:** Effective Probation Services
Ministry of Justice
Post Point 8.20
102 Petty France
London SW1H 9AJ
- Tel: 020 3334 6584
Email: effectiveprobationservices@justice.gsi.gov.uk
- How to respond:** Please send your response by 22 June to:
Effective Probation Services
Post Point 8.20
Ministry of Justice
102 Petty France
London SW1H 9AJ
- Tel: 020 3334 6584
Email: effectiveprobationservices@justice.gsi.gov.uk
- Additional ways to feed in your views:** Responses to this consultation exercise can also be submitted online via <https://consult.justice.gov.uk/digital-communications/effective-probation-services>. A series of stakeholder events is also taking place. For further information please use the "Enquiries" contact details above.
- Response paper:** A response to this consultation exercise is due to be published in the autumn at: <http://www.justice.gov.uk>

Ministerial Foreword

An effective criminal justice system should punish law breakers and protect the law-abiding. Yet ours has grave weaknesses. Almost half of all adult offenders reoffend within a year of leaving custody. That figure rises to three quarters for those sentenced to youth custody. Reoffending by offenders sentenced to less than 12 months in prison is estimated to cost the economy up to £10 billion annually. Most seriously of all, left unchecked, these rates of repeat crime mean thousands of people are unnecessarily becoming victims.

That is why the Government has embarked on wholesale reform – beginning with prisons becoming places of meaningful work and training, not idleness, where many more prisoners will work a full working week, and the extension of payment by results, so that the taxpayer only funds rehabilitation services that work. Together with determined action in areas like mental health and addiction, these measures will help cut reoffending, protecting the public more effectively, whilst ensuring that wrong-doers are properly punished.

But the changes we are introducing cannot end here. The next stage of reform is sentences in the community and the operation of the Probation Service which supervises them. In two publications, on which we are consulting in parallel, I set out radical plans to make sentences in the community more credible and to reform probation so it is more effective in reducing crime, by extending competition and opening up the management of lower risk offenders to the innovation and energy of the widest possible range of providers.

I have already announced that those given Community Payback will in future be required to do a full five-day week of productive work and job seeking, providing thousands of hours of constructive tasks like cleaning up litter and graffiti. I have also announced plans to increase the maximum length of curfew to 16 hours a day for 12 months.

Now, we plan to go further, not in order to create an alternative to short prison sentences, but to address the fact that reoffending rates for sentences in the community are still far too high, and that they fail to command public confidence as an effective punishment. I share public concern that sentences can require just a weekly meeting with probation officers – and that, in the past, unemployed offenders sentenced to Community Payback have on occasion been required to work for only six hours per week.

Under the proposals in the consultation we will:

- ensure that there is a clear punitive element in every community order handed down by the courts. As a matter of principle, it is right that those who commit crime should expect to face a real sanction, and one that helps make good the wrong they have done;
- explore the creation of a robust and intensive punitive community disposal, which courts can use for offenders who merit a significant level of punishment; and

- support more creative use of financial penalties alongside community orders, ensuring that they are set at the right level and effectively enforced.

Ensuring sentences in the community are properly punitive is the counterpart of our efforts to ensure that prison sentences are properly reformative. But the aim is not just that these sentences will be seen increasingly as a credible, robust and demanding punishment by sentencers, victims and the wider public. The proposals being consulted on also seek to make sentences in the community more effective in helping wrongdoers go straight.

For example, extending the use of curfews and tagging will ensure that offenders are off the street, can't socialise in the evening and have fewer chances to offend. But, used creatively, they will also contribute to reform of the offender – by ensuring that offenders are home before appointments to access drug treatment, or do Community Payback. We are also proposing to expand the use of restorative justice practices, which give victims a greater stake in the resolution of offences and the criminal justice system as a whole, whilst also requiring offenders to face up to the consequences of their actions. And community orders will continue to address the problems that have caused, or contributed to the offending behaviour in the first place – such as drug abuse, alcoholism and mental health problems. In all these areas, meaningful punishment and reform go together.

We are also proposing reforms to the Probation Service. I believe profoundly in the importance of this vital public service, and acknowledge the excellent front-line work being done by many hard-working professionals. Whilst there has undoubtedly been a real shift in emphasis from centralised to localised delivery of services and there are many examples of innovation across probation, we want to see a step change which draws fully on the innovation, expertise and local knowledge of all sectors - public, voluntary and private - in a way which embraces competition and is genuinely open to new ways of doing things better.

Under my plans, we have already begun encouraging better use of front-line professional skills and judgement with the introduction of less prescriptive National Standards for probation staff and light touch performance management. Now I propose to look again at the structure and organisation of the service, keeping the safety of the public uppermost in mind.

The consultation:

- further extends the principles of competition, which have been applied successfully to the prison estate over recent years, to more of community-based offender management. The Offender Management Act 2007 set the basis of this policy and its implementation needs to be speeded up;
- explores how best to ensure that probation can lever in the expertise of the voluntary and private sectors. This builds on existing policies to pay community sentence providers by results;
- sees Probation Trusts in the future taking on a stronger role as commissioners of competed probation services, contracted to be

responsible for driving better outcomes. It proposes to separate clearly the commissioners from the providers of competed services; and

- consults on different models for oversight of probation services, including the potential involvement of Police and Crime Commissioners and local authorities at a later stage.

I believe in competing services as a means to raise the quality of public services. This can deliver innovation, better performance and value for money. Services should be funded by taxpayers, but delivered by whoever is best suited to do so.

Under my plans, the public sector will continue to have a major and well-defined role – as the safety of the public is our priority. In keeping with the model of competition already applied elsewhere in the penal system, my plans envisage that responsibility for monitoring offenders who pose the highest risk, including the most serious and violent offenders, will remain the remit of the public sector. The proposals in the consultation suggest opening to the market the management of lower risk offenders. The public sector will also retain responsibility in the case of all offenders for taking certain public interest decisions including initially assessing levels of risk, resolving action where sentences are breached, and decisions on the recall of offenders to prison. Our proposals also exclude probation advice to court from competition. This advice is principally concerned with identification of the most appropriate sentences for offenders and prosecuting their breaches – which must remain reserved to the public sector.

The aim of all this is to free up a traditional, old-fashioned system and introduce new ways of operating and delivering that will help drive a reduction in reoffending. We must do so without compromising public safety or destabilising performance. If we get this right, we will help end the era of command and control Whitehall public services. The prize is a more dynamic and effective Probation Service – one that keeps the best of the public sector, but that also benefits from the innovative thinking and flexibility of business and charities.

The Government's goal is to reform sentences in the community and probation services so that they are able to both punish and reform offenders much more effectively. Community sentences are not an alternative to short prison sentences. They must be made more effective punishments in their own right, if they are to enjoy greater public confidence and reduce the chances of an offender committing new crimes against new victims. A modernised probation service, freed to focus relentlessly on the goal of reduced reoffending, will be able to unlock better ways of delivering those sentences.

