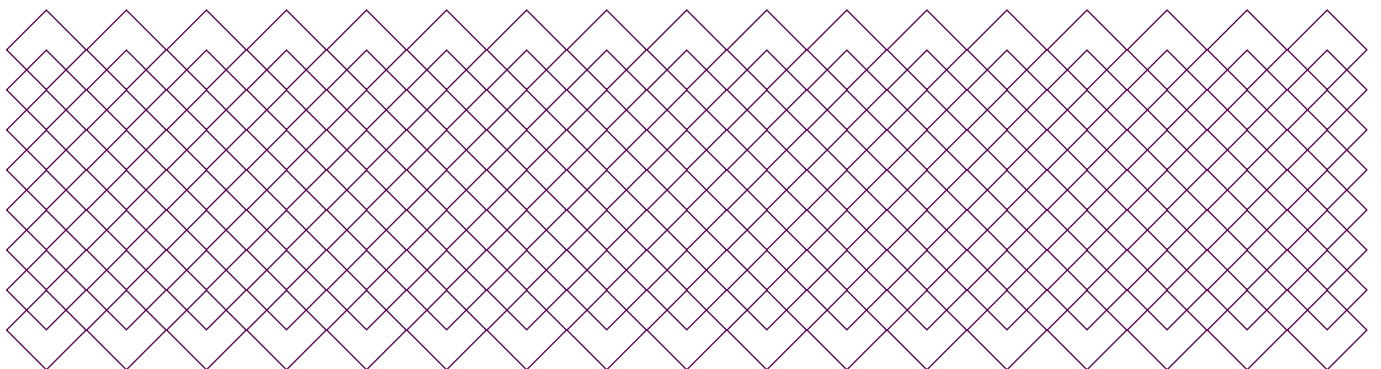




Ministry of  
**JUSTICE**

# **Breaking the Cycle:** Effective Punishment, Rehabilitation and Sentencing of Offenders





# **Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders**

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

December 2010

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## Ministerial Foreword

The safety and security of the law-abiding citizen is a key priority of the Coalition Government. Everyone has a right to feel safe in their home and in their community. When that safety is threatened, those responsible should face a swift and effective response. We rely on the criminal justice system to deliver that response: punishing offenders, protecting the public and reducing reoffending.

This Green Paper addresses all three of these priorities, setting out how an intelligent sentencing framework, coupled with more effective rehabilitation, will enable us to break the cycle of crime and prison which creates new victims every day. Despite a 50% increase in the budget for prisons and managing offenders in the last ten years almost half of all adult offenders released from custody reoffend within a year. It is also not acceptable that 75% of offenders sentenced to youth custody reoffend within a year. If we do not prevent and tackle offending by young people then the young offenders of today will become the prolific career criminals of tomorrow.

There is much work to do in a criminal justice system which is so badly in need of reform. I readily admit that there have been some achievements alongside the failures. The way was paved for the establishment of the first payment by results pilot, at Peterborough prison. New measures were introduced to make some community sentences more punitive and visible. It can even be argued that there was at least some increased safety for the public while more and more criminals were under lock and key.

Sadly, this approach proved disastrous when prison capacity ran out and prisoners were released early. The fundamental failing of policy has been the lack of a firm focus on reform and rehabilitation, so that most criminals continue to commit more crimes against more victims once they are released back onto the streets.

The criminal justice system cannot remain an expensive way of giving the public a break from offenders, before they return to commit more crimes. We plan to transform the administration of punishment in this country to make it more robust and credible. Prisons will become places of hard work and industry, instead of enforced idleness. There will be greater use of strenuous, unpaid work as part of a community sentence alongside tagging and curfews, delivered swiftly after sentencing. When fines are a sensible sentence, we will place a greater focus on enforcement and collection. We will put a much stronger emphasis on compensation for victims of crime.

We will pilot at least six new rehabilitation programmes, delivered on a payment by results basis. Providers will be paid to reduce reoffending, funded in the long run by the savings to the taxpayer that this new approach is expected to generate. We expect that independent providers, backed up by ethical investment, will support the early stages of this rehabilitation revolution.

The principles of payment by results should not be restricted to the private and voluntary sectors. We will pilot ways in which local partnerships, including public services, can participate.

We will work with the Department of Health to divert more of the less serious offenders with mental illness and drug dependency into treatment rather than prison, as long as the safety of the public is not compromised. Foreign national offenders, unless they have a legal right to remain here, should be deported at the end of their sentence. We are exploring how punishments for these offenders could include immediate removal, rather than their imprisonment here at the taxpayers' expense.

Our reforms to sentencing are built around a greater need for clarity and common sense, reinforcing the principles of judicial independence and the need for justice to be seen to be done. We will simplify and reduce a great mass of legislation. More straightforward sentencing alongside greater transparency from our courts will mean more consistency and fairness and make it easier for victims and the general public to understand the nature of the sentences handed down by the courts.

For the avoidance of doubt, I would also like to set out what we are **not** doing. We will not end short sentences, which remain an important tool for magistrates, particularly for recidivist criminals who have not responded to community punishments or fines. We will certainly not be saving robbers, burglars and those who use knives from prison sentences. We will not allow our jails to run out of capacity and we will not introduce any early release schemes.

I think it is right to describe these reforms as both radical and realistic. It would be folly, however, to view them in isolation. They stand alongside changes in the Home Office to create greater accountability for citizens over local policing; historic reforms of the welfare system by the Department of Work and Pensions to encourage employment and dramatically reduce the number of workless households; and work in the Department for Education to see how early intervention in the lives of children most at risk can reduce the chances of them of following criminal paths. We will base our plans on the same insights that are driving reform across Government: increasing competition; decentralising control; enhancing transparency; strengthening accountability; and paying by results. We will draw on the skills of the private sector and civil society, as well as enabling public sector organisations to compete in new markets.

Our plans represent a fundamental break with the failed and expensive policies of the past. They are about finding out what works – the methods of punishment and rehabilitation which actually reduce crime by reducing the number of criminals. I believe they constitute a bold vision for more effective punishments, more reparation, and, by breaking the cycle of crime, a safer public.

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## **Introduction: radical and realistic reform**

### **The case for change**

1. This Green Paper sets out plans for fundamental changes to the criminal justice system.
2. These reforms are radical and necessary. Despite record spending and the highest ever prison population we are not delivering what really matters: improved public safety through more effective punishments that reduce the prospect of criminals reoffending time and time again.
3. Our changes will work to break the destructive cycle of crime and mean that more criminals make amends to victims and communities for the harm they have caused.
4. We cannot achieve this transformation alone. Nationally, our plans are supported by changes right across Government, from radical reform of policing to fundamental changes to the health service. This is an exciting programme of reform, and we want everyone to be a part of it. Ultimately, it is local people, not central government, who best know what will work in their area. We must harness this knowledge for the wider public good.
5. To achieve this we will free local managers, professionals and volunteers from central control. We will draw on the expertise of everyone who can make a contribution, whether they work in the public sector or elsewhere. In doing so, we will create a rehabilitation revolution that will change those communities whose lives are made a misery by crime.

### **What has gone wrong**

6. Society has a right to expect that offenders are effectively punished. However, recent reform has been dominated by increases in the prison population rather than tackling reoffending. The prison population has almost doubled since 1993. The rapid increase came at a high cost and, despite a continuous and expensive building programme, the prison system was at times so overstretched that prisoners were kept in police and court cells. Finally, a scheme was introduced to let prisoners out of prison early to relieve the pressure on the prison estate.
7. Many prisoners were locked up for a short time with little attempt at rehabilitation. It is no surprise that many returned to a life of crime on release, with the most recent figures showing that nearly 50% of offenders released from prison reoffend within a year. Overall, one in five offenders spent some time in custody the year after they were released from prison or started a community sentence. Almost three quarters of those who were released from custody or began a community order in the first quarter of 2000 were reconvicted of another offence within nine years.



### Why this has happened

8. A “Whitehall knows best” approach has stifled innovation both at national and local level. Punishments have not placed enough emphasis on making reparation to victims. Some of our most pressing problems remain unsolved. To take one example, the reoffending rates for short prison sentences of less than 12 months increased from 58% in 2000 to 61% in 2008.
9. The National Audit Office has estimated that the social and economic costs of reoffending by those released from short sentences alone are between £7–10 billion a year.
10. A relatively small number of highly prolific offenders are responsible for a disproportionate amount of crime. Recent evidence suggests there is a group of around 16,000 active offenders at any one time, who each have over 75 previous convictions. On average they have been to prison 14 times, usually for less than 12 months, with nine community sentences and 10 fines. These criminals cause immense damage to the lives of law-abiding citizens who live near them. We will not let this continue.
11. Short prison sentences remain a vital option for courts, particularly for the most persistent criminals who fail to respond to other punishments. There is also growing evidence that properly enforced community sentences which combine punishment, payback and rehabilitation can be an effective response. In 2007, reoffending of those offenders starting community orders was 7% lower than for similar offenders who had served short term prison sentences.
12. Confidence has been undermined by the fact that community sentences, especially Community Payback, are sometimes not properly completed. In 2008/09 a quarter of offenders on community orders or on licence did not complete their sentence due to breaking the conditions of that order or licence. While most enforcement is satisfactory, this unacceptable breach rate threatens public safety and means that the opportunity to tackle criminal behaviour at an earlier stage is missed.
13. A top-down approach has concentrated on process instead of results. Prisons and probation services were assessed on the basis of hitting multiple targets and whether they had complied with detailed central requirements. There was insufficient focus on whether they were delivering the right result for the public and communities.
14. New laws were regularly presented as a solution to these problems. Rather than improve the situation the result is a sentencing framework which is overly complex, expensive and time consuming to interpret and administer, and difficult for the public to understand. We do need to make further changes to the law to remedy this, but better results will only come through changing what is actually delivered on the ground.

### The principles for our proposed reforms

15. Solving these problems requires a radically different approach. Our central objective is to make the public safer by breaking the cycle of crime. This Green Paper sets out how we propose to achieve this, based on four principles:
  - protecting the public;
  - punishing and rehabilitating offenders;
  - transparency and accountability; and
  - decentralisation.
16. Cutting crime and ensuring public safety is at the heart of our strategy. We will always provide enough prison places for serious and dangerous offenders, and we will continue the reliable Multi-Agency Public Protection Arrangements to manage risk when those offenders are released into the community.
17. The Government will shortly be setting out a new approach to cutting crime with the publication of a Crime Strategy in early 2011. This will include our plans for a transformation in the way anti-social behaviour is dealt with and build on the radical shift to local accountability for crime and policing through the introduction of elected Police and Crime Commissioners, accountable to the public through the ballot box. These reforms alongside those set out in this Green Paper will help us cut crime and make the public safer. Criminals must be properly punished, but they must also be properly rehabilitated to stop them from committing further crimes.
18. A significant proportion of crime is committed by offenders who have multiple problems. Evidence tells us that:
  - 64% of newly sentenced prisoners report using a drug during the four week period before custody (30% heroin, 28% crack cocaine);<sup>1</sup> and
  - 44% of offenders assessed in 2008 had problems with alcohol misuse which may have required treatment.<sup>2</sup>

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<sup>1</sup> Compendium of reoffending statistics and analysis, published November 2010, available at <http://www.justice.gov.uk/publications/compendium-reoffending.htm>.

<sup>2</sup> A compendium of Research and Analysis on the Offender Assessment System, 2006–2009, published by Ministry of Justice, 2009.

19. A recent study of prisoners<sup>3</sup> also found that:
- 37% of prisoners have stated that they will need help finding a place to live when they are released from prison;
  - 12% said they had a mental illness or depression as a long-standing illness, while 20% reported needing help with an emotional or mental health problem;
  - 24% said they had been taken into care as a child;
  - almost half (47%) said they had no qualifications; and
  - 13% said that they have never had a paid job.
20. This highlights some of the most important factors associated with crime as well as the size and scale of the problem. We must tackle the drug dependency, mental illness and poor education which fuel criminal behaviour.
21. We will provide better information so that the performance of local services is more transparent. This will enable the public to hold services to account and allow other providers to make the case for doing things differently.
22. We will signal a clean break with the controlling, centralising tendencies of the past by making a clear commitment to decentralisation. We will provide frontline professionals with greater freedoms in how they manage offenders. Local areas will focus on the criminals who cause the most problems in their communities. There will be fewer targets for providers and less prescription in the way that different agencies work together.
23. Our decentralising approach will mean a move away from centrally controlled services dominated by the public sector, towards a more competitive system that draws on the knowledge, expertise and innovation of a much broader set of organisations from all sectors.

#### **What this means for the future**

24. The proposed reforms set out in this Green Paper will mean significant changes.
25. The Ministry of Justice is committed to playing its part in reducing spending to return the country to economic growth. Our proposals will achieve this through a greater focus on protecting the public by rehabilitating criminals and turning them away from a life of crime. This should result in few crimes being committed overall, stemming the unsustainable rise in the prison population and ultimately achieving a

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<sup>3</sup> From a sample of 1,435 reception prisoners sentenced to between one month and four years in prison, in England and Wales, in 2005/06. Compendium of reoffending statistics and analysis, published November 2010, available at <http://www.justice.gov.uk/publications/compendium-reoffending.htm>.

reduction in the amount of money spent on the criminal justice system. There will be more payback to victims and communities and the public will be better served.

26. This will mean local communities will be safer. For the poorest in society who suffer the most from crime it will mean a reduction in the misery caused by drug addiction and the accompanying low level crime. There should be fewer crimes, and therefore fewer victims.
27. The reforms should result in a better outcome for victims, with more of them receiving direct financial payback from offenders. They will benefit from services which are paid for directly out of the pockets of criminals. They will increasingly be offered opportunities to make a personal statement to the court and take part in restorative justice approaches.
28. This Green Paper provides a once in a generation opportunity for new providers from all sectors to work alongside staff in the criminal justice system to make a real difference. Rather than operating under close central control, we want to unlock the professionalism, innovation and passion of experts from all walks of life who want to make their streets safer and their towns and cities better places in which to live.
29. Criminals can expect more effective, tough punishments, with prisons becoming places to learn the link between hard work and reward, and to make reparation to victims. For those in the community it will mean more robust and rigorous punishments which force them to repay their debts to society. It will also offer a greater focus on rehabilitation, so that offenders who commit to reforming themselves will have a greater chance of returning to society as law abiding citizens.
30. In this way we will restore trust, deliver more effective punishment, improve public safety and start to break the cycle of offending. This Green Paper sets out in detail how we will begin this vital task.

## **Chapter summary**

### **Punishment and payback**

31. Criminals should face the robust and demanding punishments which the public expects. There must be consequences for breaking the law. Hard work for offenders is at the heart of our plans to make punishments more rigorous. Prisoners will increasingly face the tough discipline of regular working hours. This has been lacking in prison regimes for too long. Community sentences must be tougher and more intensive, with local communities benefiting directly from the hard work of offenders.
32. Our reforms must also result in a better deal for victims. We will encourage a much greater use of compensation orders and extend the victims' surcharge so that more offenders make financial reparation.

We will ensure that criminals make amends for their crimes and better repair the harm they have caused to victims and society as a whole.

33. Chapter 1 explains how we propose to achieve this through:
- introducing ‘working prisons’ where prisoners are obliged to work a full working week;
  - greater use of tough curfews and electronic tagging;
  - making Community Payback increasingly intensive and immediate;
  - creating a duty on sentencers to consider making a compensation order in any case where there is a direct victim; and
  - implementing the Prisoners’ Earnings Act so that prisoners are required to pay towards the cost of services for victims.

#### **Rehabilitating offenders to reduce crime**

34. The right way to improve public safety and reduce the number of victims is to reform offenders to reduce reoffending. We will always punish criminals appropriately. Offenders on community sentences or on release from custody will face a tough and coordinated response from the police, probation and other services. This means offenders must tackle the problems which underlie their criminal activity, but which also means they will be caught quickly and punished if they commit further crimes.

35. Chapter 2 explains how we propose to achieve this through:
- probation, police and other local services taking an integrated approach to managing offenders;
  - getting drug dependent offenders off drugs by introducing new drug recovery wings and testing options for intensive treatment in the community;
  - learning the lessons from the approach to managing women offenders and applying them more broadly;
  - making offenders eligible for entry onto the Work Programme to improve their chances of getting into honest employment; and
  - working with the Department of Health and the Home Office to pilot and roll out liaison and diversion services for mentally ill offenders.

#### **Payment by results**

36. Significant amounts of public money have been spent on rehabilitating criminals without properly holding services to account for the results they achieve. We will move to a new approach where providers are increasingly paid by their results at reducing reoffending.
37. This is a radical and decentralising reform. We will give providers the freedom to innovate, increase their discretion to get the job done, and

open up the market to new providers from the private, voluntary and community sectors. By 2015 we will have applied the principles of this approach to all providers.

38. Chapter 3 explains how we will make substantial progress over the next two years by:
- establishing at least six new payment by results projects covering a significant proportion of the offender population;
  - reducing direct central control so that frontline professionals have the freedom to innovate in the way they work with offenders; and
  - publishing a comprehensive competition strategy for prison and probation services in June 2011.