Kenneth Clarke
Lord Chancellor and Secretary of State for Justice

March 2012

Contents

Ministerial Foreword	1
1. Introduction	5
2. Purpose and aims of the review	6
3. Summary of the core proposition	8
4. Probation services	10
5. The case for change	11
6. Extending the competition of probation services	13
7. Effective offender management and competition	16
8. Effective commissioning of probation services	19
9. Introducing more diverse provision of probation services	23
10. Strengthening local delivery	27
11. Next Steps	30
12. Equality Impact Assessment	31
Annex A – Glossary of probation services and terms	32
Questionnaire	36
About you	38
Contact details/How to respond	39
Impact Assessment	41
The consultation criteria	42

1. Introduction

- 1 This consultation paper sets out the conclusions of an internal review by the Secretary of State of how probation services¹ in England and Wales can be improved. The intention is to ensure probation services are better able to achieve the outcomes in justice that matter to victims and communities: protecting the public, reducing reoffending and ensuring that offenders are properly punished.
- 2 The consultation paper sets out clear proposals to meet these aims whilst also achieving better value for money to the taxpayer. We need services of the right quality and price that are delivered in the right place and at the right time to punish and reform offenders. As such, our proposals directly support our plans to make sentences in the community more credible and effective. They also help to take forward the vision for transforming justice set out by the Government in its Green Paper: *Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders*.
- 3 We would welcome a wide range of views on the proposals in this document. **Responses should reach us by 22 June 2012** by one of the consultation routes set out in the Annex. We will also be running a programme of active engagement with key stakeholders.

¹ The meaning of 'probation services' is set out in section 4 and the glossary at Annex A.

2. Purpose and aims of the review

- 4 In July 2011, the Secretary of State for Justice wrote to the Chair of the Justice Committee, to inform him that the Government planned to review the future shape of probation services.
- 5 The review quickly identified three key principles against which to test any proposals:
- to bring in a wider range of organisations from the private, voluntary and community sectors, alongside the public sector, to compete to provide probation services for offenders, with providers increasingly paid for the results they achieve;
 - to strengthen commissioning arrangements in probation – how we assess what services are needed to protect the public and reduce reoffending; how we plan and buy those services; and then how we review their delivery and effectiveness²; and
 - to improve the delivery and accountability of probation services at local level. This includes commissioning jointly with partners like local authorities and the NHS of services such as housing and drug treatment which we know can help to turn offenders away from crime.
- 6 In doing so, we have ensured that our proposals build on the intentions of the Offender Management Act 2007 ('the 2007 Act'). They will also make a strong contribution to commitments in the *Open Public Services White Paper* to make services less centralised and more accountable to taxpayers, and to open them to a diverse range of providers. We are particularly keen to use the proposals to support the development of models like joint ventures, social enterprises and Public Service Mutuals which encourage greater employee involvement.
- 7 Our proposals also take account of the valuable recommendations of the Justice Committee's Report on *The Role of the Probation Service*³, published in July 2011. In particular, the proposals meet the Committee's request that we clarify our intentions for the future of probation and explain which elements of probation activity we consider might be commissioned from external providers.

² Commissioning for offender services is more fully explored in *NOMS' 'Commissioning Intentions 2012-13*

<http://www.justice.gov.uk/about/noms/commissioning.htm>

³ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/inquiries/rps/>

- 8 Probation Trusts, as Non-Departmental Public Bodies, are subject to the Triennial Review process, which considers the provision of services, whether services should continue to be delivered by public bodies and whether the delivery mechanisms for these services are sufficiently robust. We have agreed with the Cabinet Office that this consultation should form the first phase of the Triennial Review of Probation Trusts, with the subsequent Government response to consultation then forming the basis of the Triennial Review's Stage 1.

3. Summary of the core proposition

9 The key features of our core proposition for change are:

- We intend that there will be a stronger role for public sector Probation Trusts as commissioners of competed probation services. They will be accountable to the Secretary of State for achieving better outcomes to protect the public and reduce reoffending;
- We will devolve to Probation Trusts the budget for community offender services, from which Trusts will commission services to meet local need and circumstances. Trusts are best placed to work with courts and with local partners to design and commission services jointly;
- However, some services, such as electronic monitoring of curfew requirements, may continue to be commissioned at national level where we can get most value for money for the taxpayer;
- Probation Trusts will retain responsibility for providing, in the case of all offenders, advice to court on sentencing and the enforcement of those sentences. Consistent with the probation role in protecting the public, they will be responsible for making certain ‘public interest’ decisions for all offenders (such as the initial assessment of their risk and the resolution of recalls and breaches). They will also continue to supervise directly those offenders who present higher levels of risk;
- We will open up to competition all probation services not directly provided by Probation Trusts. This will include competing the management and supervision of lower risk offenders, alongside other services to reform offenders such as accredited programmes. Together these amount to around 60% of the budget for community offender services of £1 billion per year. Those providing services under competition will be increasingly incentivised through payment by results to reduce reoffending;
- To ensure a diverse market of providers we will encourage the participation of the voluntary, private and public sectors, alongside new models for delivering public services such as joint ventures, social enterprises and Public Service Mutuals;
- Probation Trusts may choose to compete for services. In such cases, we will require them to become separate entities, independent of those Probation Trusts which are responsible for commissioning, giving advice to court, managing higher risk offenders and taking public interest decisions as set out above. We think this is best achieved by a full ‘purchaser-provider split’; and

- We wish to strengthen local probation presence as the front line of offender management. We will ensure our proposals enable effective working with local partners and support local priorities in the shared community safety agenda. We will support the joint commissioning of services for offenders between probation and key partners such as local authorities, health and the police.
- There may be potential over time for other public bodies, such as local authorities or, with a broadened statutory role, Police and Crime Commissioners to take responsibility for probation services. For the time being, we propose to make Probation Trusts accountable, through their contractual arrangements with the National Offender Management Service (NOMS), for working with Police and Crime Commissioners.

4. Probation services

- 10 In this consultation ‘probation services’ refers to a wide range of services to punish and reform offenders managed in the community as follows:

Services currently delivered by Probation Trusts:

- Bail and Court Work
- Offender Management
- Post-release supervision
- Residence requirements
- Drug Rehabilitation requirements*
- Alcohol Treatment requirements*
- Mental Health Treatment requirements*
- Assessments and Reports
- Supervision requirements
- Activity requirements
- Offending Behaviour Programmes
- Community Payback (Unpaid Work) requirements
- Approved Premises
- Victim Liaison

* in collaboration with specialist providers

Contracted out:

Curfew requirement (“electronic monitoring”)

Bail Accommodation and Support Services

Provided by the voluntary sector:

Approved Premises (in addition to those provided by Probation Trusts)

Delivered direct by the National Offender Management Service (NOMS):

Attendance Centres

- 11 Together, these services currently cost around £1billion per year⁴, including back office and other probation support services such as IT and buildings. This also covers the cost to the National Offender Management Service of supporting service delivery by other agencies, for example drug treatment. (See the glossary at Annex A for a more detailed explanation of the terms used.)

⁴ This is covered in more detail in the Evidence Base section of the Impact Assessment

5. The case for change

- 12 The *Breaking the Cycle* Green Paper set out the Government's ambition to reduce reoffending, deliver better punishment and to improve public protection.
- 13 We are making good progress with our plans for reform. We are making our prisons places of work, where prisoners will work longer hours on meaningful tasks. We are trialling intensive rehabilitation wings in prisons to get offenders off alcohol and drugs. We will make sure criminals properly pay back the victims and communities they have harmed, both physically through intensive community work and financially by paying fines, compensation and having part of their earnings deducted and put towards victim funds. And we will seek an increased role for restorative justice. Our proposals to reform probation services and to create more credible community sentences, build on the reforms of *Breaking the Cycle* and describe in more detail how we propose to realise that ambition.
- 14 Many highly committed, skilled and professional probation staff are helping to get offenders to face up the causes of their criminality and turn their lives around. The 35 current Probation Trusts have made considerable efforts to reduce reoffending. In recent years they have also seen significant reductions in expenditure following a period of growth. The reoffending rate of adult offenders serving court orders fell from 39.9% in 2003 to 34.1% in the year to March 2010. Probation plays a vital role in protecting the public, including a key role in the success of Multi-Agency Public Protection Arrangements (MAPPA) and local Integrated Offender Management (IOM) schemes.
- 15 This has been a start but much more needs to be done to reform the probation system:
- a) reoffending rates remain unacceptably high. The latest reoffending figures (for the year ended March 2010) show that about 36% of adults released from prison, or starting a court order under probation supervision reoffended within one year. Reoffending by those serving under 12 months who have no statutory supervision (but who may, for example, often be a priority target group under local IOM arrangements) is even higher at almost 60% within a year. Our reforms need instead to stop them reoffending before the point at which prison is the only option;
 - b) Probation Trusts retain a near-monopoly on providing probation services. This is despite the intention of the 2007 Act to introduce much greater competition, and targets set by the previous Government for sub-contracting services to the voluntary sector;

- c) as the Justice Committee has pointed out, we are not making the best use of diverse providers to help cut crime. In particular we need to draw on small and medium sized enterprises and the voluntary sector, whose innovation, capacity and diversity can help to make such a difference to rehabilitating offenders;
 - d) we need to give providers further discretion and freedom over the design and delivery of services. At the same time, we have to hold them more strongly to account for reducing reoffending, applying the principles of payments by results to all of these providers by 2015;
 - e) probation needs to respond to the changing organisation and structure of its key partners, such as the introduction of Police and Crime Commissioners from November 2012; and
 - f) despite the savings of recent years following a period of growth, we believe probation can make further efficiencies, particularly in back office and management overheads. We need to reduce costs further as part of overall savings required from the Ministry of Justice and the National Offender Management Service (NOMS), whilst protecting front-line services dealing with offenders.
- 16 We have already made some progress in meeting these challenges. We are committed to reducing bureaucracy to enable greater professional discretion. Action already taken includes the recent introduction of less prescriptive National Standards for the Management of Offenders and the move to lighter-touch performance management.
- 17 In addition, our *Competition Strategy for Offender Services* published in July 2011⁵ made clear that we wanted to encourage the greater involvement of the private and voluntary sectors in reforming offenders. We have already competed community offender services representing 25% of the £1billion annual budget, including Electronic Monitoring and Bail Accommodation and Support. We have also centrally outsourced contracts for estates, facilities and IT.
- 18 Nevertheless, there is much more to do. The proposals set out below describe how we intend to ensure that probation is able to meet the challenges ahead.

⁵ <http://www.justice.gov.uk/downloads/publications/policy/moj/competition-strategy-offender-services.pdf>

6. Extending the competition of probation services

The benefits of competition

- 19 The *Competition Strategy for Offender Services* set out our ambition to compete all offender services unless there are compelling reasons not to do so. This is because competition will help us to achieve the required step change in service reform, innovation and value for money. The Office of Fair Trading⁶ has shown how increased competition can act as a spur for innovation. It can incentivise providers to focus more strongly on meeting need. It can help to reduce costs and lead to more efficient allocations of resources between providers.
- 20 We have seen these benefits in competition in offender services. Competition in prison services, for example, including the Prisoner Escort and Custody Services, has improved outcomes, driven efficiency, and led to more innovative examples of service delivery. Commissioners have used it to find the most suitable service providers, including from the voluntary sector, in areas such as drug and alcohol misuse, and offender learning and skills. Competition can allow the public sector to find innovative ways to bid for services: for example the public sector prison has formed a partnership with the private sector company MITIE to bid for all nine prisons currently being competed.
- 21 Our recent competitions in prisons will deliver savings of £21million over the Government's Spending Review period to 2014–15 through new contracts for three existing prisons. A further, new prison, HMP Oakwood, is being delivered over the same period for £31million less than the cost originally approved by the last Government.
- 22 While we recognise that there are real differences between prison and probation services, we think the evidence suggests that there are significant benefits to extending this approach to probation in a measured and sensible way.

Extending competition

- 23 Under the 2007 Act it is the Secretary of State's responsibility to ensure probation services are provided. However, unless he decides to provide them directly, he has a broad power to contract or make other arrangements with "any person" for this purpose. He also has the power to establish public sector Probation Trusts with whom he can contract to provide probation services on his behalf.

⁶ *Choice and Competition in Public Services, A guide for policy makers*. A report prepared for the OFT by Frontier Economics, March 2010, OFT1214.

- 24 The intention of the 2007 Act was to introduce a much broader range of competition across probation services. However, we do not believe that this aim has so far been met. **The Government therefore intends to use the scope provided by the 2007 Act to open significantly more probation services to competition, including some aspects of offender management.**
- 25 We expect over time to compete, where possible on a payments by results basis, a range of services which, together with central IT and estates contracts, amount to around 60% of the £1billion per year budget for community offender services. These include:
- Community Payback (Unpaid Work); Electronic Monitoring; Bail Accommodation and Support Services (subject to contract review); Approved Premises; Attendance Centres; Victim Liaison; Accredited Programmes; Activity Requirements; Supervision; and some aspects of Offender Management.
- 26 We are already making progress with competing services. The re-competition of Electronic Monitoring has been announced and we expect to award the first competed Community Payback contract, for London later this year.
- 27 Our aim is to make significant progress in competing further services during this Spending Review period (to 2015). We will consider the precise scope, sequencing and pace of the broader competition programme, including how we take forward Community Payback competition for the rest of England and Wales, along with that for wider rehabilitative services, once we have considered responses to this consultation paper. Our competitions will remain in line with the principles we set out in the *Competition Strategy for Offender Services*.
- 28 Over time we intend that the majority of a Probation Trust's current business would be opened up to competition, apart from advice to court and the management of higher risk offenders which we propose to retain in the public sector (see paragraph 30 and section 7). We do not necessarily propose to organise this competition in lots matching the shape and size of the current 35 Trusts. This may not offer a model that is particularly efficient, and our wish to see the commissioning function devolved away from the centre may only be realised if Trusts have sufficient size and capability to take on this important role. The difference in size and scale of Trusts may mean that competition for even the majority of the business of smaller Trusts would be unattractive to the market. We will ensure our proposals enable effective working with local partners and strengthen the local delivery of probation services, as outlined further in section 10.