### **Reforming sentencing**

39. The sentencing framework must provide courts with a range of options to punish and rehabilitate criminals and keep the public safe. The sentencing framework has developed in an ad hoc fashion which has left it overly complex, difficult to interpret and administer, and hard for the public to understand. We need to make better use of prison and community sentences to punish offenders and improve public safety. We also need to ensure that sentencing supports our aims of improved rehabilitation and increased payback to victims and society.
40. Chapter 4 sets out proposals to reform adult sentencing so that we:
- simplify the sentencing framework and reduce elements of the law that constrain judicial discretion;
  - ensure serious and dangerous offenders are managed effectively and their risk is reduced through appropriate use of prison and through the Multi-Agency Public Protection Arrangements;
  - ensure effective responses to knife crime so that any adult who commits a crime using a knife can expect to be sent to prison, and serious offenders can expect a long sentence. For juveniles, imprisonment will also be appropriate for serious offences;
  - reserve Indeterminate Sentences for Public Protection (IPP) for the most serious offenders, and reform the release test applied by the Parole Board to strike a better balance. This will focus indefinite punishment on those who most clearly pose a very serious risk of future harm;
  - change community orders to give providers more discretion to supervise offenders and secure the best reduction in reoffending; and
  - encourage use of financial penalties and improve their collection to increase the amount of financial payback from offenders.

### **Youth justice**

41. It is not acceptable that 74% of offenders sentenced to youth custody and 68% of young people on community sentences reoffend within a year. Preventing and tackling offending by young people is a crucial task in stopping young offenders from becoming the prolific career criminals of tomorrow.
42. We will move to an approach with a much greater emphasis on payback to victims, on payment by results, and on devolving more responsibility to local communities for preventing and tackling youth offending.
43. Chapter 5 describes how we propose to achieve this through:
  - preventing more young people from offending and divert them from entering into a life of crime, including by simplifying out-of-court disposals;
  - protecting the public and ensure that more is done to make young offenders pay back to their victims and communities;
  - ensuring the effective use of sentencing for young offenders;
  - incentivising local partners to reduce youth offending and re-offending using payment by results models; and
  - developing more effective governance by abolishing the Youth Justice Board and increasing freedoms and flexibilities for local areas.

### **Working with communities to reduce crime**

44. The police and the courts, along with other local services such as health and education, have a crucial role in working with prison and probation services to make the rehabilitation revolution a reality. The police are at the frontline of protecting the public, and they are playing an ever greater role in turning offenders away from a life of crime. The courts are the focal point for the criminal justice system and we must ensure they play a full part in improving public safety and reducing crime.
45. Even more important is the role of local communities. We want to see a fundamental shift so that local people play a more central role in criminal justice. We must move the focus from the centre to local areas; create more opportunities for other providers to deliver services; and increase transparency so that local communities are better able to hold services to account.
46. Chapter 6 sets out how we propose to achieve this through:
  - strengthening the role of the police in turning offenders away from a life of crime and preparing for the election of the new Police and Crime Commissioners in May 2012;
  - ensuring that courts become more efficient and effective and play a greater role in tackling offenders and reducing crime;

- testing the effectiveness of Neighbourhood Justice Panels;
- increasing freedoms and flexibilities for local areas; and
- giving communities better information about how justice is delivered, making services more transparent and accountable to the public.

### **The consultation**

47. This Green Paper sets out the Government's vision for reform, along with some specific proposals for how we can get there. For some areas, our proposals are set out in some detail. In others we set out a clear policy intent and are consulting on the options for achieving this. Where proposals are further advanced, we want to hear your views on the benefits and challenges posed by implementing them. You can let us have your views by emailing us on [breakingthecycle@justice.gsi.gov.uk](mailto:breakingthecycle@justice.gsi.gov.uk) or visiting our website at [www.justice.gov.uk](http://www.justice.gov.uk).
48. The consultation runs until March 4<sup>th</sup> 2011. We will analyse the responses we receive and publish a response setting out our plans in May 2011. Following that, legislation to make the necessary changes to the sentencing framework will be introduced as soon as Parliamentary time allows.
49. We are working with the Welsh Assembly to consider how to take forward our plans in the devolved administration in Wales. We welcome further views on how we can work with Welsh services and providers on how our plans can help reduce reoffending and improve public safety in Wales.



## 1. Punishment and payback

Offenders will face the robust and demanding punishments which the public expects. There must be serious repercussions for breaking the law. Hard work for offenders is at the heart of our plans to make punishments more rigorous. Prisoners will face the tough discipline of regular working hours. This has been lacking in prison regimes for too long. Community Payback must be more intensive, more immediate and better enforced, with local communities directly benefiting from the hard work of offenders. We will make curfews tougher to punish offenders and give communities respite from their criminal behaviour.

Our reforms must also result in a better deal for victims. We will encourage a much greater use of compensation orders and extend the victims' surcharge so that more offenders make financial reparation. We will ensure that offenders make amends for their crimes and better repair the harm they have caused to victims and society as a whole.

This chapter explains how we propose to achieve this through:

- prisons becoming places of hard work and industry;
- community sentences punishing offenders and making them pay back to society and the taxpayer;
- offenders making greater financial reparation to victims and the taxpayer; and;
- victims engaging with criminal justice on their own terms.

### Prisons will become places of hard work and industry

To deliver our ambition for prisons to become places of hard work and meaningful activity, we will:

- ensure that more prisoners are subject to a structured and disciplined environment where they are expected to work a full working week;
- use the expertise and innovation of the private, voluntary and community sectors to help develop the working prison; and
- implement the Prisoners' Earnings Act in respect of payments to victims funds, and explore other ways to make deductions from prisoners' wages for uses including reparation to victims and communities.

50. Prison deprives an offender of their liberty and as such it remains the ultimate sanction. A prison sentence provides immediate and tough punishment. It leaves offenders in no doubt that the crimes they have committed are so serious that for a time their presence cannot be tolerated in open society. It protects the public and provides peace of

mind that criminals are incarcerated and not able to cause further harm. For these reasons prison will always be the right sentence for serious and dangerous offenders.

51. Prisons should not allow offenders to simply mark their time in a purposeless fashion. Rather, prisons should be seen as places where increasing numbers of prisoners are engaged in challenging and meaningful work.
52. Some adult prisoners do work. In public sector prisons, for example, 9,000 prisoners are employed in prison workshops, with many more doing essential jobs to help prisons run smoothly. However, we want to see more prisons using the discipline and routine of regular working hours to instil an ethos of hard work into prisoners. Prison should be a place where work itself is central to the regime, where offenders learn vocational skills in environments organised to replicate, as far as practical and appropriate, real working conditions.
53. To achieve this transformation we are developing a new type of prison – the working prison. We anticipate that in a working prison:
  - prisoners will work a full working week of up to 40 hours;
  - the regime and core day will be focused around enabling work, within the requirements of ensuring a safe, decent and secure regime; and
  - education will be geared primarily to providing skills to perform work effectively and as far as possible giving prisoners skills which will increase their ability to get a job on release.
54. This may work differently for different types of prisoners. For longer sentenced prisoners, it would primarily ensure that they provide something of value rather than simply being a burden on the state. It will also help to structure their sentences more clearly. For prisoners about to leave prison, it should help provide the skills needed to live a crime free life outside. The routine of work can be a crucial part of this, but it is an experience that is unknown to many prisoners. In these cases work could be combined with a greater focus on in-reach training and engagement with potential employers to link to jobs or apprenticeships on release.
55. In some cases, the prison might provide the work. In others, the prisons may have contracts with a diverse range of external providers. We want to make it easier for the private, voluntary and community sectors to use their expertise and innovation to develop the working prison. This includes building on the excellent role of companies such as DHL and Cisco in providing work and training in prisons.

### **Prisons as places of hard work and industry**

There are some examples of prisoners working hard within a disciplined environment. At HMP Manchester nearly 60 prisoners are now working up to 40 hours per week in an industrial laundry and a printing workshop. At HMP Ranby a workshop that produces plastic goods operates using prisoners over three shifts, and runs for 20 hours per day.

Some prisons also have active partnerships with the private sector. In a joint venture at HMP Kirkham with Calpac UK, some 40 prisoners work a 37.5 hour week packing food. At HMP Ford, Travis Perkins runs a 30 prisoner workshop, refurbishing equipment.

Our proposals will build on these too isolated examples, with more prisoners working hard across the prison system.

56. We will introduce a full working week in more prisons as we develop the market. To make this a reality we will need to overcome the barriers that prevent independent providers from getting involved in prison industry. We will make it easier for them to work in partnership with prisons to provide work and training in ways which do not add overall cost.
57. When going into partnership with the private sector all prisons must currently ensure that the work proposed does not represent unfair competition and that it does not reduce the number of jobs available for law-abiding citizens. We will apply this principle to working prisons, as well as considering what further measures might be necessary to ensure that jobs are protected in this challenging economic climate.
58. We also think that it is important that prisoners see work as a way to pay the debt they owe to society and to victims of crime in particular. To reinforce this we will make good the Coalition Agreement commitment to implement the Prisoners' Earnings Act 1996 in respect of financial reparation to victims. The Act enables deductions to be taken from low risk prisoners earning higher wages while working on licence prior to discharge in the community. We aim to generate around £1 million per year from these prisoners to go towards services which support victims. We will start taking these deductions from September 2011. We will also explore other ways to make deductions from prisoners' wages and consider how they should be used, including making reparation to victims and communities.

### **Consultation questions**

- Q1.** How should we achieve our aims for making prisons places of hard work and discipline?
- Q2.** How should we best use the expertise and innovation of the private and voluntary sectors to help develop the working prison?
- Q3.** How can we make it possible for more prisoners to make reparation, including to victims and communities?

## **Community sentences punishing offenders and making them pay back to society and the taxpayer**

To punish offenders more effectively in the community we propose to:

- make curfew orders tougher for prolific offenders to give respite to communities;
- make Community Payback more intensive and more immediate; and
- build on approaches which allow communities to influence the type of work completed by offenders on Community Payback.

59. Credible and rigorous community sentences can also be an effective way to punish and rehabilitate some offenders. They are not a soft option, but if we are to make best use of them we must look to make them more effective and more robust. Chapter 4 explains how we will reform community sentences, how they fit into the wider sentencing framework and how we will improve enforcement. This section explains how we will make community sentences more effective and robust punishments.

### **Tougher use of electronic tagging**

60. Curfew and exclusion requirements can punish offenders and restrict their liberty. The strict conditions ensure that offenders are continuously monitored and kept under close surveillance, whilst punishing them by restricting their freedom of movement. We intend to build upon this and develop tougher, more innovative and more effective curfews to give further respite to local communities.

### **Electronically monitored curfew as an effective punishment**

The curfew requirement of a community order is a punishment which places onerous conditions on offenders. It also limits the offender's ability to commit further crime, increasing public safety. Offenders are required to be at a particular place at certain times of the day whilst under curfew. This can currently be for between two and 12 hours at a time, depending on the ruling of the court. For example, the court might decide that an offender must spend 12 hours every day at their home. They can also be targeted at times when an offender may be most likely to offend, such as when football matches are taking place. Offenders need to keep to the rules of the curfew as long as the requirement lasts, which can currently be up to six months.

61. The majority of offenders subject to a curfew requirement are electronically monitored to ensure they comply with the sentence. Electronic monitoring works by attaching a tag around the ankle, which confirms that an offender is in the right place during curfew hours.
62. Electronic monitoring agencies take swift action if they receive a signal indicating that the offender has broken their curfew. For less serious violations an offender will receive an initial warning, but if the violation is more serious they will be subject to breach action resulting in them

returning to court. The court could then impose tougher penalties including custody.

63. The electronic monitoring technology has proved a reliable and accurate way of checking compliance with curfews and made supervision more robust, as a member of staff does not need to be present at all times. The technology can also provide surveillance information on the movements of offenders which is particularly useful for managing prolific offenders or for improving public safety. Some of the electronic monitoring suppliers have staff seconded to police stations for this purpose.
64. We are keen to build on local innovation to improve compliance with community punishments. Some local areas are setting curfews for the evenings before Community Payback sessions. Others have plans for sending text message reminders to offenders when their curfew is about to start. To encourage greater use of these locally driven approaches we will make better use of existing technology, as well as exploring the scope and cost of using satellite tracking technology. This would allow the movement of offenders in the community to be more closely monitored and offer new opportunities for innovative community based punishments.
65. We also think there is scope to go further by extending the maximum hours of curfew to 16 hours a day and the maximum length of curfew from six months to a year. Targeting these tougher requirements at the right groups of offenders will help make them tougher punishments while also reducing the risk to public safety.

### **Improving Community Payback**

66. Community Payback, where the offender completes unpaid work such as bringing derelict areas and buildings back into public use, clearing litter and removing graffiti, is the most common community sentence requirement used by the courts. The sentence provides punishment and reparation and helps instil the routine of hard work. Nearly nine million hours of free labour are provided to communities every year but we need to do much more to ensure that Community Payback is rigorous and properly enforced.
67. Competition to deliver the services will be a key part of pushing up standards. We have recently appointed three organisations to a national framework for the provision of Community Payback schemes and will use the process of competition to drive up the quality and standards of community payback across the board.
68. Courts commonly tell us that they like Community Payback, but they do want to see offenders starting work sooner after they have been sentenced. Our aim is to achieve greater intensity and immediacy so that it is more demanding for the offender and delivered as soon as possible after the sentence is handed down.

69. We will test how we might best achieve this and reduce costs by working in partnership with social enterprises and industries. We will establish Community Payback projects where unemployed offenders are made to work a total number of hours much closer to a normal working week. Our aim is to implement this across the country once we have developed and tested a model which we are confident delivers the benefits.

**Community Payback Case Study: Moss Lodge**

Moss Lodge is a former haulage yard identified as being ideal for a community environmental centre. As the yard was unoccupied, there were high levels of anti-social activities which had a dramatic effect on the quality of the community lives. The land was also contaminated. Following a joint partnership between St Helens Council and Probation, it was agreed that offenders would undertake the work to clear the site. The project was identified as being one that would ensure demanding and challenging work for offenders, would be of benefit to the community, ensure highly visible reparation work and impart skills and knowledge to offenders.

The project commenced in 2005; offenders have worked hard in all weathers to clear the extensive site of rubble, undergrowth and debris to prepare the space for landscaping and have erected a fence to secure the site. They have shovelled vast quantities of soil on to the land to assist with the contamination problem. Offenders have also created pathways to allow access for disabled users and carried out further work to make the area pleasant for the public.

The project has been successfully running for about five years now, and in that time the hard work of the offenders has transformed the site from a derelict, contaminated piece of land to an area which provides a safe place for children to play and be involved with environmental issues. It has received a very positive response from the local community.

70. We also want to expand the role that Community Payback has in making community punishments more transparent and more accountable. We will build on the Citizens' Panels pilots and Community Payback websites which allow members of the public to nominate Community Payback projects and feedback on work done. Over 1,200 nominations per month were received between April and June this year by the 35 probation trusts. The focus so far has been on projects which will improve run-down areas and tackle the impact of anti-social behaviour.

**Consultation questions**

- Q4.** How do we target tough curfew orders to maximise their effectiveness?
- Q5.** What are the best ways of making Community Payback rigorous and demanding?
- Q6.** How can communities be more involved in influencing the type of work completed by offenders on Community Payback?
- Q7.** How should we seek to deliver Community Payback in partnership with organisations outside government?

## Offenders will make greater financial reparation to victims and the taxpayer

To increase the financial reparation that offenders make to victims and communities, we will:

- encourage greater use of compensation orders, and consult on creating a positive duty for sentencers to consider making a compensation order if there is a direct victim who has suffered harm or loss;
- explore whether our current model of enforcing financial penalties is the most effective and delivers best value for money;
- extend the victims' surcharge to increase the number of offenders contributing to the cost of services to victims; and
- as set out above, implement the Prisoners' Earnings Act to make deductions from prisoners' wages to provide services for victims.

71. We are determined that more offenders should make financial reparation to compensate for the harm or damage they have caused, both to victims directly, and more broadly in supporting services for victims.
72. To ensure that our sentencing reforms provide a greater focus on reparation to victims we want to encourage greater use of compensation orders. These enable the court to order offenders to make direct payments to the victims of their crimes. To achieve this we propose to:
  - create a positive duty for courts to consider imposing a compensation order in all cases where there is an identified victim; and
  - encourage courts to use compensation orders as a standalone punishment.

### Compensation Orders

Use of Compensation Orders has increased but they are still only used in a minority of cases, and rarely as a standalone sentence in their own right. In 2008, £31.5m of compensation orders were issued, providing direct reparation to the victims concerned. Our proposals are intended to encourage greater use so that we increase the amount of compensation paid to those directly affected by the criminal behaviour of the offender.

73. This means that we must build on recent improvements in enforcing financial penalties. We will explore ways to improve enforcement so that it is better value for money including by developing a payment by results approach. Our approach to enforcing financial penalties, including fines, is set out in Chapter 4, where we also set out our proposals to make more punitive use of powers to seize the assets of offenders.
74. We also want to ensure that as many offenders as possible contribute to the cost of running services to support victims. Offenders whose sentence includes a fine are already required to pay the victims' surcharge, a £15

levy added to the fine, which goes towards funding victim and witness support services. We are considering extending the surcharge to other types of sentence and increasing the amount levied. Extending the surcharge could also ensure that the financial effect does not fall disproportionately on those committing less serious offences. We will reverse the decline in rape crisis centres by considering how to use the proceeds from the victim surcharge to give existing rape crisis centres stable, long term funding and to establish new centres to address gaps in provision.

## Victims will engage with criminal justice on their terms

To give victims greater engagement with criminal justice we will:

- give more victims the opportunity to make a personal statement to the court;
- increase the use of restorative justice for appropriate crimes, particularly as a way of improving victim satisfaction; and
- use this Green Paper as the first step towards a comprehensive rethink of the way we provide services to victims and witnesses.