- 29 Any transfers of staff as a result of competitions would be subject to the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and the principles of “Fair Deal” would continue to apply, as confirmed by the Chief Secretary to the Treasury in December 2011.⁷

Advice to court

- 30 The 2007 Act provides one exception to competition. It reserves to a Probation Trust or another public body “the giving of assistance to any court”. This advice consists mainly of assisting sentencers to identify the most appropriate sentence for an offender and prosecuting breaches of that sentence. We recognise that if court advice was delivered by a private or voluntary sector organisation there could be a conflict of interest with other commercial interests that the organisation might have. As a consequence, **we do not intend to change the current statutory reservation on this work. Court advice will remain a responsibility of the public sector.**

⁷ http://www.hm-treasury.gov.uk/statement_cst_201211.htm

7. Effective offender management and competition

- 31 Offender management involves:
- a) assessing an offender's risk of harm and reoffending in order to provide advice to courts and the Parole Board;
 - b) managing and reducing those risks during their sentence;
 - c) planning the delivery of the offender's sentence;
 - d) ensuring that the offender gets the right services or interventions in line with the sentence plan;
 - e) monitoring to make sure the offender complies with the sentence; enforcing this where necessary (e.g. returning offenders to court or arranging their recall to prison); and
 - f) evaluating whether overall the objectives of the sentence plan have been met.
- 32 We agree with the Justice Committee that face to face contact with the offender is critical for success. Offender managers also have a vital role working in partnership with the police, prisons and children's services to protect the public. In addition, they must work with local authorities and other agencies to access housing, employment training, drugs, alcohol and mental health services for offenders as part of their rehabilitation.

Our approach to competing offender management

- 33 We believe that there are significant benefits from competing offender management for improving outcomes, service quality and securing greater value for money. This is especially so if offender management is competed alongside services to reform offenders. Examples include compulsory activities (known as 'specified activity requirements'), such as participating in education and training; and programmes specifically targeted at reducing reoffending (known as accredited programmes). Giving responsibility for offender management to providers would mean they have more 'grip' on what is needed to make a difference with individual offenders and would support the one-to-one relationship between an offender and their offender manager which we know is vital to turning them away from crime. This would both enhance providers' ability to stop reoffending and our ability to hold them to account for this.
- 34 We are determined not to compromise the protection of the public. Where there are key public interest decisions concerning public protection or – as we have seen with court advice – resource allocation, it is crucial that these should not be influenced by commercial considerations or other potential conflicts of interest. This

includes considering how to achieve the right balance for competing offender management and what practical implications this raises.

- 35 **We wish to take a sensible and measured approach to introducing competition in offender management. Accordingly we propose to compete the offender management of lower risk offenders only, rather than the full extent of offender management envisaged by the 2007 Act.** This is already being explored on a smaller scale in the community payment by results pilots (see section 9).
- 36 We also propose to compete supervision alongside offender management. While supervision requirements are classed as interventions to rehabilitate offenders which sentencers may choose to attach to a court order, in practice they can differ very little from offender management. Both are often undertaken by the same professional, helping to build a stronger relationship with the offender and avoiding duplication.
- 37 Under our proposals, therefore, a Probation Trust would conduct the initial assessment of all offenders and determine the level of management they need at this stage based on their risk. Where the management of offenders presenting a lower risk had been competed in that area, the contracted provider would then be responsible for them. The Probation Trust would continue to manage and supervise all higher risk offenders.
- 38 We also seek views on whether the management of lower risk offenders released from prison on licence should be subject to competition. Setting the licence conditions and deciding whether they need to be recalled to prison are crucial decisions for protecting the public. We would need the right arrangements to be in place to oversee the proper setting of licence conditions. We would also have to ensure that recall recommendations for offenders managed by an alternative provider can be acted upon quickly by public sector staff (within 24 hours or sooner in very urgent cases).
- 39 Our proposals anticipate that in future there will be a greater range of providers delivering probation services, which may create complexities where offenders are subject to Orders with multiple requirements, particularly in respect of breach proceedings. To safeguard against risks of conflicts of interest, **we propose to retain with Probation Trusts key public interest decision points for all offenders.** These include: initially assessing risk of harm and risk of reoffending; advice to court and the Parole Board (as above); determining required levels of offender management; participating in supervision and management decisions about MAPPA cases; resolution of recalls and breaches; and early revocation of sentences for offenders for good progress.

- Q1. What are the key issues in competing the management of offenders and how should they be resolved? For example, where should we strike the balance in deciding how far to compete offender management?**
- Q2. What arrangements will best enable Probation Trusts to take effective action against offenders who breach their sentence in cases where they do not directly manage the offender?**
- Q3. What is the best approach to competing the management of prisoners released into the community on licence?**
- Q4. How can we best ensure that greater competition for probation services enhances local partnership arrangements, such as Integrated Offender Management?**

8. Effective commissioning of probation services

- 40 Effective commissioning is central if we are to keep a clear focus on outcomes and value for money. It is also key to supporting the substantial increase in competition, and ensuring the delivery of high quality services that are responsive to local priorities in relation to offenders' risks and needs.
- 41 Probation services are currently commissioned by NOMS. **In order to achieve our objectives we want to see a stronger role for public sector Probation Trusts as commissioners. As part of their enhanced commissioning role we envisage that Trusts would:**
- a) receive and manage budgets for the delivery of the entire range of community based offender management services, including Electronic Monitoring;
 - b) compete specified probation services such as the offender management and supervision of lower risk offenders and specified activities;
 - c) act as joint commissioners with local partners of other services for offenders.
- 42 Under our proposals Probation Trusts would continue to be responsible to the Secretary of State for reducing reoffending and protecting the public. They would continue to undertake the Secretary of State's statutory responsibilities in relation to Community Safety Partnerships, MAPPAs and safeguarding duties under the Children Act 2004, and would retain their statutory duties in relation to Youth Offending Teams. They would also retain the key delivery functions set out in paragraphs 30 and 37.
- 43 These proposals meet the Government's goal to devolve more responsibility for delivering outcomes from the centre to those responsible for frontline services. Devolving budgets to Probation Trusts will help to incentivise them to achieve the best use of resources across the system using their greater local knowledge.
- 44 In the longer term as the proposed wider reforms develop, we will also explore opportunities to give Trusts greater influence over the estates services they receive and the property they use. This may assist any local co-location discussions with the police and other partners. The range of existing contractual arrangements covering facilities management arrangements for Trusts will remain in place until they expire in 2013.
- 45 Trusts should be best placed to commission more locally responsive or specialist services to address offending in their areas, working with local partners such as Health Commissioners and local authorities and

bringing in providers from the voluntary sector or private sector. Staff who directly manage and supervise offenders will have a key role. They will be required to match the risk and needs of individual offenders to the right services and interventions. In doing so they must balance the requirement for sentencing to protect the public, punish and reform offenders and make sure they payback to victims and wider society.

- 46 A more local approach to commissioning should result in better services for groups of offenders with complex needs, including women offenders. The Government is committed to addressing women's offending – for the benefit of the individuals concerned and wider society. Our consultation paper on sentencing in the community sets out in detail how we will ensure that community sentences are not only meaningfully punitive but also support women in addressing their needs as part of the rehabilitative process. In support of this, from 2013-14, we will move from centrally funded women's services to local commissioning by Probation Trusts. Our approach will be based on delivering targeted gender specific and holistic services at the local level, working in partnership with the many women's services across the country. We will explicitly ask Trusts to demonstrate how they will ensure appropriate provision of services that meet the needs of women offenders.
- 47 In our approach to competition and commissioning, we are seeking to find the right balance between devolution and the need to make efficiencies from economies of scale. This will mean that some services, such as Electronic Monitoring, may be best procured **nationally** in large lots to achieve the best price, and consistency across the country.
- 48 We envisage that Probation Trusts will work within the overall competition framework set by NOMS under European Union competition law to ensure fairness. They will be expected to work collaboratively with NOMS and others to commission and plan services, develop specifications and evaluate bids. We propose that Trusts would still be able to draw on the support of the commercial and procurement capabilities of NOMS and the Ministry of Justice to ensure efficiency and avoid duplication.

Implications for Probation Trust numbers and organisation

- 49 The eventual number and size of Probation Trusts will need to be both sustainable and have sufficient purchasing power in light of the proposed shift of emphasis in their role from providers to primarily commissioners. Strong and senior commissioning capability is needed to ensure that appropriate and good quality services are purchased that provide the right interventions to reduce re-offending, which we believe is difficult to achieve in a small organisation. As a result, we anticipate that there may be fewer Probation Trusts than now.

- 50 We will consider how our competition approach fits in with the need for Trusts to merge or reconfigure themselves in a way that will allow them to function as stronger commissioners or compete to provide services by setting up separate provider functions.
- 51 We accept that there may be considerable challenges in achieving an optimal number of Trusts and we will want to work closely with Trusts to get this right. We recognise the vital role that probation plays locally and will ensure our proposals enable effective local partnership working (see section 10).

Separating Probation Trusts from competed service provision

- 52 **Probation Trusts may choose to compete for services. In such cases, we will require them to become separate entities, independent of those Probation Trusts which are responsible for commissioning, giving advice to court, managing higher risk offenders and taking public interest decisions as set out above. We think this is best achieved by a full ‘purchaser-provider split’.**
- 53 It is important to achieve a separation of purchaser and provider functions to avoid potential conflicts of interest; to ensure that other providers for competed services have confidence in the fairness of any competitive tendering process; to enable the development of the market; and overall to ensure best value for the public.
- 54 In the case of its prison competitions, NOMS achieves this separation through the creation of “ethical walls” within its organisation, which strictly limits disclosure of information between its commissioning and provider parts. This is considered appropriate in light of the size of the organisation and the relative maturity of the market for custodial services.
- 55 For probation, however, we intend for there to be a **‘purchaser-provider split’**. Within the framework of the 2007 Act we will ensure that there is a clear distinction between those Probation Trusts which retain the functions of commissioning, managing higher risk offenders and taking public interest decisions and those Probation Trusts which choose to compete to provide services. They will be separate entities, and we will reflect this through revised contractual arrangements.
- 56 We believe that will this ensure clearer accountabilities, enable a better focus on assessing offender need and ensure specified outcomes are achieved. It will enable NOMS to work with Trusts to develop a diverse and sustainable range of providers in a less mature market.
- 57 We want to discuss with Probation Trusts and other stakeholders – and would expect Trusts to do the same – how we can make our proposals for greater competition and a stronger focus on commissioning work best as part of a reformed probation system. In particular we are keen

to engage with Trusts who are already considering how to separate their commissioning and providing functions

Q5. What would be the right balance between commissioning services at local and national levels and how can we best achieve that balance?

Q6. What are the main issues in separating the Trust commissioner role from the provision of competed services? How can these best be resolved?

Q7. How can we support Trusts to develop the commissioning and procurement capability they will need in the future?

Q8. How can we best ensure that the specific needs of women offenders are taken into account in commissioning services?

9. Introducing more diverse provision of probation services

- 58 We want to build on the innovation that is already out there to get the best out of the public, private and voluntary sectors in improving service delivery. **In line with the *Competition Strategy for Offender Services*, we want to ensure a diverse market of providers through fair competition. We will encourage the participation of the voluntary, private and public sectors, alongside new models for delivering public services such as joint ventures, social enterprises and Public Service Mutuels.**
- 59 There are already various different delivery models for offender services, ranging from multi-agency approaches to Integrated Offender Management through to European Social Fund projects designed to tackle offending among young offenders not in education or employment. We are also seeing collaboration between existing Probation Trusts and the voluntary and private sectors to bid for the delivery of Community Payback and for the payment by results pilots.
- 60 Our proposals are intended to bring more opportunities for the voluntary sector to deliver services to offenders. We recognise that this will bring specific challenges. We aim to make sure that commissioning arrangements level the ‘playing field’ for the voluntary sector in line with the renewed *Compact* between Government and voluntary sector organisations in England. Where it is not possible or desirable to open competitions directly to smaller enterprises, we will work with larger prime providers to ensure there are the right incentives for them to sub-contract with voluntary sector specialist providers. We encourage voluntary organisations to respond to the issues raised in this consultation.
- 61 The *Open Public Services* White Paper set out how public sector employees will be given a new Right to Provide, which will enable them to form Public Service Mutuels, and bid or request to take over the services they deliver. The Cabinet Office is providing a package of support for public sector workers including a Mutuels Information Service⁸ and funding for bespoke support for the creation of new independent public service mutuels. This offers practical support for those moving to these new approaches. As part of these proposed reforms we will assess the potential to bring more opportunities for the creation of mutuels, including through employee ownership and engagement in probation services. We have already spoken to some Trusts interested in alternative delivery vehicles and will provide specific support for justice sector staff if appropriate.