### Victim Personal Statement

75. The Victim Personal Statement was introduced nationally in 2001 to give victims a way to make clear how a crime has affected them, and particularly the harm caused by the offender. Since the scheme's introduction there has been widespread confusion about whether the personal statement is there to help courts understand the impact of a crime, to help relevant agencies assess victims' needs, or to give victims a chance to express themselves. These purposes do not necessarily conflict, but lack of clarity over the role of the Victim Personal Statement has caused confusion for victims, courts and practitioners.
76. As a result, victims do not always have the opportunity to use the statements and make clear to the court the harm the crime has caused them. In 2009/10, only 43% of victims remembered being offered the chance to make a Victim Personal Statement, and black respondents were significantly less likely to recall this offer than white respondents. There were significant variations across England and Wales: 29% recalling the offer in London compared to 63% in Northumbria.
77. We would like to ensure that victims whose cases reach court are routinely offered an opportunity to make a personal statement. We believe that its primary purpose should be to give courts information about the harm the offender's actions have caused, to take into account when determining the seriousness of an offence. That way, it can remain consistent with the longstanding principles of our adversarial justice system, while still allowing everyone involved in the case to understand fully the harm an offender has caused.



### **Increased opportunities to use restorative justice approaches**

78. We are committed to increasing the range and availability of restorative justice approaches to support reparation. Restorative justice is the name given to processes which provide victims with the opportunity to play a personal role in determining how an offender makes amends. This can often include direct reparation. A substantial minority of victims would consider meeting their offender by way of a restorative justice process and those victims who do report high levels of satisfaction. The evidence suggests that the approach may also have a positive impact on the offender's likelihood of reoffending in the future. Getting an offender to confront the consequences of their crimes directly is often an effective punishment for less serious offences.
79. While it is a well established concept in youth justice, restorative justice for adults is sometimes viewed as an afterthought to sentencing. We are looking at how we might change this so that in appropriate cases restorative justice is a fundamental part of the sentencing process. Firstly, this is likely to involve using restorative approaches as a better alternative to formal criminal justice action for low level offenders where the offender and victim agree the outcome such as apologising, replacing stolen items, or making good any damage caused. This is a more effective punishment than a simple caution, and builds on local approaches already used by the police, usually described as "neighbourhood resolution".
80. Secondly, in instances where a court case is likely to lead to a fine or community sentence, we will explore how it could best be used at the charging stage. Here, restoration would be delivered as part of an out-of-court disposal, for example as a condition attached to a conditional caution. This could result in the offender paying compensation to the victim, or making good their offence in other ways determined by the victim. This could prevent distress to the victim and deliver a suitable punishment.
81. Thirdly, restorative conferences carried out pre-sentence for offenders who admit guilt and who agree to participate, could be reported to the court with the victim's consent as part of pre-sentence reports. They could therefore inform the court's decision about the type or severity of sentence handed down. In some cases, and for some offences, sentencing could be deferred pending successful completion of actions agreed.

### **A new approach for supporting victims and witnesses**

82. Overall, the proposals in this Green Paper are intended to improve public safety so that we can reduce the number of victims in the future. Greater use of restorative justice, as set out above, can prevent the feeling of powerlessness which often results from being made a victim. Increased use of compensation and reparation will benefit victims directly while establishing the principle that offenders must take personal responsibility for their crimes.

83. There is, however, much more we can do. Several recent reports looking at the experiences of victims and witnesses in criminal justice, including the Joint Thematic Review in 2009, the report of the Victims' Champion in 2009, and Baroness Stern's 2010 review into the handling of rape complaints, support the need for a comprehensive rethink of how we support victims and witnesses. The Government with the support of the Victims' Commissioner is conducting a full review of the support provided to victims and witnesses covering three broad strands:
- the support available, including how services can better meet local need;
  - a comprehensive approach to ensuring victims benefit from greater use of restoration and reparation; and
  - ways to match the responsibility shown by victims, witnesses and communities in participating in criminal justice with a clearer set of rights.

## 2. Rehabilitating offenders to reduce crime

The right way to improve public safety and reduce the number of victims is to reduce reoffending. We will always punish offenders appropriately. Offenders on community sentences or on release from custody will face a tough and coordinated response from the police, probation and other services. This means offenders must tackle the problems which fuel their criminal activity, but it also means they will be quickly caught and punished if they commit further crimes.

This chapter explains how we propose to achieve this through:

- probation, police and other local services taking an integrated approach to managing offenders;
- getting drug dependent offenders off drugs and into recovery;
- getting offenders into jobs and with somewhere to live so that they can pay their own way; and
- tackling mental health problems.

This chapter also proposes new joint commissioning approaches to deliver lower reoffending rates on a payment by results basis.

Throughout this chapter we make reference to working with partners on issues such as health, education and skills and accommodation. In Wales, these issues are matters for the Welsh Assembly and we will work in partnership to develop plans to reduce reoffending there.

### **Rehabilitation – what we already know**

Evidence indicates that the relationship between an offender and the person managing them is an important factor in successful rehabilitation. The supervising officer will assess the offender and oversee a plan to make sure they receive the interventions that will have the greatest impact on changing their behaviour and improving public safety. The offender's motivation to change is critical and lapses are quite typical as the offender begins to change their life and starts to desist from offending.

We have some good evidence about the interventions which can give offenders the best chance of changing their lives. These include offending behaviour programmes, which make offenders confront and acknowledge the damage their behaviour does, and then learn how to change the patterns which have often grown up over many years and have become a way of life. They also include drug treatment and violence reduction programmes. Specific programmes which have demonstrated their effectiveness are accredited, and these will continue to play an important role in rehabilitating offenders.

Experience of Multi-Agency Public Protection Arrangements and the success of Prolific and Priority Offender schemes working with drug intervention services provides a growing evidence base for the effectiveness of agencies working in partnership to both control and change offenders.

## **A new integrated approach to managing offenders**

Managing offenders means striking the right balance between controlling them to protect communities and requiring them to take the action needed to change their criminal lifestyle. To help achieve this we will support delivery of a new partnership approach based on the principles of Integrated Offender Management.

84. Offenders should be required to tackle their criminal behaviour. It is crucial that all those managing offenders make it clear to them that they will be swiftly caught and punished if they do not accept the opportunities offered to them and instead return to a life of crime.
85. In some local areas agencies are building on their experience of working together to develop new joined up ways of managing offenders with the collective name of Integrated Offender Management. This approach sees a range of partners including police, probation, prisons, local authorities, and voluntary partners working together to tackle the offenders who cause most harm in their communities. This is based on a joint analysis of the crime and offending problems in their community, whether or not they are subject to statutory supervision. This is similar to the approach that Youth Offending Teams take with young offenders.
86. Offenders are monitored and their behaviour controlled at the same time as services are provided to support their rehabilitation. This way of working takes full advantage of the skills and experience of the different agencies and organisations. The contribution of the police is critical, working in partnership to identify, manage and control known offenders. Many of the skills needed for good policing have also proved well-suited to help manage offenders into a law abiding and disciplined way of life, and to provide reassurance to victims that cutting crime remains the overriding priority.

### **IMPACT**

In Bristol a programme called 'IMPACT' is considered locally to be making a real difference in making the public safer. It brings together police, probation, prisons, and drug services to target the top 800 criminals responsible for acquisitive crime.

The typical IMPACT offender is a white male, aged 29, with a criminal history going back 14 years and an average of 74 previous convictions with a very high likelihood of reoffending. He is likely to have problems with addiction, no stable accommodation, and is unlikely to have ever held regular employment.

By working closely together and sharing information, the agencies involved can use their resources much more flexibly to ensure the right response at the right time depending on the circumstances of the individual. Opportunities to reform by tackling drugs, alcohol, accommodation or employment issues, are combined with police monitoring, home visiting and swift arrest action in cases where the offender commits further crimes or stops co-operating.

87. Experience of Integrated Offender Management approaches has suggested that they can be particularly effective when extended to those prolific offenders who do not commit the most serious crimes but whose volume of offending contributes disproportionately to the level of crime in a local area.
88. The Integrated Offender Management approach represents the type of positive and intensive joint working that should be encouraged. It supports our principle of de-centralisation, with local areas responsible for identifying the offenders who are a priority for them. We will continue to support local areas in developing and embedding their own approach. This will include:
- encouraging Integrated Offender Management to help equip local partners to work successfully together in the payment by results and financial incentives models outlined in Chapter 3;
  - removing barriers and encouraging more joint working, local innovation and sharing of good practice, as set out in Chapter 6;
  - collation and dissemination of performance and other data to help areas learn from each other as they develop local approaches;
  - supporting areas in considering new and innovative ways in which the voluntary and community sector can be equal partners in the delivery of Integrated Offender Management; and
  - developing practical tools which can assist in local strategic planning for Integrated Offender Management, including supporting investment decisions and a consistent methodology for assessing the impact of local approaches.

### **Breaking the cycle – tackling a prolific offender**

An adult offender had been responsible for a large amount of crime in a local community. He had been sentenced nearly 60 times for more than 280 offences. The crimes he committed were generally house burglaries and vehicle crime, committed to fund his drug addiction. These caused significant damage to the victims of his crimes and the wider community. He had served around 11 years in custody at various young offender institutions and adult prisons.

When he was sentenced to 17 weeks imprisonment for vehicle crime he was brought under the new Integrated Offender Management approach. This meant he was required to confront the damage he had caused to the victims of his latest crime. On release he was subject to close monitoring by police and engaged with drug treatment. He is no longer taking illegal drugs and has started to turn his life around.

### **Consultation questions**

**Q8.** What can central government do to help remove local barriers to implementing an integrated approach to managing offenders?

**Q9.** How can we incentivise and support the growth of Integrated Offender Management approaches?

**Q10.** How can we ensure that providers from the voluntary and community sector can be equal partners in the delivery of this integrated approach?

### **Rehabilitating offenders: supporting offenders to get off drugs for good**

We must ensure that more drug misusing offenders fully recover from their addiction and that they do not take drugs while they are in prison. To achieve this we are proposing to:

- reduce the availability of illicit drugs in prison and increase the number of drug free environments;
- introduce pilots for drug recovery wings in prisons;
- work with the Department of Health and other government departments to support the design and running of pilots to pay providers by the results they deliver in getting offenders to recover from their drug dependency;
- test options for intensive community based treatment; and
- learning the lessons from the approach to managing women offenders and apply them more broadly.

89. The starting point for reforming many offenders is to tackle their drug dependency or alcohol misuse. Although there has been a large rise in the number of offenders entering treatment, there are still large numbers of dependent drug users who are not being rehabilitated. The imminent cross-Government Drugs Strategy will set out plans for joining up services to deliver an approach focused on getting the offender to recover and become drug free altogether.
90. There is much more that we must do to improve the way we manage offenders with drug problems to support that strategy. A priority is to ensure that prison becomes a place where prisoners stop, not start, taking drugs. A recent study suggested that 19% of offenders currently in prison who had ever tried heroin had tried it for the first time in prison.<sup>4</sup> We need to take tough action to tackle the availability of drugs in prisons.
91. While the proportion of samples testing positive under the prisons random mandatory drug testing programme has declined, nearly one in thirteen drug tests are still positive.<sup>5</sup> Prisons and their law enforcement partners must work together closely to share intelligence and tackle staff corruption. We will investigate new technologies to tackle drugs and mobile phones in prisons. We are committed to creating drug free environments in prison and we will therefore increase the number of drug free wings, where increased security measures prevent access to drugs.
92. Doing more to tackle the supply of drugs is one half of the equation. The other is to reshape drug treatment in prisons so that there is an increased emphasis on recovery and becoming drug free. This means working in partnership with health services which are now responsible for funding and commissioning drug treatment in prisons. In doing so we will look at the evidence collected by the Prison Drug Treatment Strategy Review Group, chaired by Professor Lord Patel of Bradford, on how to raise the ambition for drug treatment and interventions in prisons.
93. We must also tackle alcohol abuse, which causes a significant amount of crime and disorder on our streets. The Government has already set out its proposals to ban the sale of alcohol at below cost. Revisions to the violence reduction programmes offered to offenders will incorporate a greater emphasis on tackling the impact of alcohol and drugs. The Government will also look to explore how payment by results arrangements might be extended to specialist alcohol treatment for those dependent on alcohol, who face similar challenges to recovery as those dependent on drugs.

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<sup>4</sup> From a sample of 1,435 reception prisoners sentenced to between one month and four years in prison, in England and Wales, in 2005/06. Compendium of reoffending statistics and analysis, published November 2010, available at <http://www.justice.gov.uk/publications/compendium-reoffending.htm>.

<sup>5</sup> In 2000/01 12.2% of prisoners tested positive. In 2009/10 7.8% tested positive.

### **Drug recovery wings**

94. We believe that, given the substantial investment in drug services, and the strong association between drug use and reoffending, we should be more ambitious in our aims to improve efficiency and effectiveness. We will therefore focus on recovery outcomes, challenging offenders to come off drugs. We will pilot drug recovery wings in prison from June 2011 to help achieve this.
95. An initial four pilots will focus on those offenders who are drug dependent and who are serving sentences of less than 12 months where there is limited time available in prison to complete treatment interventions. Ensuring effective join up and continuity between prison and the community will be critical here.
96. Up to five further recovery wings will focus on those offenders with a drug problem who are in prison for longer periods. For this group the length of sentence will generally allow for treatment programmes to be completed and more time will be available to plan access to community health services when they are released on licence.
97. We will review the progress of the pilot drug recovery wings by June 2012 and, subject to the lessons learned, work with the Department of Health to use this approach more widely.

### **Paying-by-results to get offenders off drugs**

98. Chapter 3 sets out our overall approach for payment by results for offenders. The approach to drug recovery wings will also be informed by the proposals for piloting a new payment by results system for drugs recovery in the community.
99. We will set out more detail on this in the forthcoming cross-Government drug strategy. Our proposition is that for those who are dependent on drugs, including those in contact with the criminal justice system, the Government will develop a payment by results approach which addresses all the key areas which support recovery: in other words, freedom from clinical dependence, reducing reoffending, and getting a job.
100. A focus on recovery will help join up local services. The proposed payment by result approach will include assessment, referral and case management. This would be relevant for offenders at all stages of the criminal justice process, supporting decisions at each stage, from police stations and courts through to reception or release from prison.
101. In particular, these pilots will include tackling the problems of those offenders released from prison after short prison sentences and those who are serving community orders with a drug rehabilitation requirement. We know that payment by results for drug recovery has never been implemented before. The Government will therefore work with the pilot areas to co-design the payment by results approach for offenders.



Local areas will shortly be invited to tender to take part. Work to co-design the pilots will start early in the New Year. The initial set of pilots will begin in September 2011.

### **Intensive drug treatment in the community**

102. In the Coalition Agreement we signalled our commitment to providing intensive treatment options in the community for some of the most problematic drug dependent offenders. We anticipate that a range of treatment interventions will be required, varying in intensity depending on the assessed problems:

- high – residential based intervention programmes where treatment is available with the expectation that the individual will reside in designated premises and comply fully with the programme;
- medium – structured treatment, possibly with a short residential element or attendance at a day care centre; and
- low – outpatient treatment, with an individual residing at their own home.

103. Treatment requirements will be coupled with other community order requirements to encourage compliance, increase motivation, and make reparation to victims or communities. We will further develop these options in partnership with the Department of Health following this consultation. The intention is that treatment-based accommodation will start to become available from December 2011, subject to funding from the Department of Health.

### **Women offenders**

104. We recognise that women offenders have a different profile of risks and needs. Women offenders tend to be convicted for less serious offences – 44% of women prosecuted were for theft and handling offences compared to 28% of men.<sup>6</sup> They also tend to have multiple and therefore more complex problems related to their offending – 26 per cent of women reported having been treated or counselled for a mental health or emotional problem in the year before custody, compared with 16 per cent of men.<sup>7</sup> Of the women reporting an alcohol problem, nearly three quarters (74%) also have a drug problem. Among men with alcohol problems entering local prisons, just under half (48%) also reported a

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<sup>6</sup> Ministry of Justice (2010). *Statistics on Women in the Criminal Justice System*. London: Ministry of Justice.

<sup>7</sup> Ministry of Justice (2010). *Compendium of Reoffending Statistics and Analysis*. Statistics bulletin. London: Ministry of Justice.

drug problem.<sup>8</sup> Over half of the women in prison report having suffered domestic violence and one in three has experienced sexual abuse.

105. A promising network of community provision for women has been developed through probation and the voluntary sector working closely together. These projects provide effective rehabilitation in the community by tackling a range of problems, including drug and alcohol dependency. This is combined with education and interventions aimed at helping women offenders come to terms with issues such as physical and sexual abuse. Although this new network of provision has been designed in order to divert women from crime and custody the learning can also be applied to male offenders, particularly in a coordinated approach to those with more complex issues underlying their offending.
106. We are also developing more intensive community-based drug treatment options for women offenders. In doing so we will seek to learn the lessons from ongoing work to divert vulnerable women away from custody and the courts when there is no risk to the public.
107. We are committed to tackling all forms of domestic violence and will develop concrete proposals to prevent domestic violence and catch and punish offenders. We will also work with the Home Office in developing the Violence Against Women and Girls Action Plan to achieve this.

#### **Breaking the cycle – tackling female offending**

A violent female offender with previous convictions for assault and theft was referred to a voluntary sector women's intensive community project to tackle her offending behaviour while on conditional bail for another offence. She had alcohol, drug misuse and mental health problems. The case worker ensured that she complied with her bail conditions and attended court. They also helped her to keep up her hospital appointments and deal with the reasons behind her alcohol and drugs problems. She also started to spend time supporting a community project gaining construction skills and making a positive contribution to the community.

Her willingness to engage in the process of reform and evident remorse for her crime meant that she was given a suspended sentence with supervision by probation, and a requirement to reside in managed accommodation during this period. She has not reoffended, has recently enrolled in an educational course and is also involved in a voluntary project to renovate a local authority building.