⁸ <http://mutuels.cabinetoffice.gov.uk/>

- Q9. How can we best encourage and support small and medium sized enterprises and the voluntary sector to participate in competitions to provide probation services?**
- Q10. How can we best support public sector staff in the creation of mutuals and other models for delivering probation services?**

A focus on outcomes

- 62 **We intend to make greater use of payment by results to change the way in which services are commissioned, to deliver improved outcomes for the public and to achieve increased value for money.** Where possible our proposals will transfer financial risk to providers and only reward those who achieve a reduction in reoffending. To support this approach, providers from all sectors will benefit from less bureaucracy and a freedom from targets to focus on what works and introduce new and innovative approaches.
- 63 We aim to apply the principles of payment by results to all providers by 2015. We are running an initial programme of pilots to test our approach. Pilots have already started in two private prisons, with two more, in public sector prisons, to follow in 2012. We are contributing to eight drug and alcohol recovery pilots run by the Department of Health and are testing through two pilots with the Department for Work and Pensions how we can further incentivise Work Programme⁹ providers to reduce reoffending. A local justice reinvestment approach is being tested in Greater Manchester and London.
- 64 Through two further pilots, we also plan to test the application of payment by results to the management of offenders in the community. These pilots, due to begin in early 2013, will be designed and implemented by Wales and Staffordshire & West Midlands Probation Trusts, in consultation with NOMS and local stakeholders. These pilots will fit with our wider proposals for reforming probation services and the drive to improve outcomes and value for money through greater devolution of decision making.

⁹ <http://www.dwp.gov.uk/policy/welfare-reform/the-work-programme/>

Wales and Staffordshire & West Midlands payment by results pilots

The Wales and Staffordshire & West Midlands payment by results pilots will allow us to test further some of the key principles we have set out in this paper, including approaches to competing some elements of offender management, and clearly splitting the commissioner and providers of probation services. They will also provide important learning about how existing public sector providers can operate under more outcome-based contracts and inform the broader use of payment by results principles.

Both pilots will be rewarded according to the success they have in reducing reoffending for certain specified cohorts of offenders. The pilots will respond to local needs and priority groups, for example women, young adults and black and minority ethnic offenders in Wales. They will test the creation of new commercial models, providing an opportunity for public sector Trusts to work in private partnership with non-public sector bodies to deliver offender services. This will increase commercial flexibility and assist Trusts to develop commissioning and business capacity.

- 65 The learning from the pilots will also encourage other Trusts to look at similar approaches and delivery models in line with our reform proposals.
- 66 In all cases, across all sectors, we will maintain and increase the focus on outcomes. Where we cannot directly transfer financial risk, we will seek to identify alternative ways to incentivise providers to deliver results.

Q11. What are the most effective ways to extend service improvements and innovation through payment by results?

Maintaining standards in delivering probation services

- 67 Probation is a highly valued profession and it is important that its staff are appropriately skilled and qualified. We have already enhanced probation professional development through the Probation Qualification Framework (PQF). The PQF is externally validated and quality assured and consists of a number of different units which qualify practitioners to manage offenders posing varying levels of risk. The qualification is not restricted to any employer. This will enable practitioners to complete the appropriate units for their current level of practice and to demonstrate competence across different sectors and with different offender groups. We recognise, however, that in a system involving a greater range of providers there is an increasing need both to ensure that standards are maintained, and that there are appropriate routes for career development, learning, and progression across the sector. We

would welcome views on how we can best support the development of probation professionals in the longer term, consistent with proposals for reform set out in this consultation paper.

- 68 HM Chief Inspector of Probation reports to the Justice Secretary on the effectiveness of probation provision in England and Wales. We propose to retain the Inspectorate's valuable statutory role in carrying out inspections whoever undertakes this work, and the Inspector's remit will cover all competed providers of probation services, including those responsible for the management of lower risk offenders.

Q12. How can we best support the continued development of probation professionals consistent with our proposals for reform?

10. Strengthening local delivery

- 69 **We wish to strengthen local probation presence as the front line of offender management. We will ensure our proposals enable effective working with local partners and support local priorities in the shared community safety agenda. We will support the joint commissioning of services for offenders between probation and key partners such as local authorities, health and the police.**
- 70 Probation occupies a unique position across the Criminal Justice System – operating in the community, in courts, in prisons and working closely with the police and Crown Prosecution Service. We recognise the vital role that probation plays in making local partnerships work effectively. Its broader community safety role makes it partner to a range of other agencies outside the Criminal Justice System, whose work is vital to reducing reoffending. These include local authorities, housing and employment services, drugs, alcohol and other health services. Probation at its best can be a vital ‘glue’ that holds services together for offenders.
- 71 The *Open Public Services* White Paper highlights the Government’s belief that “power should be decentralised to the lowest appropriate level”. If we are successfully to strengthen the local delivery of services to meet local priorities, while potentially reducing Probation Trust numbers, Trusts will need to put the right structures in place to maintain these important relationships with partners. We will also need to consider the probation leadership and skills base required at a more local level.
- 72 **We expect that under our proposals probation delivery structures will continue to be consistent with local authority and police force areas and that Trusts will continue to ensure arrangements support this.** Probation Trusts will retain their role undertaking statutory responsibilities on behalf of the Secretary of State on local Community Safety Partnerships, Safeguarding Boards and within MAPPA, and their statutory duties in relation to Youth Offending Teams. We recognise that wider competition in probation services does bring the possibility of a growing number of private and voluntary sector partners working at local level. We want to work with stakeholders over the coming months to design the right incentives and arrangements to support better working between local agencies and probation service providers. Locally determined schemes such as Integrated Offender Management arrangements to reduce crime, reoffending and manage demand on criminal justice services are critical for achieving this.

- 73 Already, a range of initiatives are encouraging local agencies to work more effectively together, including through various payment by results and Community Budget pilots. The local justice reinvestment pilots in Greater Manchester and parts of London are incentivising local agencies to work more closely together by allowing them to share in any savings made if they are successful in reducing demand on courts, prison and probation. The four Whole Place Community Budget pilots may also provide an opportunity for local areas to test new ideas for joint working.
- 74 **We believe that for the time being the Secretary of State should remain accountable for ensuring the provision of probation services, but there may be potential over time for other public bodies, such as local authorities or, with a broadened statutory role, Police and Crime Commissioners to take responsibility for probation services.**
- 75 A future transfer of responsibility for probation services to local authorities could further strengthen local accountability, enabling local areas to better coordinate delivery of offender management in the community with a range of key services already in their remit, such as housing and social services.
- 76 On their introduction from November 2012, Police and Crime Commissioners will hold Chief Constables to account for the operational delivery of policing. Police and Crime Commissioners will also be able to commission community safety work from a range of local partners. There will need to be an effective relationship, locally defined, between Police and Crime Commissioners and Probation Trusts in order for them to meet their statutory duty to cooperate. This could include co-commissioning services at police force level, and at local authority level with police command units and others. Over time, there is potential to consider whether, with a broader statutory role, Police and Crime Commissioners could become accountable for probation services. For the time being, **we propose to make Probation Trusts accountable, through their contractual arrangements with NOMS, for working with Police and Crime Commissioners.**
- 77 Wales and certain regions like London have particular criminal justice infrastructures which could provide scope for more joint working and collaboration. In London, for example, police and probation services are already coterminous with wider governance structures. Different structures in Wales could potentially affect how probation services integrate more closely with devolved public sector partners. We will be responsive to the varying partnership landscape in England and Wales in developing our proposals.

- Q13. How can we best strengthen local probation delivery arrangements and the local leadership and skills base?**
- Q14. How might we improve partnership working and local co-commissioning, especially if we have fewer, larger Trusts?**
- Q15. What are the main issues for local authorities or Police and Crime Commissioners potentially becoming more accountable over time for probation services?**

11. Next Steps

We are keen to receive a wide range of responses to this consultation. Over the course of the consultation period we also intend to engage key stakeholders, in particular Probation Trusts and their staff, to better understand what the issues and challenges will be in designing and implementing these proposals and managing change.

We will set out the Government's response to the consultation exercise – taking into account the views of stakeholders – later this year, alongside more detailed proposals for how we intend to implement proposed changes. We recognise that there are significant issues to consider in sequencing and implementing any proposed changes, and will consider where transitional arrangements are needed to ensure that Probation Trusts are able to continue to provide probation services in the short term.

12. Equality Impact Assessment

This document is accompanied by an Equality Impact Assessment (EIA) Initial Screening which will be developed into a more detailed EIA following the consultation period. We would be grateful for views on the potential equality impact of these proposals.

Q16. What do you consider to be the impacts of these proposals on those with protected characteristics under the Equality Act 2010 (race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity)?

Q17. Are you aware of any research and statistical evidence that will need to be considered as part of our equality analysis? Please supply the evidence sources along with what effect they are considered to have on these proposals.

Annex A – Glossary of probation services and terms

Service/Term	Description/Definition
Accredited/ offending behaviour programmes	Designed to address specific deficits which are identified as leading to offending behaviour, including domestic violence, thinking skills, sexual offending and substance misuse. Many programmes are nationally defined and accredited by the Correctional Services Accreditation Panel (CSAP).
Advice to court	Probation Trusts provide reports and advice to courts to support their decision-making about the offenders who come before them. This predominantly takes the form of Pre-Sentence Reports which give an assessment of the risks of harm and reoffending presented by the offender, and suggest possible sentencing disposals.
Alcohol treatment requirement (ATR)	Targeted at dependent drinkers whose offending is related to their misuse of alcohol. The aim is to rehabilitate offenders by reducing or eliminating their use of alcohol.
Approved Premises (AP)	Hostels which provide enhanced supervision as a contribution to the management of offenders who pose a significant risk of serious harm. Residence in Approved Premises can be implemented as a condition of a post-release licence, a residence requirement in a community order or suspended sentence order, or a bail condition.
Attendance Centre requirement	Restricted to offenders aged 18–24, with the aim of reducing their risk of reoffending through participation in the programme of activities delivered at the attendance centre. Mostly run by Officers in Charge who work part time, directly managed by NOMS.
Bail Accommodation Support Service (BASS)	Accommodation and support services for people who would normally be living in the community on bail or Home Detention Curfew (HDC) but do not otherwise have a suitable address – or who need some extra support during the period of their bail or HDC license.
Breach	If an offender fails to comply with the requirements of his or her sentence, then breach proceedings will see the case returned to court for further punishment.
Community Payback (Unpaid Work)	Requires the offender to complete a specified number of hours work for the benefit of the community. The provider will seek to maximise opportunities for rehabilitation. This can be achieved by the offender learning work related skills when completing the placement, or by improving his or her educational qualifications as part of the hours worked on the requirement. The requirement is referred to as “unpaid work” in the relevant legislation (the Criminal Justice Act 2003).

Service/Term	Description/Definition
Community Safety Partnership (CSP)	A statutory partnership which requires key agencies to work together at a strategic level to protect local communities from crime. Community Safety Partnerships take action against problems such as anti-social behaviour and drug and alcohol misuse.
Commissioning	Assessing the requirements of courts, offenders, defendants, victims and communities, planning how to meet those requirements, securing the right services at the right quality and price, and reviewing the delivery and effectiveness in meeting those needs.
Community Order	A Court Order requiring the offender to serve a sentence in the community. Can comprise one or more of 12 possible requirements.
Court work other than assessments and reports	Providing courts with information and advice to support the justice process in a range of ways, not solely sentencing. Court liaison staff are present to assist with early revocation, enforcement and review hearings, to provide the court with information about defendants known to the probation service; and then to feed information on court appearances back to colleagues in field teams.
Curfew requirement or Electronic Monitoring (EM)	Generally used to punish an offender by restricting his or her movements at specified times. It can be implemented as a stand alone requirement, as one element of a more complex Community Order, or as a licence condition or Home Detention Curfew.
Drug Rehabilitation requirement (DRR)	Targeted at offenders whose offending arises from a dependence on or misuse of illegal drugs. The aim is to rehabilitate the offender by reducing or eliminating the use of illegal drugs.
Ethical wall	An information barrier put in place to create a separation between two parts of the same organisation in order to avoid any conflicts of interest.
Exclusion requirement	Exclusion from a specified place or area. It is flexible and can be limited to particular periods or can specify different places for different periods or days.
Integrated Offender Management (IOM)	Overarching framework under which local partners including probation and the police work together to manage those offenders who cause most harm in their communities. It is for local partners to identify which offenders are managed in this way.
Licence	The terms and conditions under which prisoners serving more than twelve months are released into the community for the second part of their sentence. Licences are implemented and enforced by Probation Trusts. If the offender fails to comply with any licence condition, he or she is liable to be returned to custody.