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<sup>8</sup> HM Inspectorate of Prisons (2010). *Alcohol services in prisons: an unmet need. Thematic report by HM Inspectorate of Prisons*. London: HM Inspectorate of Prisons. [http://www.justice.gov.uk/inspectorates/hmi-prisons/docs/Alcohol\\_2010\\_rps.pdf](http://www.justice.gov.uk/inspectorates/hmi-prisons/docs/Alcohol_2010_rps.pdf).

### Consultation questions

**Q11.** How can we use the pilot drug recovery wings to develop a better continuity of care between custody and the community?

**Q12.** What potential opportunities would a payment by results approach bring to supporting drug recovery for offenders?

**Q13.** How best can we support those in the community with a drug treatment need, using a graduated approach to the level of residential support, including a specific approach for women?

**Q14.** In what ways do female offenders differ from male offenders and how can we ensure that our services reflect these gender differences?

### Rehabilitating offenders: making them pay their way

If offenders are to become law-abiding citizens and contribute to society then they will need to find a job and somewhere to live, otherwise the effectiveness of other rehabilitation work can be lost. To put more offenders on the right path we will:

- work with Department for Business, Innovation and Skills and the Department for Work and Pensions to improve offenders' skills and improve their prospects of work, including through a review of offender learning – *Breaking the Cycle: Straight to Skills* – and through entry to the Work Programme;
- reform the Rehabilitation of Offenders Act; and
- work with the Department for Communities and Local Government to reduce the barriers that prevent offenders finding somewhere to live.

### Getting offenders into work

108. Making more offenders engage in hard work and reparation will help equip them with the skills they need to improve their prospects of paying their way, getting off benefits and into a job. Evidence shows that having a job is a major factor in preventing future offending. Yet many offenders face significant barriers to entering the labour market even when they are committed to changing their lives. In a recent survey of prisoners almost half (47%) said they had no qualifications compared with 15% among a similar age group in the general population.<sup>9</sup> 13% said that they had never had a job.

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<sup>9</sup> From a sample of 1,435 reception prisoners sentenced to between one month and four years in prison, in England and Wales, in 2005/06. ONS (2003) and Compendium of reoffending statistics and analysis, published November 2010, available at <http://www.justice.gov.uk/publications/compendium-reoffending.htm>.

109. We have worked closely with the Department for Work and Pensions and the Department for Business, Innovation and Skills to review and reform employment and learning services for offenders. We propose to ensure that those offenders who have been punished and show a willingness to reform are able to access services which will include:

- reformed and revitalised training that involves employers and education providers working closely with senior prison managers to tailor their training to the needs of the labour market;
- the roll-out of a 'virtual campus' across the prison estate – a cost-effective and secure means of delivering IT-based individualised learning and employment services for prisoners that can also be available after their release; and
- a greater number of employer-led training workshops to increase offenders' work skills and establish working relationships with employers prior to release.

110. The Department for Work and Pensions is launching a new approach to improving employment outcomes based on payment by results, as part of their plans to get Britain working. Called the Work Programme, this payment by results approach will help improve rehabilitation and employment outcomes. Offenders will be eligible for entry to the Work Programme based on their individual circumstances so that they are made to pay their own way sooner rather than later. We are working to see how Work Programme providers could be incentivised further to work with offenders, linked to reducing reoffending.

111. Eligible offenders in the community who engage in the process of reform will have the same entitlements as other jobseekers to a range of accessible provision. This will include basic skills training, apprenticeship opportunities and support from Next Steps or Jobcentre Plus. It will also allow offenders to access other Department of Work and Pensions programmes such as the New Enterprise Allowance, Work Clubs, Work Together and Service Academies wherever they are available.

112. To support implementation we will engage with employers to work with offenders. We will also identify senior business leaders to champion the role and contribution of employers in rehabilitating offenders through skills development and work in both prisons and the community.

### **Reform of the Rehabilitation of Offenders Act**

113. We want to reduce unnecessary obstacles to successful rehabilitation. The Rehabilitation of Offenders Act 1974 seeks to remove barriers to reintegration into society for offenders who have not been reconvicted of an offence for a specified time. It means they are not required to declare their old, or 'spent' convictions for most purposes, such as applying for work. This increases their chances of getting a job and enabling them to leave fully behind their previous life of crime. In order to maintain public protection certain sensitive occupations are exempted from the provisions

of the Act. These employers are able to see the full criminal record history of the applicant.

114. The Act is often criticised as being inconsistent with contemporary sentencing practice, with the result that it can fail in its aim to help reformed offenders resettle into society. The reasons cited are that the rehabilitation periods are too long and do not reflect the point at which reoffending tails off following a conviction; the threshold at which a sentence never becomes spent (30 months) is too low given that sentencing lengths are much longer today; and the Exceptions Order exempts an ever growing number of occupations from the Act. Finally, the Act is criticised as being overly complex and confusing, meaning that people may not realise that the Act applies to them.
115. We are taking a fundamental look at the objectives of the Rehabilitation of Offenders Act, and how it could be reformed. The sorts of proposals we are considering include:
- broadening the scope of the Act so that it covers all offenders who receive a determinate sentence;
  - reducing the length of rehabilitation periods;
  - producing a clearer, simplified classification of rehabilitation periods, with perhaps as few as two or three classes; and
  - modernising and simplifying the language of the legislation.
116. In addition to seeking views on these proposals, we would like to invite ideas for more radical reform of the Rehabilitation of Offenders Act, bearing in mind the need to balance rehabilitation with public protection, the evidence that having a job reduces reoffending and the need for a scheme that is straightforward to operate and understand.
117. We would welcome views on how we might do more for young offenders as we are aware that some people are, for example, finding their path to higher education blocked on the basis of juvenile convictions. 'Wiping the slate clean' once the offender reaches adulthood is a possible approach for all but the most serious offences.
118. We are also looking at how offenders with minor convictions a long time in their past, but who are subject to full disclosure of their convictions, might be treated.

### **Reducing barriers to settled accommodation**

119. Having somewhere suitable to live upon release from custody can be a critical factor in rehabilitating offenders. Prisoners are often at risk of losing their accommodation whilst in prison. For those serving short sentences, this can further contribute to their unstable and chaotic lifestyles. In addition, around 15% of prisoners were homeless or living in some form of insecure accommodation before entering prison, including 9% who were sleeping rough.

120. We will work with the Department for Communities and Local Government to help reduce the barriers for those offenders who have paid their debt to society and are tackling their criminal behaviour. These include appropriate assessments not always being made in prison and offenders not always being signposted to effective services in the community. Offenders may also be considered not to have a local connection to the area they are released into or considered 'intentionally homeless' by a local authority because they lost their previous home as a consequence of their offending.

121. To improve this we will:

- clarify the expectations for prison and probation services to ensure that as part of their rehabilitation offenders receive appropriate housing assessments, advice and signposting to community services to prevent them losing their homes, or being homeless;
- work with voluntary and community sector organisations to offer a new scheme led by Crisis, to improve access to the private rented sector for single homeless people, including ex-offenders;
- utilising housing services made available through local authorities so that when accommodation is secured arrangements are in place so that tenancies can be maintained; and
- work across government through the Ministerial Working Group on Homelessness to agree shared priorities on tackling and preventing homelessness, including for ex-offenders.

#### **Consultation questions**

**Q15.** How could we support the Department of Work and Pensions payment by results approach to get more offenders into work?

**Q16.** What can we do to secure greater commitment from employers in working with us to achieve the outcomes we seek?

**Q17.** What changes to the Rehabilitation of Offenders Act 1974 would best deliver the balance of rehabilitation and public protection?

**Q18.** How can we better work with the private rented sector to prevent offenders from becoming homeless?

## Managing offenders with mental health problems

We want to ensure that our valuable resources are targeted on the people who are committed to changing their lives and being rehabilitated. In some cases, the criminal justice system is not the best place for them. This is particularly the case for offenders with mental health problems. We propose to:

- work with the Department of Health and the Home Office to pilot and roll out liaison and diversion services nationally by 2014 for mentally ill offenders; and
- increase the treatment capacity for offenders who present a high risk of harm where this is linked to severe personality disorders.

122. The criminal justice system is not always the best place to manage the problems of less serious offenders where their offending is related to their mental health problems. A recent survey indicated that 12% of offenders had a mental illness or depression as a long-standing illness, while 20% reported needing help with an emotional or mental health problem.<sup>10</sup>

123. There are currently some liaison and diversion services in place across the country which see health staff placed either at police stations or in courts to screen and assess people for mental health problems. These services are there to refer offenders into health services rather than prison or probation, but they are not consistently available.

124. Lord Bradley's report on improving mental health outcomes for offenders proposed rolling out a national liaison and diversion service by 2014. We believe this is the right approach and is in line with the reforms set out in the Department of Health White Paper *Equity and Excellence*. This includes an aim to improve access to services particularly for those with long term conditions, including mental health problems. The Department of Health, Ministry of Justice and Home Office, working with the National Health Service which has funding and commissioning responsibility, will identify a number of pilot projects that will help shape best practice, quantify the benefits and develop appropriate quality standards. This will include young people. We will aim to complete this work by 2012 and subject to an assessment of the success of the projects, roll out a national implementation programme.

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<sup>10</sup> From a sample of 1,435 reception prisoners sentenced to between one month and four years in prison, in England and Wales, in 2005/06. Compendium of reoffending statistics and analysis, published November 2010, available at <http://www.justice.gov.uk/publications/compendium-reoffending.htm>.

### **Offenders with severe forms of personality disorder**

125. There is a group of high risk, sexual or violent offenders whose offending is linked to severe forms of personality disorder. These offenders pose challenging behavioural or control problems in prison, and a high risk of reoffending if in the community. There are currently a number of pilot treatment and case management projects underway as part of the Dangerous and Severe Personality Disorder Programme. The projects provide services within prisons, secure hospital services and the community, aimed at reducing the problems and risk that this difficult group presents and protecting the public. We think this approach needs to continue to build on the experience of the earlier programme.

126. However, it is important to ensure that these services are as effective as possible and we have agreed with the Department of Health that we should reshape the use of these joint resources. It is proposed that the National Health Service and National Offender Management Service reconfigure existing services in secure and community settings to manage and reduce risk of reoffending. This will acknowledge that there is a joint responsibility for this population across the two organisations and that services will be delivered through coordinated and, at some stages, joint operations. This approach will improve the management of this population, including: earlier identification and assessment, evidence based psychologically informed interventions, and progression units where offenders can be monitored in secure settings to support their rehabilitation and eventual return to the community. We estimate that by organising these services differently we would be able to increase treatment capacity by 2014 from 300 places up to 570, mostly in prisons. In addition, we will aim to provide additional psychological support for up to a further 800 places (in prisons and the community) for those making progress, and strengthening oversight for those released from custody. The implementation plan for these changes will be subject to a separate consultation by the Department of Health and the Ministry of Justice.

#### **Consultation questions**

**Q19.** How can we ensure that existing good practice can inform the programme of mental health liaison and diversion pilot projects for adults and young people?

**Q20.** How can we best meet our ambition for a national roll-out of the mental health liaison and diversion service?

**Q21.** How can we reshape services to provide more effective treatment for those offenders with severe forms of personality disorder?



### 3. Payment by results

In the past, significant amounts of money have been spent on punishing and rehabilitating offenders without properly holding providers to account for results. The Coalition Agreement set out the Government's proposal to move to a new approach to pay providers to reduce reoffending, paid for by the savings this will generate for the criminal justice system.

This is a radical and decentralising reform which will deliver a fundamental shift in the way rehabilitation is delivered. It will make the concept of justice reinvestment real by allowing providers to invest money in the activity that will prevent offending rather than spending money on dealing with the consequences.

To do this we will give providers the freedom to innovate to deliver results, paying them according to the outcomes they achieve and opening up the market to diverse new players who bring fresh ideas.

By 2015 we will have applied these principles to all providers. Professionals in the public, private, voluntary and community sectors will be given much greater discretion and be paid according to the results they deliver in reducing reoffending. The overriding principle of our approach is clear: to create a system which is more transparent and delivers more effective services.

Over the next two years we will carefully develop the payment by results approach and test it rigorously. This chapter explains how we intend to achieve this by:

- designing the payment by results model for reducing reoffending;
- commissioning at least six new payment by results projects covering a significant proportion of the offender population;
- publishing a comprehensive competition strategy in June 2011;
- defining how we will pay providers for rehabilitating offenders; and
- increasing discretion and enabling frontline professionals to innovate in the way they work with offenders.

## Designing the payment by results model

The principles underpinning this new approach are very clear, but we know that introducing these changes to the system will need careful design. We think this means:

- tailoring the payment by results approach to different groups of offenders;
- combining the commissioning of payment by results for rehabilitation with the delivery of sentences;
- introducing at least six new payment by results projects covering a significant proportion of the offender population;
- ensuring a diverse range of providers can bid for or be involved in payment by results contracts; and
- applying the approach to the more prolific groups of offenders managed by providers.

127. Offenders can receive a range of different sentences and the payment by results approach will need to be tailored to reflect this. We will explore two broad models. One will cover offenders sentenced to a community sentence. The other will cover those sentenced to custody.

### Community sentences

128. A community sentence can include requirements from a menu of 12 possible options. Managing offenders effectively means ensuring that all the requirements of a community sentence are delivered and enforced, and that the offender is rehabilitated. Non-statutory interventions intended to support rehabilitation may also be delivered by providers.

129. The requirements of community sentences are currently delivered by a range of different providers. The table below sets out the 12 requirements, the current provider or local commissioner and the primary purpose of the requirement.

Function	Current Provider	Primary Purposes
Managing offenders	Probation	Delivering the sentence
1. Deliver Activity Requirement	Commissioned or delivered by probation	Rehabilitation
2. Delivery of Drug Rehabilitation Requirement	Provision funded by Department of Health	Rehabilitation
3. Delivery of Mental Health Treatment Requirement	Provision funded by Department of Health	Rehabilitation and public protection
4. Delivery of Alcohol Treatment Requirement	Provision funded by Department of Health	Rehabilitation
5. Deliver Supervision Requirement	Commissioned or delivered by probation	Rehabilitation

Function	Current Provider	Primary Purposes
6. Deliver Accredited Programmes	Commissioned or delivered by probation	Rehabilitation and public protection
7. Deliver Exclusion Requirement	Enforced by the police and probation	Public protection
8. Deliver Prohibited Activity Requirement	Enforced by the police and probation	Public protection
9. Deliver Residence Requirement	Enforced by the police and probation	Public protection
10. Deliver Curfew Requirement	Private sector provider	Punishment and public protection
11. Deliver Unpaid Work Requirement	Subject to competition following a best value review	Punishment and reparation
12. Deliver Senior Attendance Centre Requirement	Commissioned by National Offender Management Service	Punishment and rehabilitation

130. The commissioning model for delivering community sentences needs to strike the right balance between:

- ensuring the statutory requirements are delivered efficiently and effectively;
- managing and enforcing delivery of the overall sentence; and
- reducing reoffending.

131. We do not think that it is either practical or desirable to contract for these different objectives separately from one another and with different providers. Instead we will need in most cases to contract with one provider to deliver the overall community sentence. This will mean making two kinds of payments. One payment will be made for delivering the statutory requirements and ensuring compliance with the sentence. A further payment would be made depending on the results the provider delivers in reducing reoffending.

132. This provider, or consortia of providers, may choose to sub-contract some services to other partners. This model would need to ensure that the risk of failure was appropriately managed between the main provider and sub-contractor using appropriate standards.

### **Offenders sentenced to custody**

133. Those offenders who are sentenced for more than 12 months are released from prison on licence to probation. Being on licence means that the offender is still serving a prison sentence but is released into the community subject to a set of conditions. These are set by the prison governor working with the probation officer. The overall sentence plan spanning the custodial and community element of the sentence is managed jointly by probation officers in the community and case managers in custody.

134. It can be difficult to identify which organisation deserves the most credit for a reduction in reoffending. This is because rehabilitative interventions may be delivered by a number of different prisons as well as by probation services. For these offenders, a payment by results model may be best focused on paying the provider of probation services to reduce reoffending, given that they have the most continuous contact with the offender, from the sentence to completion. This would mean creating a collaborative relationship between the community provider and prison provider.
135. For those offenders who are sentenced to less than 12 months in custody there is no requirement for supervision unless they are between 18 and 21 years old. We think there is scope to develop a model which pays some prisons by results for rehabilitating offenders. This could best apply to those serving sentences of less than 12 months in custody, around 56% of whom spent their sentence in a single prison in 2007. This model would incentivise the prison or prisons to make the best use of the time they have with the offender and connect them back into the community on release.

#### **A more diverse range of providers**

136. The Ministry of Justice Business Plan 2011–2015 sets out that we will no longer provide rehabilitation services directly without testing where the private, voluntary or community sectors can provide it more effectively and efficiently.
137. The payment by results approach will encourage innovation and bring out the diverse skills from all sectors. We must ensure our commissioning model harnesses the creativity and expertise that independent providers can bring. This includes the small and specialist voluntary providers and social enterprises. These providers can make a real difference with those offenders who are hardest to change.
138. In exploring payment by results options we will consider the specific barriers for these smaller providers and will identify options which will best enable them to be part of a dynamic mixed market of provision.
139. We have already launched the Social Impact Bond in Peterborough prison focused on those offenders serving less than 12 months in custody. Social investors are paying up front for intensive services and mentoring delivered by the voluntary and community sector. We will pay solely on the results they deliver.

### **Peterborough Social Impact Bond**

St Giles Trust will work closely with other voluntary and community sector providers to reduce reoffending under the Peterborough Social Impact Bond launched by the Parliamentary Under-Secretary of State for Prisons and Probation, Crispin Blunt MP, on 10 September 2010.