Service/Term	Description/Definition
Local delivery unit (LDUs)	Probation Trusts are organised into Local Delivery Units, which broadly align with local authority and police boundaries. Each LDU has a senior manager who is responsible for local engagement, the commissioning of offender services and the organisation of offender management teams.
Multi-Agency Public Protection Arrangements/Panel (MAPPA/MAPPP)	Partnership working led by police and probation to secure active, multi-agency oversight of a small number of dangerous offenders in the community. Other agencies, including Her Majesty's Prison Service, local authorities and health services are also required to participate.
Mental health treatment requirement (MHTR)	To ensure that the offender receives treatment with a view to the improvement of his or her mental health condition and reduction in reoffending.
Offender management and Offender manager	An evidence-based case management structure for adult offenders sentenced by the courts providing an end-to-end process of supervision by a named Offender Manager throughout a sentence. The Offender Manager determines the sentence plan and liaises with all agencies involved in the requirements of the sentence to ensure it is delivered effectively and public protection is maximised.
Payment by results	A mechanism which pays providers of services according to the outcomes they achieve, rather than simply the tasks they may undertake. If a service is ineffective, this is reflected in the price paid.
Police and Crime Commissioners (PCCs)	Police and Crime Commissioners will be in place in all police force areas in England and Wales by November 2012. They will be elected locally and will have responsibility for holding their Chief Constable to account for all the activity of their force. This will make the police more directly answerable to the communities they serve.
Prohibited activity requirement	Requires the offender to refrain from participating in activities specified in the order: the purpose is protective as well as punitive. Can be utilised as both a stand alone requirement or as one of two or more requirements depending on the seriousness of the offence.
Purchaser-provider split	The formal separation of the commissioning or purchasing of services from their provision.
Recall	The process of returning an offender to custody if he or she fails to comply with any licence condition.

Service/Term	Description/Definition
Residence requirement	Requirement to reside at a specified location could be part of a post-custodial licence condition, or a community or suspended sentence order. It will usually be in place due to the need to manage risks that the offender presents, or to provide stability for the offender. The location may be an Approved Premises, hostel, private or local authority property.
Specified activity requirement (SAR)	To address criminogenic needs for the purposes of rehabilitation and achieving a reduction in the likelihood of reoffending, e.g. a requirement to attend education/training.
Supervision requirement	To 'promote the offender's rehabilitation', this is a generic requirement with the flexibility to address a range of deficits, attitudes and problems that precipitate offending behaviour in a one-to-one setting. During the relevant period of supervision, the offender must attend appointments with the Responsible Officer (offender manager) or another person determined by the officer.
Suspended Sentence Order	A Court Order enabling the offender to serve a custodial sentence in the community, with the threat of immediate imprisonment should he or she re-offend or fail to comply with requirements. Can comprise one or more requirements, from the same group of 12 which apply to the Community Order.
Victim liaison	Victim Liaison Officers provide victims of violent and sexual offences where the offender has received a prison sentence of 12 months or more, or certain mental health disposals, with timely information about key stages of the offender's sentence, and to enable them to make representations about which licence conditions they would like to see attached to any licence to protect and re-assure them.

Questionnaire

Responses to this consultation exercise can be submitted via the routes outlined in the “About this Consultation” section above.

We would welcome responses to the following questions set out in this consultation paper.

- 1. What are the key issues in competing the management of offenders and how should they be resolved? For example, where should we strike the balance in deciding how far to compete offender management?**
- 2. What arrangements will best enable Probation Trusts to take effective action against offenders who breach their sentence in cases where they do not directly manage the offender?**
- 3. What is the best approach to competing the management of prisoners released into the community on licence?**
- 4. How can we best ensure that greater competition for probation services enhances local partnership arrangements, such as Integrated Offender Management?**
- 5. What would be the right balance between commissioning services at local and national levels and how can we best achieve that balance?**
- 6. What are the main issues in separating the Trust commissioner role from the provision of competed services? How can these best be resolved?**
- 7. How can we support Trusts to develop the commissioning and procurement capability they will need in the future?**
- 8. How can we best ensure that the specific needs of women offenders are taken into account in commissioning services?**
- 9. How can we best encourage and support small and medium sized enterprises and the voluntary sector to participate in competitions to provide probation services?**
- 10. How can we best support public sector staff in the creation of mutuals and other models for delivering probation services?**
- 11. What are the most effective ways to extend service improvements and innovation through payment by results?**
- 12. How can we best support the continued development of probation professionals consistent with our proposals for reform?**
- 13. How can we best strengthen local probation delivery arrangements and the local leadership and skills base?**

- 14. How might we improve partnership working and local co-commissioning, especially if we have fewer, larger Trusts?**
- 15. What are the main issues for local authorities or Police and Crime Commissioners potentially becoming more accountable over time for probation services?**
- 16. What do you consider to be the impacts of these proposals on those with protected characteristics under the Equality Act 2010 (race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity)?**
- 17. Are you aware of any research and statistical evidence that will need to be considered as part of our equality analysis? Please supply the evidence sources along with what effect they are considered to have on these proposals.**

Thank you for participating in this consultation exercise.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Please send your response by 22 June to:

Effective Probation Services

Ministry of Justice

Post Point 8.20

102 Petty France

London SW1H 9AJ

Tel: 020 3334 6584

Email: effectiveprobationservices@justice.gsi.gov.uk

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <https://consult.justice.gov.uk/digital-communications/effective-probation-services>

Alternative format versions of this publication can be requested from effectiveprobationservices@justice.gsi.gov.uk

Publication of response

A paper summarising the responses to this consultation will be published in the autumn. The response paper will be available on-line at <http://www.justice.gov.uk/index.htm>

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic

confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Impact Assessment

This document is accompanied by an initial Impact Assessment which can be obtained from the address in the “How to respond” section above and is also available on-line at <https://consult.justice.gov.uk/digital-communications/effective-probation-services>

A full cost benefit assessment of the proposals will be completed following the consultation period.

The consultation criteria

The seven consultation criteria are as follows:

1. **When to consult** – Formal consultations should take place at a stage where there is scope to influence the policy outcome.
2. **Duration of consultation exercises** – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. **Clarity of scope and impact** – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. **Accessibility of consultation exercises** – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. **The burden of consultation** – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. **Responsiveness of consultation exercises** – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. **Capacity to consult** – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

These criteria must be reproduced within all consultation documents.

Consultation Co-ordinator contact details

Responses to the consultation must go to the named contact under the How to Respond section.

However, if you have any complaints or comments about the consultation **process** you should contact Sheila Morson on 020 3334 4498, or email her at consultation@justice.gsi.gov.uk.

Alternatively, you may wish to write to the address below:

**Ministry of Justice
Consultation Co-ordinator
Better Regulation Unit
Analytical Services
7th Floor, 7:02
102 Petty France
London SW1H 9AJ**



Published by TSO (The Stationery Office) and available from:

Online

www.tsoshop.co.uk

Mail, telephone, fax and email

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/general enquiries 0870 600 5522

Order through the Parliamentary Hotline Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

Email: customer.services@tso.co.uk

Textphone: 0870 240 3701

The Parliamentary Bookshop

12 Bridge Street, Parliament Square,

London SW1A 2JX

Telephone orders/general enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: bookshop@parliament.uk

Internet: <http://www.bookshop.parliament.uk>

TSO@Blackwell and other accredited agents

ISBN 978-0-10-183332-5



9 780101 833325