Under the pilot, Social Finance have commissioned St Giles Trust to work intensively with 3000 short-sentence prisoners over six years, both inside Peterborough prison and after release, to help them resettle into the community.

140. We have already received a wide range of imaginative proposals for payment by results schemes from providers in the public, private, voluntary and community sectors. We remain interested in exploring further innovative approaches, including from socially minded investors, to deliver payment by results and we will continue to welcome further proposals as part of the consultation process.
141. To achieve greater efficiency overall we will increase our use of competition. This will replace Best Value approaches where they currently exist. We will publish a comprehensive competition programme for all offender management services in June 2011 which will set out our use of competition for the next four years and beyond. The programme will not only be designed to deliver efficiency savings but also to reform services and to develop the market.

### **Piloting payment by results**

142. We are committed to further testing and developing the approach to payment by results before fully rolling out. We will commission at least four rehabilitation payment by results projects including:
- two large scale projects for offenders managed on community sentences and those released on licence, covering all the appropriate offenders within a criminal justice area; and
  - two payment by results projects for offenders released from prison, focusing on those offenders who are sentenced to less than 12 months.
143. The consultation process will inform the continuing design and development of the community and prison rehabilitation payment by results projects. We will complete the design of these projects, working with providers to refine the proposals, by August 2011.
144. We also think there is scope jointly to commission services more effectively on a payment by results basis. This would mean commissioning services by paying a range of providers for delivering outcomes including the offender stopping taking drugs, gaining and sustaining employment as well as rehabilitation. Our proposals to work

with Department of Health, Home Office and Department for Work and Pensions to achieve this are set out in Chapter 2.

### **Piloting a local approach to payment by results**

145. The Government is committed to devolving power and accountability to local areas. As the integrated offender management approaches described in Chapter 2 suggests, we think that local partners including the local authority, the police, probation services, prison services and other partners can work together more effectively to reduce offending and, consequently, the demand for justice services in their area.
146. We plan to introduce a local incentive scheme. This model asks local partners to work together to develop a plan to prevent offending and reduce reoffending. They will then jointly commission innovative services to fill any gaps. They will be free to target their resources on specific groups of offenders in line with their local priorities and crime patterns. If they were able to reduce crime and hence demand for criminal justice services through their joint efforts they would share in any savings made. These could then be reinvested in further crime prevention activity at the local level.
147. To test the feasibility and benefits of such a model we will launch and run two projects from April 2011 for two years:
- one project in Greater Manchester; and
  - one project across a number of London Boroughs, including Lewisham and Croydon.
148. We have been working closely with these areas to design the approach. Probation and prisons will work closely with the London Mayor, the Metropolitan Police, the Association of Greater Manchester Authorities and Greater Manchester Police, as well as local authority partners, as we develop the model for the pilots. We will also seek to learn lessons where partnership approaches have already been tried, for example the Local Service Board pioneer projects in Wales.
149. Police and Crime Commissioners will be elected in May 2012 with overall responsibility for reducing crime and ensuring effective policing. They will have responsibility for working with Community Safety Partnerships to reduce crime. Criminal justice agencies and Police and Crime Commissioners will have a reciprocal duty to work with one another. The local payment by results projects will develop some important learning for how this joint working should work in support of our principles of transparency and greater local accountability.

#### **Consultation questions**

**Q22.** Do you agree that the best way of commissioning payment by results for community sentences is to integrate it within a wider contract which includes ensuring the delivery of the sentence?

**Q23.** What is the best way of reflecting the contribution of different providers within a payment by results approach for those offenders sentenced to custodial sentences and released on licence?

**Q24.** What is the best way of developing the market to ensure a diverse base of providers?

## **Paying providers by results**

Determining the payment mechanism for rehabilitation is critical. To do this we need to determine:

- those offenders for whom it is appropriate to apply payment by results;
- how to measure reoffending; and
- how to measure success.

The principle of our approach is to create a simple measure which is easy for the public to understand and encourages providers to deliver the right outcome.

## **Applying payment by results to the right offenders**

150. We do not think it is necessarily appropriate to apply a payment by results regime to all offenders. In particular we think there is a good case to exclude the management of offenders who pose a high risk to the public from a payment by results approach, given that the focus of the supervising agencies participating in the Multi-Agency Public Protection Arrangements – involving prison, probation, police and others – is on managing effectively the risk of harm which such offenders present. More detail on our approach to managing serious and dangerous offenders can be found at Chapter 4.

151. At the other end of the scale there are some offenders who we know are much less likely to reoffend than others. For example, the reoffending rate for offenders subject to a stand alone unpaid work requirement (Community Payback) is relatively low – 25% compared to 40% overall. While a reoffending rate of 25% is still cause for concern, we think there may be a case for excluding these types of offender from the payment by results approach so that innovation is targeted at the most problematic offenders. We would welcome views on this proposal.

## **Measuring results**

152. Reoffending is currently measured by comparing rates of reconviction. This assesses whether an offender has been convicted of a further offence or offences committed within a year of being released from prison or starting a community sentence. We can measure the overall level of reoffending either by seeing whether an offender has reoffended, or by measuring the number of offences an offender commits. The Ministry of

Justice’s Chief Statistician has launched a consultation on the best way to measure reoffending in the future. The consultation can be found at <http://www.justice.gov.uk/publications/statistics-comment.htm>.

153. Perhaps the truest measure of whether an individual offender has been successfully rehabilitated is whether they have been convicted, cautioned or given a Penalty Notice for Disorder for a further offence. However, we also want to incentivise providers to focus their effort more on those who are most likely to reoffend frequently. This would suggest focusing on the overall number of offences a group of offenders have committed rather than on a measure which just focuses on individuals.

154. We also need to determine what is counted within the payment by results model. There are a number of options including:

Measure	Description	Assessment
All proven reoffending	The number of convictions, cautions or penalty notices for disorder for a given group of offenders	This is the broadest measure of reoffending covering all reoffences
All proven reconvictions	The number of convictions, for a given group of offenders	Excludes less serious disposals and focuses on reconvictions at court
Reconvictions leading to a serious disposal	The number of reconvictions which lead to a community order or custodial sentence	Focuses on only those offences which lead to a community sentence, suspended sentence or immediate custody

155. There are also a number of ways in which we can measure a provider’s success in reducing reoffending. This could include measuring progress against a ‘predicted rate’ or measuring reductions for a particular group of offenders against an agreed level compared to previous years. In all cases, the larger the group of offenders the greater the likelihood of accurately measuring performance. This minimises the risks of rewarding or penalising providers for wider external factors which could impact on reoffending rates as opposed to properly measuring their success.

156. We also understand that there may be a case for rewarding providers differently for rehabilitating different types of offender. Different offender groups may require different treatment, including female offenders, offenders from minority ethnic groups and young adult offenders. We would welcome views on whether there are any particular groups where a different payment scheme would deliver a better outcome.

### Perverse incentives

157. Any measurement system potentially creates perverse incentives to meet the target but not achieve the desired outcome. A key part of how payment by results contracts will be managed will be to ensure that the provider is focused on delivering the outcome in the right way.



158. We are also keen to minimise the scope for these perverse incentives to arise in the first place. This will include ensuring that providers are not allowed to choose which offenders their success will be measured against. This principle is being applied to the Peterborough Social Impact Bond pilot, where the providers' success will be measured across all the offenders released, not just those they work with. Providers will also be required to share information with the police and other agencies if they suspect an offender poses a risk to the public or is at imminent risk of reoffending.

### **Consultation questions**

**Q25.** Do you agree that high risk offenders and those who are less likely to reoffend should be excluded from the payment by results approach?

**Q26.** What measurement method provides the best fit with the principles we have set out for payment by results?

**Q27.** What is the best option for measuring reoffending and success to support a payment by results approach?

**Q28.** Is there a case for taking a tailored approach with any specific type of offender?

### **Reforming services**

We will fundamentally reshape prison and probation services to reduce unnecessary bureaucracy, empower frontline professionals and make them more accountable by:

- reforming the way in which Probation Trusts and prisons are managed;
- reviewing targets and standards to ensure greater flexibility and professional discretion;
- considering the scope and value of different business models such as public sector workers forming employee owned co-operatives; and
- reforming the National Offender Management Service to reduce costs and enable effective local commissioning in the longer term.

### **Freedoms for public sector providers**

159. Probation Trusts have an important and continuing role to provide local strategic leadership for managing offenders. They jointly commission services with partners including the police, the courts, health and local authorities. We expect that provision of advice to the court will remain the preserve of the public sector but the services which Trusts directly provide will be increasingly subject to competition, including through payment by results models.

160. The Government intends to ensure that the 35 Probation Trusts are increasingly managed against the outcomes they deliver, rather than by inputs and processes. To support this, the performance arrangements for probation will be reviewed to reduce the number of process and input measures and focus more on outcomes. We will also review the Probation National Standards to give frontline professionals much more discretion in how they manage offenders, particularly those on community sentences. More information about our proposals on reforming community sentences can be found in Chapter 4.
161. By April 2012 Probation Trusts will have slimmed down contracts focused on ensuring the effective delivery of sentences of the court and reducing reoffending. We will also develop proposals to allow Trusts more opportunities to use their own judgement in how they manage their businesses. The aim is to create a more level playing field to enable the public sector to be more directly compared with payment by results providers.
162. We will explore the scope for new business models that can deliver better services, reduce costs, and enable partnership with the communities in which local agencies work. Some Probation Trusts are already making innovations of this type. We will consider giving public sector workers greater independence in managing the services they deliver, through the creation of social enterprises, co-operatives and mutualisation. This will support the transition of the public probation service towards a payment by results model.

**Case Study: Furnish Social Enterprise**

Furnish is an example of a successful social enterprise which is funded to deliver a Community Payback project. Furnish is part of an organisation called Staying Put Services, which helps relieve poverty by offering housing advice, healthy living and eating advice and other services to improve the lives of people in need.

As a result of a partnership with London Probation Trust, offenders are subject to intensive work placements, working three days per week for 18 hours until they complete their total Community Payback hours. Their work includes collecting and delivering furniture to customers and sorting warehouse orders.

Deploying offenders intensively can improve compliance rates and enhances the opportunity for offenders to gain real work experience. Since 2007 offenders have provided 1,400 days of unpaid work to Furnish.

163. Prisons will increasingly move to similar arrangements as Probation Trusts with greater discretion on how they deliver rehabilitation interventions, and revised performance arrangements. There will always be a need for some central management of prisons and a need to ensure capacity across the whole prison estate is used effectively. It will remain critical to retain key standards around maintaining security and decency. Our ambition nonetheless is to increasingly connect the prison system to

local communities. To help achieve this Prison Service Instructions are being reviewed to ensure that they focus on required outcomes and provide prison staff with the appropriate level of discretion.

164. To enable these changes while creating savings, the National Offender Management Service will be reformed and significantly slimmed down through replacing the existing regional structures with a leaner functional approach. This functional model will support commissioning of services; management of public sector prisons; management of contracts with Probation Trusts, private and voluntary and community sector providers; and delivery of national operational services. The new commissioning function will retain central oversight for commissioning in the short term, but this responsibility will increasingly be devolved to local commissioners to get the best responsiveness to local needs, to drive out cost and to enable smaller community-based organisations to participate fully. In the interim we could require main contractors to involve small, local organisations to ensure an integrated approach at local level. This model will be developed over the next two years.

**Consultation questions**

**Q29.** What are the key reforms to standards and performance management arrangements that will ensure that prisons and probation have more freedom and professional discretion and are able to focus on the delivery of outcomes?

**Q30.** What are the key reforms to financial arrangements that will support prisons and probation in delivering outcomes at less cost?

**Q31.** How do we involve smaller voluntary organisations as well as the larger national ones?

## 4. Sentencing reform

An overhaul of the sentencing framework is long overdue. The Government committed to conduct a full examination of sentencing policy. This chapter sets out our initial conclusions from that work.

The sentencing framework must provide courts with a range of options to punish and rehabilitate offenders and keep the public safe. Sentences have become increasingly severe in recent years, and yet the public does not recognise this and many still think they are too lenient. We believe that, in part, this is because the sentencing framework has developed in a piecemeal fashion which has left it overly complex, difficult to interpret and administer, and difficult for the public to understand. Not enough has been done to explain sentencing. This has resulted in uncertainty for victims and the public about how long an offender should spend in custody, and the public has no easy way to understand punishments and reoffending rates in their area. As a consequence trust is low.

Much of our analysis and the proposals and options put forward apply both to adults and young people aged under 18. However, there are significant differences between the adult and youth sentencing frameworks, and therefore some key distinctions to be drawn. Chapter 5 focuses specifically on sentencing and rehabilitation for young people.

In this chapter we set out proposals to reform adult sentencing so that we:

- create a simpler, more transparent sentencing framework that is easier for courts to operate and for victims and the public to understand;
- make better use of prison and community sentences to punish offenders and improve public safety; and
- better support our aims of improved rehabilitation and increased reparation to victims and society.

### **A simpler sentencing framework that is easier for courts to operate and for the public to understand**

This section explains how we propose to make sentencing simpler and more transparent. This includes proposals to:

- move all offenders to a single sentencing framework;
- remove elements of the law that unhelpfully fetter courts' discretion; and
- publish more local data on sentencing to increase the degree to which the public hold the justice system to account.

165. The last decade saw a succession of 27 different Acts of Parliament that added layers of complexity and eroded important elements of judicial discretion. As a consequence we have a framework that commands insufficient public confidence and is difficult for courts to interpret and administer and for prisons and probation to operate.
166. To make the sentencing framework simpler and more transparent, our ambition is to:
- simplify the law so that only one sentencing framework applies to offenders;
  - repeal unimplemented legislation; and
  - improve communication on sentencing, in partnership with victims' groups and the Sentencing Council.
167. It is for the courts to decide the just sentence in each case within an overall framework set by Parliament and supported by guidelines produced by the independent Sentencing Council. The court which has heard all the evidence and all the facts about the offence and the offender is in the best position to make a just decision. At the same time, as a matter of fairness, we must seek to achieve consistency in sentencing. While no two offences or offenders are the same, similar crimes committed in similar circumstances should lead to a similar sentence.
168. The Sentencing Council guidelines are the principal way by which consistency can be achieved. Courts are required to follow these guidelines except where it is not in the interests of justice for them to do so in an individual case. The Sentencing Council has recently been established and is progressing with its work programme at pace. Guidelines which have the respect of the judiciary and which are followed by them will be critical in achieving greater consistency and transparency.
169. Simplifying the sentencing framework also means reducing the mounting number of complicated and detailed requirements for the court to explain why they have, or have not, passed a particular sentence. These requirements are well intentioned. Victims and offenders want to know why a court has passed a particular sentence and to be assured that the law has been applied fairly. However, this is often not achieved in practice because the law requires courts to labour through a list of technical details which compound public confusion. By replacing these requirements with a more general duty, courts will be able to focus on what matters in explaining the sentence they have passed, ensuring this explanation is transparent to the victim, public and offender. This change will provide more discretion for courts about how to explain the sentence, but maintain the importance in statute of the need to do so.
170. A key part of simplification will involve Schedule 21 to the Criminal Justice Act 2003. It is essential that we preserve Parliament's role in setting the sentencing framework for murder. We have no intention of abolishing the mandatory life sentence or of prompting any general reduction in

minimum terms imposed for murder. However, Schedule 21 is based on ill-thought out and overly prescriptive policy. It seeks to analyse in extraordinary detail each and every type of murder. The result is guidance that is incoherent and unnecessarily complex, and is badly in need of reform so that justice can be done properly in each case.

171. To simplify the sentencing framework, we also propose to:

- explore whether we should replace the specific requirements for courts to explain how they reached a particular decision with a more general duty that the courts can apply;
- create a simpler way to calculate the impact of time spent remanded in custody on the time that should be served as part of a prison sentence and remove the burden from the courts to do this; and
- replace the current list of groups which attract the statutory aggravating factor in sentencing for hate crime with a general aggravating factor where the offender demonstrates hatred or hostility to a particular group. This will ensure that the protection already given to the groups currently listed will apply more widely to all minorities. Hate crime is a serious crime and we will strengthen efforts to prevent it and punish offenders.

172. As well as seeking to ensure that the sentencing framework is clearer, we are committed to giving the public clear information about sentencing decisions. In October, we published court level data on sentencing outcomes for the first time so that members of the public can easily access information about how offenders are being punished in their area. Through this combination of measures we hope to increase public understanding of sentencing and, in doing so, the degree to which the public hold the justice system to account.

**Consultation questions**

**Q32.** What are the best ways to simplify the sentencing framework?

**Q33.** What should be the requirements on the courts to explain the sentence?

**Q34.** How can we better explain sentencing to the public?

## **Making better use of prison and community sentences to punish offenders and improve public safety**

This section sets out how we will make better use of prison and community sentences to punish serious and dangerous offenders and in particular how we will:

- reform the custodial sentencing framework so it is more transparent;
- retain supervision in the community on licence as part of custodial sentences of more than 12 months, but ensure such sentences are better explained, with a more proportionate and flexible approach to recall;
- reform indeterminate sentences of Imprisonment for Public Protection; and
- seek to achieve an appropriate use of remand.

### **Clarifying the custodial sentencing framework**

173. There has not been enough clarity in the way that prison sentences have been explained to victims and public. This has created confusion about how sentences work, in particular between the headline sentence length and the period to be served in custody, with the perception often being that offenders are ‘released early’ and do not serve their full sentence. This confusion has been exacerbated by the introduction and later abolition of the End of Custody Licence scheme to ease overcrowding and the growth in the use of indeterminate sentences where release is at the discretion of the Parole Board and no-one is clear how long the offender will actually spend in custody.

174. Under the current framework, there are two parts to most custodial sentences of over a year. The first half is spent in prison, after which offenders are released into the community under supervision on licence for the remainder of their sentence and required to comply with certain conditions. Failure to comply can result in an offender being recalled to prison. The period that offenders spend on licence in the community can be an important reintroduction to society, and provide an opportunity both to supervise their behaviour and rehabilitate them. Surveys have shown that the public tend to understand the logic of the licence period once it is explained.

175. Some offenders may be released from custody up to four and a half months before the halfway point of their sentence under the Home Detention Curfew scheme. This scheme allows prisoners to live outside prison providing they do not breach the rules of their curfew. It is designed to enable a managed transition from custody, providing a better start to the licence part of the sentence. The monitored curfew is imposed in addition to any standard licence conditions applied to the offender. There are some offenders who are excluded from Home Detention such as registered sex offenders. Home Detention is not an entitlement and can only be granted subject to prisoners meeting the eligibility criteria and passing a risk assessment, including a home circumstances check.

Offenders are released under a curfew to a specific address normally for a 12 hour period (e.g. from 7pm to 7am). This curfew is electronically monitored via a tag on the offender's ankle. If the prisoner breaks the curfew, the electronic tag will alert contractors and the offender may be recalled to prison.

176. The Government intends to maintain the basic structure of the determinate custodial sentence, including the Home Detention Curfew scheme, because it can enable effective resettlement and public protection. We will, however, take steps to ensure it is better understood and explained. As set out above, we will allow courts to apply their common sense in explaining sentences. We will also work with the Sentencing Council and victims' groups to improve overall understanding of the sentencing framework and the construction of individual sentences.
177. We think that supervision on licence should remain integral to the sentencing framework and must be enforced, including through recall to custody where appropriate. This is essential to public safety, both because the licence period is part of the sentence and because recall to custody can prevent reoffending. However, we will make changes to enable recall and re-release to support better the resettlement objectives. In many cases, recalled offenders remain in custody until the expiry of their sentence for no good reason with a detrimental effect on rehabilitation.
178. Public safety is the most important consideration in decisions about whether an offender who has been recalled should be re-released. For the most serious cases, release should be on the basis of a risk assessment by the Parole Board. However, for cases where there is no evidence of serious risk to the public, a fixed recall period or re-release of the offender following an administrative review can provide a sufficient sanction for the offender. We will therefore seek to extend the Government's powers to do this.
179. In order to make best use of prison to punish serious and dangerous offenders, we also need to rethink how we use it for remand. When it is used properly, remand in custody helps to keep the public safe, and bail legislation has rightly been strengthened recently to reflect that priority better. Clearly the courts must be able to remand defendants in custody in serious cases, and where there is a risk of reoffending of a sort that would cause injury. However, each year several thousand people are remanded in custody awaiting trial for offences for which they would be unlikely to receive a custodial sentence if they were convicted, because the offence of which they are accused is not serious enough to warrant it. In these cases custodial remand achieves little. There are limits to what the criminal justice system can properly do with unconvicted prisoners. The Government therefore intends to remove the option of remand in custody for defendants who would be unlikely to receive a custodial sentence. This will not impede justice. If a defendant fails to attend, the trial will proceed in their absence, unless there is good reason why it should not.



### **Maintaining public safety**

180. We take every step to maintain a secure prison estate and minimise the risk of escape. We are pleased that a strong record on reducing the number of prison escapes has been maintained over recent years. There have been no escapes of prisoners at the highest level of security since 1995, and other prisoner escapes have fallen significantly over the past decade, despite the large increase in prison population during this time. We will maintain this record by identifying and removing risks which could lead to further escapes.

181. Public safety means effective management and reduction of risk both in custody and in the community. Sex offender treatment programmes, for example, have proven their worth in reducing the risks these offenders pose to the public, and we remain committed to providing programmes to reduce sexual and violent offending.

### **Effective responses to knife crime**

Knife crime is wholly unacceptable. It causes misery for victims and is often connected to the kind of gang violence that can wreck whole communities. The Government's position is clear. Any adult who commits a crime using a knife can expect to be sent to prison and serious offenders can expect a long sentence. For juveniles, imprisonment is always available and will also be appropriate for serious offences.

We must do better at intervening before offending reaches this stage. We are developing a new community based intervention that is specifically designed to prevent this kind of violence. This will help to ensure that offenders who are caught in possession of a knife will face consequences and a response intended to prevent their behaviour from escalating.

182. A small number of very serious offenders will never leave prison. However, the majority will be released at some point back into the community, on licence and subject to recall. If offenders are sentenced to over a year in custody for a sexual or violent offence, when they are released they will be supervised under Multi-Agency Public Protection Arrangements. These also apply to other offenders who are deemed to be high risk of causing serious harm to the public. The arrangements are working well. They require the prison service, the police and probation to work together to manage the risks posed by dangerous offenders in the community. The approach is carefully graduated on the basis of the risk posed by individual offenders. No government can or should ever promise to eliminate risk entirely, but we will ensure that this system continues to be properly delivered.

### **Multi-Agency Public Protection Arrangements**

Probation, police and prisons were brought together within the statutory Multi-Agency Public Protection Arrangements in England and Wales to provide robust management systems for some of the most dangerous offenders living in our communities.

The Violent and Sexual Offender Register has been rolled out to the probation, police and prison services. These services all now have access to the same information about offenders' histories and risk of harm. This will improve the quality and timeliness of risk assessments and of interventions to prevent further offending.

183. Public safety remains our primary concern and indeterminate sentences will always be appropriate for the most serious crimes. The Government has no intention of changing life sentences. However, we believe that indeterminate sentences of Imprisonment for Public Protection (IPPs) should only be available for the most dangerous offenders. These sentences are imposed subject to an assessment of what offenders might do in the future rather than based simply on what they have actually done. Release is not automatic, but is at the discretion of the Parole Board.
184. The sentence of IPP was introduced in the Criminal Justice Act 2003 and has been used on a much wider basis than expected. IPP prisoners are required to serve a minimum term after which the Parole Board can decide whether or not they are suitable for release. It was only intended and expected to be used in a limited number of cases, but there are already around 6,000 prisoners on an IPP sentence.
185. The current arrangements require offenders to satisfy the Parole Board that they do not present unmanageable risk in the community. Demonstrating this negative criterion can be extremely difficult which has led to a very low release rate of about 5%.
186. The limitations in our ability to predict future serious offending also calls into question the whole basis on which many offenders are sentenced to IPPs and, among those who are already serving these sentences, which of them are suitable for release.
187. The widespread use of IPPs has also further confused the sentencing framework, and can undermine public confidence since the court, the victim and the public have little or no means of knowing how long an individual spell in custody is likely to last or whether it will ever end.
188. It is also important that those who receive IPPs are able to reform themselves and that proper arrangements are in place for their rehabilitation. The larger the number of prisoners who are subject to the sentence, the more difficult this becomes.

189. For all these reasons, we believe that there is a strong case for ensuring IPPs are restricted to the exceptionally serious cases for which they were originally intended. We intend to bring forward reforms in order to achieve that. The previous Government took steps towards this in the Criminal Justice and Immigration Act 2008 by removing the option to impose the sentence on those who would not otherwise have merited a sentence of at least four years (two in custody with the remainder on licence) but they are still used too widely.
190. This Government intends to restrict the sentence to those who would otherwise have merited a determinate sentence of at least ten years (i.e. at least five years in prison and the remainder on licence). This change ensures that the sentence applies to serious rather than broad categories of crime and will capture very serious sexual and violent offenders. Offenders who no longer receive an IPP would instead receive a determinate custodial sentence for the crime for which they have been convicted which in serious cases would of course be very substantial. Courts would still be able to use the Extended Sentence for Public Protection which would lengthen the period for which offenders would be supervised upon release, and ensure that they can be recalled to custody if necessary. We think that this combination of IPPs in restricted circumstances and often long determinate sentences will enable us to plan rehabilitation more effectively in order to protect the public better.
191. When IPP prisoners are released they are managed in the community under robust licence arrangements. All IPP offenders are also subject to Multi-Agency Public Protection Arrangements. The Parole Board performs a vital public protection function, but we need to consider whether the release test it applies for IPP prisoners achieves the right balance. Currently, the Parole Board is only able to release a prisoner where it is satisfied that the risk of doing so is considered to be no more than minimal. For an offender who has already been convicted of a serious offence, it can be extremely difficult to demonstrate minimal risk of re-offending particularly whilst the offender is living in the closed prison environment.
192. At least 40% (over 2,400) of IPP prisoners have already completed the minimum punishment term of their sentence in custody, known as the tariff.
193. We are exploring whether a new test for those who have served their punishment would focus indefinite imprisonment on those who clearly pose a very serious risk of future harm. There is no question of releasing any IPP offender into the community without some clear assessment of risk. The Parole Board would still refuse to release offenders where it is clear that this was necessary to keep the public safe.

**Consultation question**

**Q35.** How best can we increase understanding of prison sentences?

## **Sentencing that better supports our aims for improved rehabilitation and increased reparation to victims and society**

This section sets out how we will reform sentencing to achieve better outcomes in terms of rehabilitation and reparation and in particular, how we will:

- tackle the most persistent offenders;
- create more effective community sentences, with greater flexibility for providers;
- encourage greater use of financial penalties, with a renewed focus on reparation;
- make more efficient, effective use of courts;
- create a simpler framework for out-of-court disposals; and
- reduce the number of foreign national offenders.

### **Tackle the most persistent offenders**

194. The Government believes that prison works best at punishing serious and dangerous offenders. However two thirds of custodial sentences passed each year are for six months or less, and many of those are for just a matter of weeks. As set out earlier, offenders sentenced to less than six months have higher rates of reconviction than those who get any other sentence. The sentencing framework needs to support our proposals to deal better with this group of less serious but persistent offenders.

195. Faced with similar problems, some countries have in essence abolished short sentences. However, we are clear that abolition is not the right approach. Courts do not send people to prison lightly, and only use a short sentence where they perceive that a viable alternative is not offered in the community. Some people will need to go to prison for a short time and it is important for magistrates to be able to use custody where necessary. Our focus must be on stopping offenders getting to that stage in the first place.

196. The main way we will achieve this is by developing better community provision aimed at halting persistent, low level offending, and seeking to stop repeat offenders from becoming prolific. The next section explains how we are developing more robust and effective community sentences, but our long term strategy is also to increase our potential to stop offending earlier and prevent persistence, through a coherent approach in which we:

- better prevent young people coming into the criminal justice system, and stop more of them re-offending once they are there (as set out in Chapter 5);
- tackle the least serious offenders before they get to court, and where appropriate move them into drug, alcohol and mental health support in the community (as set out in Chapter 2); and

- encourage greater use of fines and compensation orders where it is a more sensible punishment than a community sentence, so that community orders can be focused where they can offer best results.

197. We also propose to reform the suspended sentence order. We recognise that the power to suspend a custodial sentence can be a useful tool in cases where the threat of custody is sufficient to incentivise an offender to reform. We are considering whether we should allow courts to impose a suspended sentence for a custodial period of longer than the current 12 months and providing a new choice as to whether or not to impose community requirements. This would give courts more discretion to make best use of suspended sentences, and to target resources spent on community requirements on those who would most benefit from them in respect of punishment and rehabilitation.

#### **Consultation question**

**Q36.** Should we provide the courts with more flexibility in how they use suspended sentences, including by extending them to periods of longer than 12 months, and providing a choice about whether to use requirements?

#### **More effective and robust community sentences, with greater flexibility for providers to reduce reoffending**

198. At their best, community sentences provide an effective way of punishing offenders, while enabling rehabilitative options to be used where these are needed to tackle problems that underlie offending. Chapter 2 explains how we will increase the immediacy and intensity of Community Payback and allow for longer, tougher curfews. This section explains how we intend to encourage more imaginative use of community sentences.

199. Currently, there is a single adult community order that provides the courts with a wide choice of requirements. These are used on their own or in combinations to support the overall objectives of a sentence. For example, a night time curfew has a punitive impact and also limits offenders' opportunities to commit further crime. It could also stabilise their lifestyle and increase their likelihood of attending courses that reduce reoffending during the day. The community order can also include treatment for drug and alcohol problems where these relate to offending. Courts have said that they find it useful to have a menu of options and value the advice provided by probation officers on which to use. Reoffending rates for those on community orders are better than for similar offenders on short custodial sentences.

200. Despite this, there are some weaknesses within the current community order. Many of these are symptomatic of the overly centralised approach that has stifled innovation at each stage of criminal justice. This has meant the full power of community orders to break the cycle of offending has not been realised. Chapter 3 describes how we will liberate providers and pay them on the basis of the results they achieve. In support of this we wish to encourage more imaginative use of community sentences.

This does not mean putting large numbers of offenders on requirements that their offending behaviour does not merit. That would be neither an effective nor an efficient response. Rather, it means thinking more creatively about how the requirements may be combined and giving providers more discretion in how they exercise their professional judgement.

201. An imaginative use of community sentences is particularly important for the small but highly prolific group of offenders who, as a result of their persistent offending, are doing most damage to communities. Five areas in England and Wales are already running pilots to test an intensive community order targeting this group. It combines punishment and supervision with programmes to address offending. Feedback has so far been positive and therefore we will look to see how these principles can be best applied more widely.

#### **Intensive community sentences**

An adult offender had been sentenced to a community order for serious driving offences. He had also failed to comply with previous community orders for more minor offences. His intensive community sentence included a 12 month long supervision requirement, over 75 hours of unpaid work and attendance at a programme designed to address his offending behaviour.

The sentence was very demanding, but under close supervision the offender complied with all the requirements. He completed his unpaid work order paying back the damage he had done to the community and engaged with the offending behaviour programme. He was also required to undertake a compliance programme to address his history of breaching previous sentences, attend numerous appointments each week with a probation officer and be present for home visits from the police and probation. The offender is now employed in permanent work, has not reoffended and is now making a positive contribution to society.

202. To enable frontline staff to exercise sensible judgement we must reduce the bureaucracy associated with community orders. We have already started to test how we can do this with the launch of a pilot in the Surrey and Sussex Probation Trust. The professional judgement project, which began in June, is developing a new, more flexible, approach to the application of National Standards that gives greater discretion to staff, delivers more effective ways of managing caseloads and reduces bureaucracy. The new freedoms to exercise professional judgement within the current legislative framework include decisions about:

- the number and scheduling of appointments;
- when to undertake full risk assessments; and
- when an offender should start courses or programmes.

203. We will review the lessons from the pilot to help develop a new approach to standards which give much greater discretion to professionals in the way they manage offenders and enable them to focus on results. We expect to start introducing this new approach from April 2011 and make significant early progress. At the same time we will consider changing probation guidance so as to avoid unnecessary supervision requirements and allow the maximum freedom for probation staff to use their expertise to secure the greatest reduction in reoffending.
204. We are also exploring whether we can improve the current legislation. This could include reducing the level of detail with which a treatment or programme requirement must be specified by a court, so that providers have more room to tailor the intervention to the offender. Additional flexibility may be particularly valuable in tackling offending by people with mental health, alcohol or mental health problems. There are currently three requirements that can be included in a community order: one each for drugs, alcohol and mental health. Under these requirements, offenders agree to a programme of treatment which remains voluntary. However, in order to allow the sentence to be enforced, the commitments that an offender makes, such as to attend the treatment centre, forms part of the sentence and the offender can be returned to court if he fails to comply. For offenders with a high level of health problem this is an effective sentence. But in some cases, particularly for offenders with multiple problems, a more generic health treatment requirement may be a better way to engage them with all the treatment they need. The initial assessment would be made part of the sentence, with similar safeguards as exist for the current treatment requirements, but engaging with any subsequent programme of treatment would not.
205. There has been a disappointing level of use of current mental health treatment requirements despite the high prevalence of mental health problems among offenders. In part, this may be because the legislation requires a full psychiatric report before a requirement could be included, which may not always be needed. A more flexible approach to assessment may be more effective.
206. Flexibility will also help ensure we are smarter in ensuring compliance with community orders. Currently, legislation and guidance provide little room for professional judgement. For instance, some offenders are unnecessarily returned to court for breach hearings when it would be more effective to continue with the sentence. We are exploring whether to provide offender managers with more discretion in when to use enforcement action and return an offender to court and provide the courts with more choices in how to ensure that offenders face appropriate consequences for breach. This might include, for example, allowing them to use swift sanctions such as fines as a punishment for breach, alongside the wide ranging powers they already have to pass a more severe sentence. We will also explore changing the law to allow offender managers to terminate orders early if an offender has “earned” this through the progress they have made

### Consultation questions

**Q37.** How can we make community sentencing most effective in preventing persistent offending?

**Q38.** Would a generic health treatment community order requirement add value in increasing the numbers of offenders being successfully treated?

**Q39.** How important is the ability to breach offenders for not attending treatment in tackling their drug, alcohol or mental health needs?

**Q40.** What steps can we take to allow professionals greater discretion in managing offenders in the community, while enforcing compliance more effectively?

**Q41.** How might we target community sentences better so that they can help rehabilitate offenders before they reach custody?

### Greater use of financial penalties, with renewed focus on reparation

207. While financial penalties are not a sufficient punishment in the most serious cases, there are persuasive arguments that they should be used for many offenders before turning to other sanctions. Financial penalties, set at the right level, can be just as effective as a community sentence at deterrence and punishment. They also have the advantage that they do not affect opportunities for employment or impact on family responsibilities and so prevent the further acceleration into a criminal lifestyle.

208. The fine remains the most common sentence but, compensation orders aside, use of financial penalties has declined over recent years. Chapter 1 sets out our plans to encourage the increased use of compensation orders so that more victims can receive direct reparation from offenders. The Government believes that more use should be made of fines and compensation orders both alongside community penalties and as stand alone punishments.

209. This greater use of financial penalties needs to be accompanied by renewed efforts to improve enforcement. There have been significant improvements in the fine payment rate in recent years, with of 86% of financial penalties collected in 2009/10. However, despite these improvements, there remain some offenders who wilfully and persistently evade payment of fines. For this group, we believe that there is scope to accelerate the use of distress warrants, to provide the choice to either pay fines in full or face immediate seizure of assets.

210. Over and above changes in the use of distress warrants, we also want to explore whether asset seizure could be used as a punishment in its own right. Courts already have the power to hand down a confiscation order post-sentence in cases where offenders have gained financially from crime. Recovery of criminally-gained assets sends a powerful message to



offenders that crime does not pay. Courts already have the power to hand down a confiscation order post-sentence in cases where offenders have gained financially from crime.

211. Recovery of criminally gained assets sends a powerful message to offenders that crime does not pay. However, there is currently no power for courts to order personal property to be seized as a disposal in itself. We believe seizing assets such as cars could be an effective punishment for offenders who are cash poor but still possess a certain level of assets. The low resale value of many goods means that we would have to consider carefully whether such a scheme would be cost effective. Nevertheless, we intend to explore whether there are particular types of offender for whom seizing property might be an effective alternative to existing court disposals. We will also look at whether imposing restrictions on overseas travel could be a useful addition to a community order which could sometimes be enforced by seizing an offender's passport.
212. In addition, we want to explore the feasibility of using financial penalties more to fulfil the punitive element of a community sentence. For instance an offender could get a financial penalty instead of a punitive requirement such as Community Payback, alongside a rehabilitative requirement.
213. The main options to achieve greater use of financial penalties more broadly are to:
- encourage courts to consider making a fine and create a positive duty for courts to consider imposing a compensation order unless the victim does not wish one to be made;
  - provide for more use of powers to seize offenders' assets; and
  - encourage use of financial penalties in cases where the offender would currently get a community sentence to satisfy some of the punitive elements of the sentence.

**Consultation question**

**Q42.** How should we increase the use of fines and of compensation orders so as to pay back to victims for the harm done to them?

**Q43.** Are there particular types of offender for whom seizing assets would be an effective punishment?

**Efficient, effective use of the courts**

214. Although the great majority of cases are dealt with in magistrates' courts, the more serious offences are tried and sentenced in the Crown Court. The workload in the Crown Court has increased significantly over the last three years: there were nearly a fifth more cases received in the Crown Court for trial or sentence in 2009 than there were in 2006 (136,000 rather than 113,000). In many areas there are long delays and backlogs: almost 40,000 cases were waiting for trial in 2009. There have been

considerable successes in improving efficiency in the courts: over the same period, the Crown Court dealt with almost 20,000 more cases for trial or sentence.

215. There is considerable scope for improvement. One of the worst inefficiencies is that more than two-thirds of the cases reaching the Crown Court end in a guilty plea. Well over 10,000 such cases in 2009 pleaded at the door of the court. In most instances the defendant could have pleaded in the magistrates' court. The failure to do so means that resources – court costs, police and prosecution costs, legal aid – are wasted on cases that do not need to progress any further. Moreover, victims and witnesses have longer to wait before they discover whether they will have to give evidence. This can be traumatic, particularly where the defendant pleads guilty at the last minute. Victims and witnesses will have prepared themselves to appear in court and relive the events that took place, all for nothing.
216. The sentencing framework has long recognised the benefits of early guilty pleas in terms both of efficiency and of sparing victims needless worry. We want to ensure that defendants are encouraged to plead guilty at the earliest opportunity by reducing the sentence given for an early guilty plea (the “sentence discount”). We are considering whether this could be better achieved by introducing a maximum discount of up to 50 per cent that would be reserved for those who plead guilty at the earliest stage. We are also looking at other improvements to the court process with the intention of creating greater efficiency in dealing with cases. These proposals are set out in Chapter 6.

#### **Consultation question**

**Q44.** How can we better incentivise people who are guilty to enter that plea at the earliest opportunity?

#### **A simpler framework for out-of-court disposals**

217. Simplifying the sentencing framework and ensuring proportionate, efficient use of courts must also include a focus on simplifying and increasing the effectiveness of out-of-court disposals.
218. The number of out-of-court disposals administered each year increased significantly to 2007. In addition to simple cautions (formerly called police cautions), these disposals now include conditional cautions, penalty notices for disorder and cannabis warnings, as well as other police action such as restorative justice/neighbourhood resolution approaches.
219. The growth in use of out-of-court disposals was not at the expense of convictions: broadly similar numbers of cases have been convicted at court even though crime has been falling. This means that the criminal justice system has been dealing with an ever-increasing number of people, often for low-level misdemeanours. These types of crime must be tackled, but often the right response can take the form of approaches

such as restorative police action, rather than formal criminal justice processes. We intend to provide local areas with greater discretion, to allow them to deal effectively with low-level crime and anti-social behaviour.

220. Much of the increase in the use of out-of-court disposals was created by perverse incentives for criminal justice agencies, including targets to bring offences to justice. The removal of the “offences brought to justice” target has led to a slight fall. We have now swept away all targets in this area, in line with our intention to give back discretion to professionals such as police officers.

221. There remains an important place for out-of-court disposals in dealing with some criminal offences. They can provide swift and effective outcomes for victims and a proportionate response to misbehaviour that, although criminal, is not serious enough to prosecute or would result at most in a low-level penalty in court. Prosecuting such cases would use a disproportionate amount of resources to achieve a similar outcome, and would often entail delay for victims.

222. Out-of-court disposals can also help offenders understand the impact of their crime, make reparation to the victim and community, and divert people into treatment for drug, alcohol and mental health problems. However, this requires a system of out-of-court disposals that is simpler for practitioners and the public to understand, effectively enforces penalties, helps to change offenders’ behaviour and harnesses the power of communities to tackle problems in their area themselves, without recourse to the courts.

223. To support these aims we propose to:

- promote diversionary restorative justice approaches for adult and young people committing low-level offences as set out in Chapter 1. This will return discretion to police officers and encourage offenders to make swift reparation to victims and the wider community;
- amend the penalty notice for disorder scheme to allow suspects to pay to attend appropriate educational courses as an alternative simply to paying a financial penalty. This will help individuals to understand the harm caused by their conduct and reduce the likelihood of further offending;
- seek views on a limited further extension of the penalty notice for disorder scheme to include certain minor disorder offences, including those committed in Royal Parks;
- seek views on simplifying the out-of-court disposals framework by bringing police powers to use simple and conditional cautions in line with their powers to charge suspects. Careful and cautious consideration will be given to allowing the police the power to authorise conditional cautions without referral to the Crown Prosecution Service;

- consider, in light of pilots to be concluded in January 2011, whether punitive (financial penalty) conditions should no longer be available to the police and prosecutors as part of a conditional caution;
- explore opportunities for greater community involvement in the use of out-of-court disposals so that they become an integral part of innovative community justice approaches like Neighbourhood Justice Panels as set out in Chapter 6;
- develop the use of simple and conditional cautions to divert from prosecution foreign national offenders who have committed certain offences and agree to leave the UK (see the section below on foreign national offenders); and
- work with practitioners to produce a clearer national framework for the use of out-of-court disposals which promotes the professional discretion of police officers, while ensuring that out-of-court disposals are used appropriately, proportionately and effectively.

#### **Consultation questions**

**Q45.** Should we give the police powers to authorise conditional cautions without referral to the Crown Prosecution Service, in line with their charging powers?

**Q46.** Should a simple caution for an indictable only offence be made subject to Crown Prosecution Service consent?

**Q47.** Should we continue to make punitive conditional cautions available or should we get rid of them?

#### **Reduce the number of foreign national offenders**

224. The population of foreign national offenders in our system has doubled over the last decade. In September 2010, the foreign national prisoner population was 11,100; approximately 13% of the total prison population.

225. Our objective is that foreign national offenders – unless they have a legal right to remain here – should be deported or administratively removed at the end of their sentence. The use of criminal justice and immigration resources will follow this principle.

226. We are already working to implement measures to reduce the flow of foreign nationals at risk of offending into the UK and into our criminal justice system; and reduce the numbers of foreign nationals who are already in our system.

227. Existing schemes in place to support the earlier removal or transfer of foreign national offenders include the early removal scheme, under which foreign national prisoners can be considered for early removal up to 270 days before they would otherwise be eligible for release. We also plan to

change the law to provide for foreign nationals who are IPP prisoners to be removed from the UK at tariff expiry.

228. In addition, we will build on existing prisoner transfer agreements, which enable some foreign national prisoners to serve their sentence in their country of origin. The EU framework decision on prisoner transfer is due to enter into force in December next year, which will ensure that most EU nationals sentenced here after its implementation will also serve their sentences in their country of origin.

229. We want to go further, and we are exploring how sentencing and disposals could ensure that more of these offenders are removed from the country rather than being imprisoned here at the tax payers' expense. This new work includes using simple and conditional cautions to divert from prosecution foreign national offenders who have committed certain offences on condition that they leave the UK. We will begin piloting the use of simple cautions shortly so as to gain operational experience of running such a scheme before legislating to make conditional cautions available. Diverting such cases from prosecution will create savings for the police, the Crown Prosecution Service, courts and the UK Border Agency.

## 5. Youth justice

The purpose of the youth justice system is to prevent offending by children and young people between the ages of 10 and 17 years old, while safeguarding their welfare.

Some progress has been made in recent years. Both the number of young people entering the system and the number of young people in custody have reduced. Yet this progress sits alongside an unacceptably high level of re-offending. 75% of young people released from custody and 68% of young people on community sentences reoffend within a year. We must do better so that we can stop the young offenders of today becoming the prolific adult offenders of tomorrow.

This chapter describes how we propose to:

- prevent more young people from offending and divert them from entering into a life of crime, including by simplifying out-of-court disposals;
- protect the public and ensure that more is done to make young offenders pay back to their victims and communities;
- ensure the effective use of sentencing for young offenders;
- incentivise local partners to reduce youth offending and re-offending using payment by results models; and
- develop more effective governance by abolishing the Youth Justice Board and increasing freedoms and flexibilities for local areas.

### Preventing offending by young people

To prevent young people committing crime and beginning a pattern of criminal behaviour that could last into adulthood, we will:

- encourage Youth Offending Teams to improve the quality of work with parents including through greater use of parenting orders where parents will not face up to their responsibilities;
- simplify out-of-court disposals; and
- increase the use of restorative justice.

230. Preventing crime by young people is one of the most cost effective ways to provide long term benefit for communities. A high proportion of the most prolific adult offenders commit their first crimes at a very early

- age.<sup>11,12</sup> Intervening early in the lives of children at risk and their families, before behaviour becomes entrenched, can present our best chance to break the cycle of crime.
231. When children are involved in low-level crime or anti-social behaviour our aim is to intervene effectively to turn them away from crime. We are committed to engaging with those at risk – for example young people connected with gangs – and creating the opportunities for a life away from crime.
232. We need a local, joined up approach to address the multiple disadvantages that many young offenders have and the chaotic lifestyles that many lead. Youth Offending Teams play a key role here, bringing together the local authority, the police, probation and health to tackle youth offending. We support the Department for Education's Early Intervention Grant approach which will enable local authorities to invest in programmes for children, young people and their families who are at risk. We are also working with partners to build on existing pilots that seek to divert young people to services such as mental health or family support, to help to address the reasons why they offend and ensure that young people receive the most appropriate intervention at the earliest opportunity.
233. Supporting parents to improve their parenting skills plays a significant part in improving life chances and reducing reoffending. Where parents refuse to face up to their responsibilities, we will encourage Youth Offending Teams to make full use of parenting orders. These orders can compel parents to attend a programme to build their skills and comply with certain requirements such as to supervise their child at certain times. Chapter 6 sets out the cross Government programme on families with complex problems and plans to test the concept of community budgets to better tackle these issues.
234. Young people often commit low-level offences. This means that the disposals given out-of-court are particularly important and account for over 40% of responses to youth offending. Under the current system of out of court disposals, young offenders are automatically escalated to a more intensive disposal, regardless of the circumstances or severity of their offence.
235. We believe that this rigid approach can needlessly draw young people into the criminal justice system, when an informal intervention could be more effective in making the young person face up to the consequences of their crime, provide reparation for victims and prevent further offending.

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<sup>11</sup> Loeber, R. & Farrington, D. P. (eds) (1998) 'Serious and Violent Juvenile Offenders; Risk Factors and Successful Interventions', Thousand Oaks, CA: Sage.

<sup>12</sup> Hales, J, Nevill, C, Pudney, S and Tipping, S (2009) Longitudinal analysis of the Offending, Crime and Justice Survey 2003–06. Home Office Research Report 19. Home Office.

236. To remedy this we propose to simplify the current framework and allow police and prosecutors greater discretion in dealing with youth crime before it reaches court. We propose to end the current system of automatic escalation and instead put our trust in the professionals who are working with young people on the ground.
237. The police, working in partnership with other local agencies, will have more freedom to determine the most appropriate response, depending on the severity of the offence and the circumstances of the young offender. This could involve reparation or interventions such as a referral to mental health provision to tackle offending behaviour. We will also look at the future use of juvenile penalty notice for disorder, in conjunction with the Home Office review of Anti Social Behaviour tools and powers.
238. Given the changes we are proposing to the out of court framework, we will also consider whether there is a greater need for flexibility in sentencing options for those young offenders who on their first appearance in court plead guilty. Currently, young people who plead guilty on their first appearance in court will usually receive a referral order. Referral orders are overseen by referral order panels made up of volunteers from the local community and a member of the Youth Offending Team. The panel works with the young offender to agree the composition of the order which can set onerous requirements for the young offender to comply with. We are currently considering how we can make the use of referral orders more flexible and we would welcome views on how this might best be achieved.
239. To increase the use of restorative justice we will build on the role currently performed by volunteer youth offender panel members and ensure that referral orders have a strengthened restorative approach. We will support panel members to increase their skills and confidence in using restorative justice in referral orders where the victim wishes to participate. Restorative justice is already a key part of youth justice and we want to encourage this across the youth justice sentencing framework as a whole, drawing on the experience of youth conferencing in Northern Ireland.

#### **Consultation questions**

**Q48.** How can we simplify the out of court disposal framework for young people?

**Q49.** How can we best use restorative justice approaches to prevent offending by young people and ensure they make amends?



## Effective sentencing for young offenders

Custody has a part to play in the youth justice system for those young people who commit the most serious offences. However, too many young people whose offences are not the most serious and whose behaviour does not pose a risk to the public are sent to custody. We will ensure custody is used effectively for young people by:

- addressing the extensive use of remands to custody in the youth justice system;
- Introducing a single remand order for all under 18s making local authorities gradually responsible for the full cost of court ordered secure remand;
- amending the Bail Act 1976 to remove the option of remand for young people who would be unlikely to receive a custodial sentence;
- proposing that Youth Offending Teams establish new compliance panels to support young people in complying with their sentences; and
- addressing breach of detention and training orders by returning young people who breach to custody, even if their detention and training order has expired.

240. As with adults, we must make it clear to young people that if they commit crime, they will have to face the consequences for breaking the law. Public protection is critical, regardless of the age of the offender. Secure detention will always be the right option for the most serious and dangerous young offenders. It is essential both for public protection and as an appropriate punishment for a serious crime. However, it should be used sparingly as a last resort as it separates young people from their families and communities, can seriously disrupt education, training and development and is an expensive option that does not deliver good outcomes for young people.

241. If the use of custody for young people is to be an option of last resort there must be options available in the community which provide a robust balance of public protection, reparation and rehabilitation. To support this, a new community sentence for young offenders, the youth rehabilitation order, was introduced in November 2009. This can include alternatives to custody such as intensive fostering and intensive supervision and surveillance. We are currently assessing the impact of this order and do not propose any changes at this time.

242. However, as with adults, ensuring that community orders are robustly enforced is important for securing and maintaining confidence from both sentencers and the public. We are concerned that there is variation in the practice which applies to the breach of these orders with some areas proposing a custodial sentence for small, technical breaches, but other areas pursuing informal solutions even for very serious breaches.

243. To remedy this we propose that Youth Offending Teams establish new compliance panels. The panels would review an offender's case, consider the totality of the order and the action taken to gain the offender's compliance with their order, and advise the responsible officer of their view on the appropriate response to the breach.
244. Good progress has been made reducing the need for custodial sentences for young offenders with the numbers of young people in custody down by nearly a third since 2008. Most custodial sentences for young offenders are detention and training orders. These are sentences of two parts, with up to half served in custody and the rest served under supervision in the community. We think that the sentence itself provides a flexible enough framework to continue to make an impact on the high reoffending rates from custody and so we do not propose making substantial changes at this time. We do need, though, to make a consequential change to ensure that if a young offender has breached the supervision requirement of their order, they can still be returned to custody even if the detention and training order has expired.
245. Whilst custodial sentences for young people have been reducing, the use of custodial remand has not been falling at the same rate. Young people on remand now account for 28% of the custodial population. Evidence shows that 57% of young offenders on remand do not go on to receive a custodial sentence. To remedy this we need to ensure that local authorities have the right incentives to invest in alternatives strategies for this group of young people.
246. The current remand legislation for young people consists of a mixture of different frameworks for deciding where a young person is remanded and who pays, depending on the young person's age and gender. This needs simplifying. To achieve this we propose to create a single youth remand order for 12–17 year olds. This would, gradually and with an associated transfer of funding, transfer the full costs of all remand to local authorities. Placements of remanded young people would still be commissioned and managed centrally and the local authority would be charged for this service.
247. By creating a single order, we will address the current anomaly of 17 year olds being treated as adults in remand legislation. We will ensure that the structure is fully compatible with the United Nations Convention on the Rights of the Child which provides that a child means all persons under the age of 18.
248. Pending the introduction of a single youth remand order, we propose to use the existing legal framework to make local authorities gradually responsible for the full cost of court ordered secure remand, while retaining the central function to place children in secure custodial remand. This complements our wider move towards paying by results and giving local agencies more flexibility and responsibility in providing services.

249. We also propose to amend the Bail Act to remove the option of remand for young people who would be unlikely to receive a custodial sentence. This would affect the 57% of young people on remand who are currently acquitted or receive a community sentence. This is consistent with the proposals for adults set out at Chapter 4.

250. Consistently with the proposals for adult sentencing set out in Chapter 4 we also propose to make the following further changes:

- reform Detention for Public Protection (the juvenile equivalent of IPP) in line with the reforms for adult Indeterminate Public Protection sentences; and
- ensure that any reform to the Rehabilitation of Offenders Act outlined above in Chapter 2 will apply to young people.

251. This Green Paper does not seek to address the future shape of the custodial estate for under 18s. The above reforms should further reduce the number of young people who require custody. Over the coming months as we develop our policies we will consider and consult on the future of the youth secure estate.

### **Consultation questions**

**Q50.** How can we increase the effective enforcement of youth sentencing?

**Q51.** How can we succeed in reducing the need for custodial remand for young people?

## **Youth justice funding and payment-by-results**

We will test how payment-by-results can be introduced for youth justice to incentivise local areas to reduce youth offending. To do this we propose to:

- test how we can enable local areas to share in financial savings and risks resulting from the use of youth custody;
- test how financial incentives to local areas can be used to reduce demand on the criminal justice system; and
- explore how Youth Offending Teams and secure accommodation providers could move to a payment-by-results model.

252. Youth Offending Teams deliver youth justice services at a local level. They are made up of staff from several statutory partner agencies including the police, probation, children's services, health and education, and volunteers from the community. Youth Offending Teams are the responsibility of local authorities, who have a statutory duty to prevent offending by young people. The arrangement works well and we do not propose to make fundamental changes to the model of Youth Offending Teams at this time.

253. Currently the funding to Youth Offending Teams is provided partly through grants from the centre, but with the majority of funding coming from local agencies. There will continue to be a youth justice grant from the centre that is directed specifically to Youth Offending Teams and is outside of area based grants to local authorities. More than ever we need all partners involved with youth justice to work together to ensure that the local delivery of youth justice is properly resourced.
254. As a result of these funding arrangements, local areas are responsible for funding and delivering virtually all interventions for young offenders. The major exception to this is that if a young person is taken into custody the costs are borne centrally by the Ministry of Justice. There has long been an argument that local agencies lack the incentive, and the opportunity, to develop effective alternatives to custody for young people.
255. We believe that there is merit in this argument and more generally in increasing local incentives to reduce offending by young people. Our remand proposals include shifting responsibility and funding to Youth Offending Teams. We think there is more potential to test approaches that will incentivise and reward areas that are successful in intervening early to stop young people entering and escalating through the criminal justice system and in providing effective resettlement.
256. Specifically, we are proposing that local authorities should share both the financial risk of young people entering custody, and the financial rewards if fewer young people require a custodial sentence. This is in line with our principles of increased local accountability, and we believe this could result in fewer young people reoffending and more effective use of custody.
257. We therefore propose to run a small number of pilots, each working in partnership with a consortia of volunteer local authorities. We will agree a target reduction in the use of custody with the consortia and provide a reinvestment grant, on top of the standard grant to Youth Offending Teams, to help them achieve this. The consortia will have flexibility in how they use the funding. At the end of the pilot period we will recoup some, or all, of the grant if the consortium has failed to meet the agreed target, based on the consortium's use of custody. The pilots will enable us to explore how local areas can share in the financial savings and risks of custody.
258. To support this approach we intend to include youth measures in the pilots described in Chapter 3 which set out proposals to test how financial incentives could be used to reward local areas for reducing reoffending for adults in a similar way. Our proposals to pay by results and reform accountability arrangements will give local authorities increased flexibility – and responsibility – for resettling these young people more effectively, building on emerging good practice.

**Breaking the cycle: tackling youth re-offending through payment by results**

The London Reducing Reoffending Programme, called Daedalus, challenges young people in custody to stop offending, with the provider paid on the results they deliver. The programme entails young people from London, who are sentenced to custody, being placed in an enhanced resettlement unit within Feltham YOI, where they are linked up with a resettlement broker employed by the youth charity Rathbone. The resettlement broker's role is to help support the young person into education, training and employment, working with them both inside and outside of custody to reduce their likelihood of reoffending and improve their resettlement outcomes.

The London Development Agency (the commissioner) pays Rathbone for achieving both outputs and sustained outcomes for the cohort of young offenders in Feltham. Outputs include young offenders starting the project and their initial entry into education, training and employment. Outcomes include the young offender remaining in sustainable education, training and employment for a minimum of six months.

259. We are exploring how we could apply a payment by results approach to Youth Offending Teams and custodial providers. This would link the funding we give them to the outcomes that they deliver. We would welcome views on how this might be achieved, as well as how we design future contracts with custodial providers with this in mind.

260. Since policy for local government is a function that is devolved to the Welsh Assembly Government, we will work with our colleagues in Wales on how any future funding changes and payment-by-results approaches will apply to Welsh Youth Offending Teams.

**Consultation question**

**Q52.** How do you think we can best incentivise partners to prevent youth offending?

## Improving transparency and accountability in the youth justice system

We want to reform the governance arrangements for youth justice, and increase local accountability for performance through:

- clearer accountability structures at national level for youth justice;
- increasing freedom and flexibility to Youth Offending Teams, focusing support on areas that need it most; and
- giving communities greater involvement in youth justice services in their area.

261. We need to consider how the future governance of youth justice can support the delivery of better outcomes and better value for money. As part of these considerations we have decided that it is not necessary to have an independent agency to deliver the current functions of the Youth Justice Board. The youth justice system has existed in its current form for a decade, in which time Youth Offending Teams have become firmly established in delivering youth justice services on the ground. The system no longer requires central oversight from a separate organisation. The main functions which the Youth Justice Board has delivered will in the future be undertaken by the Ministry of Justice. These include:

- overseeing local Youth Offending Teams;
- disseminating effective practice;
- commissioning a distinct secure estate;
- placing young people in custody.

262. We will work closely with the Youth Justice Board and the Welsh Assembly Government to ensure a smooth transition to a new structure, ensuring that a distinct youth focus is retained. This work will take place over the coming months as the Public Bodies Bill is considered by Parliament.

263. The Government is committed to increasing local accountability for delivering services. Youth Offending Teams are currently subject to a high level of central performance monitoring. We intend to move towards a lighter touch performance monitoring capability which supports a more risk based inspection programme and increases professional discretion. We believe that we can slim down the oversight of Youth Offending Teams to be centred on three key outcomes:

- reducing the number of first time entrants to the youth justice system;
- reducing reoffending; and
- reducing custody numbers.

264. Inspections should incentivise continuous improvement and encourage local authorities and wider services to improve. Increasing the transparency of the three key outcomes above at a local level will complement a risk-based inspection approach and allow us to target inspection, and follow-up support, where it is most needed. We propose that inspection of the Youth Offending Team could form a clearer part of the inspection of mainstream local authority children's services, to reduce the inspection burden on local areas whose performance is not a cause for concern.
265. We want to achieve an increase in the discretion of frontline professionals to deliver the services that will have the greatest impact on both potential and current offenders. We will explore, as part of the current review of the system for individual assessments, the potential to increase discretion and reduce the amount of time frontline workers spend in front of their computers, so as to free up their time to work with young offenders. More broadly, benefits can be realised from increased freedom and flexibility for local authorities to work together. For example, the innovative consortia approach adopted amongst some local youth offending partnerships on resettlement is already showing positive results. These consortia encourage integrated working between the youth justice system, children's services and other important services in local authority areas.
266. In line with our broader reforms on transparency we also believe that local communities should know how their local youth justice services are performing, and have an opportunity to be involved. Both Youth Offending Teams and secure estate providers significantly involves volunteers to support the work that they do; there are approximately 10,000 volunteers already working within the youth justice system. This includes participation as youth offender panel members and mentors. We want to build on this, including encouraging voluntary and community sector providers, where appropriate, to deliver services. We also intend to publish more data at local level so that communities can see the effectiveness of their local Youth Offending Team for themselves, and use this information to inform and shape local priorities.

#### **Consultation questions**

**Q53.** How can we deliver a performance management and inspection regime that achieves our aim to reduce burdens and increase local accountability?

**Q54.** What are some of the ways we might be able to further involve local communities in youth justice?

**Q55.** How can the functions of the Youth Justice Board best be delivered by the Ministry of Justice?

## 6. Working with communities to reduce crime

The police and the courts, along with other services such as health and education, have a crucial role in working with prison and probation services to make the rehabilitation revolution a reality.

The police are at the frontline of protecting the public, and they are playing an ever greater role in turning offenders away from a life of crime. The courts are the focal point for the criminal justice system and we must ensure they play a full part in improving public safety and reducing crime.

We also want to see a fundamental shift in accountability from central government to local areas. We will support local criminal justice services to work more flexibly and efficiently together and give private, voluntary and community sector providers more opportunities to deliver local services. We will give people better information about how crime and reoffending affects their community and more opportunity to find out what is being done about it so that they are better able to demand more action where it is required.

This chapter sets out how we will deliver this shift by:

- strengthening the role of the police in turning offenders away from a life of crime and preparing for the election of the first Police and Crime Commissioners in May 2012;
- ensuring that courts become more efficient and effective and that they play a strong role in tackling reoffending;
- increasing freedoms and flexibilities for local areas, including supporting innovative approaches to tackling families with multiple needs;
- giving communities more chance to get involved, better information about how justice is delivered, and making services more transparent and accountable to the public; and
- working across Government to ensure that the necessary services play a key role in enabling offenders to become responsible, productive citizens.

### **The Police Reform and Social Responsibility Bill**

267. Close cooperation between prison and probation providers and the police will continue to be critical in improving public safety and reducing crime. The Police Reform and Social Responsibility Bill sets out how the Government will transform policing by giving local police forces and communities the freedom and shared responsibility to prioritise the crime that matters most to local residents. It represents a significant shift in making police services directly accountable to local communities.



268. The central proposition is the establishment of directly elected Police and Crime Commissioners. From May 2012 they will assume overall responsibility for the totality of policing and reducing crime within a police force area. They will work with a range of local partners, including Community Safety Partnerships, other criminal justice agencies and private, voluntary and community sector partners to reduce crime.

269. Building strong and effective relationships will be critical to addressing the priorities of local communities successfully. To support such an approach the Police and Crime Commissioners and criminal justice agencies will be placed under a reciprocal duty to work with one another. Following their introduction we will then explore the extent to which Police and Crime Commissioners can take a greater role in supporting the delivery of justice. The commitment to continue to support integrated offender management approaches (described in Chapter 2) and the local payment by results projects (described in Chapter 3) will test and support how this might be best achieved.

### **Reforming the courts to provide more efficient and effective justice for communities**

270. It is in the courtroom that sentencers sit in judgement on cases, establishing the facts, and bringing the full weight of the law to bear where there is wrongdoing or disagreement. For this reason the court is the fulcrum of our criminal justice system.

271. It is essential that our networks of courts are focused on fulfilling this role speedily and efficiently. We must therefore ensure that the courts estate is fit-for-purpose, that criminal justice professionals have the necessary freedom to innovate and that local communities have better access to the courts system and better information on the role they fulfil.

### **An efficient and effective criminal justice system**

272. We will work with the Police, Crown Prosecution Service, judiciary and other partners to ensure that the criminal justice system operates as efficiently as possible end-to-end. We have already consulted on initial plans to make better use of the court estate. We will close those courts which are under used, or not fit for purpose, while maximising the use of the remaining court estate by targeting our resources on improving facilities elsewhere.

273. Effective case management is also a critical part of this. Despite improvements, there are still too many cases which 'crack' because of a change of charge or the prosecution deciding there is insufficient evidence. There are still too many ineffective trials as a result of parties not being ready or witnesses failing to attend court. We will work with the judiciary to ensure that all parties focus on case management, both in the

Crown and magistrates' court. A change in culture should reduce the length of trials and reduce the level of cracked and ineffective trials.

274. We also believe that much better and more imaginative use of video technology has the potential to revolutionise the way in which courts business is conducted. We are looking at how we can build on existing pilots of virtual courts and prison to court video links to improve efficiency.

275. Equally important is the urgent need to improve the administration and progression of cases through the system. Rules, processes or procedures that are unnecessary or overly burdensome will be scrapped. We will use existing 'LEAN' techniques to enable staff at a local level to eradicate other waste or inefficiency in the way the CJS operates. We will bring forward more detailed proposals in these areas by July 2011.

#### **Northumbria Criminal Justice Board – Delivering Quality Together**

Since April 2010 Northumbria Criminal Justice Board has engaged in a ground breaking project to remove waste and improve efficiency by harnessing the expertise of frontline staff. The project borrows proven management techniques from the private sector such as 'LEAN' management and deploys them jointly across a number of organisations in a way which is at the forefront of public sector innovation. The team includes police officers, lawyers and administrators, pooling their joint expertise to understand and streamline the justice process. So far the team has uncovered 170 examples of duplication or poor quality work which result in waste and therefore increased cost. The effects are felt by victims and witnesses. For example, the team identified that staff time spent duplicating data entry on to multiple IT systems cost over £200,000 between April and October 2010. In another example the current bail process generated approximately 40,000 avoidable emails between Police officers and civilian staff over the same time period.

The team are now examining the business case to create a local justice administration service which will remove some of the duplication and errors caused by the overlap between multiple administrative teams in the police, Crown Prosecution Service and HM Courts and Tribunals Service.

#### **The right service for the right case**

276. Chapter 4 describes how an imbalance in the use of courts has developed in the last few years. Workloads in the Crown Court have increased substantially while magistrates' courts operate at significantly less than full capacity. In civil and family justice, opportunities to settle more cases out-of-court are being missed.

277. This situation can lead to unnecessary delays in the provision of justice and must be addressed. We will therefore incentivise the early resolution of disputes, take better advantage of available alternatives to court and ensure the court itself is as streamlined, efficient and sustainable as possible.

278. In criminal cases, out-of-court disposals can provide a much more direct and proportionate response to the damaging effects of minor criminality. However, as detailed in Chapter 4, there is more to do if they are to be made as effective and innovative as they need to be. In particular we propose to increase the opportunities for community involvement in Neighbourhood Justice Panels, as set out below.
279. In civil and family cases, we want to encourage parties to take up alternative means of dispute resolution which could reduce the adversarial nature of many cases, and help empower individuals to take greater control over the resolution of their cases. We will be outlining these proposals in more detail in a civil justice consultation paper in Spring 2011. Following this the independently chaired Family Justice Review will publish its proposals for fundamental reform of family justice.
280. It is important that cases which come before a court are heard in the most appropriate place. The Crown Court is the right place for the most serious cases, and when a defendant has elected to be tried by jury, but it does the justice system no good if it is used inappropriately. Chapter 4 of this document explains why we want to see more cases dealt with summarily by magistrates and outlines how our plans to reduce the numbers of late guilty pleas will provide an important move in this direction.
281. However, while we believe that the discretion for magistrates to refer cases to the higher court where necessary should be preserved, we are also clear that this should happen only when there are clear and compelling reasons. In particular, we want to see magistrates taking into account the potential impact of inappropriate referral on the swift delivery of justice and on victims and witnesses.
282. Problem-solving approaches aimed at tackling reoffending have also been tested in the magistrates' courts through initiatives such as the dedicated drug court and mental health court pilots, which are currently being evaluated. Emerging findings from the pilots indicate that these models may increase the efficiency of proceedings, increase compliance by offenders and improve partnership working. We are clear that these will only be continued if they genuinely make a difference and are cost effective. If this proves to be the case we propose to bring them together with learning from problem-solving approaches in other courts to develop a broader problem-solving model for the day-to-day business of the magistrates' courts.
283. We will also continue to support the successful specialist domestic violence court systems for dealing with domestic violence cases in magistrates' courts. There are currently 141 such systems, each one founded on a partnership approach to domestic violence by the police, prosecutors, magistrates, court staff, the probation service and specialist support services for victims.

284. For more serious offenders the intensive, multi-agency community justice approach aims to tackle offending through more collaborative working with other criminal justice agencies, support services and community groups. This approach has been pioneered by the North Liverpool Community Justice Centre, established in 2005. The available evidence of the North Liverpool model's impact on reducing reoffending is so far inconclusive, and the model can only be replicated at prohibitive cost. However, there are clearly lessons to be learnt from their experience. We will be looking closely at the findings of ongoing evaluations to assess the scope for bringing aspects of community justice together with payment by results and integrated offender management, with the aim of securing significant reductions in levels of reoffending.
285. As the cornerstone of the criminal justice system, communities require strong links with the courts which serve them. Sentencers and courts staff want to know how crime is affecting the lives of local communities. Similarly, people affected by crime want to understand more about the delivery of justice and how they can get involved. To achieve this we will provide better access to information about crime, reoffending, and the way that criminal justice services operate in their localities.
286. We want courts to increase their contribution to local partnership working and so we will continue to support local action by magistrates' courts to understand the concerns of local communities, de-mystify the court process and promote better understanding of sentencing. We will explore with the judiciary what part magistrates may play in their local neighbourhood policing partnerships and police beat meetings, whilst protecting their judicial independence and any possible perception of bias.
287. However, we also need to promote other opportunities for public involvement, through consultation about local concerns and action to address them and through volunteering. We want to test new, innovative ways of getting communities more involved in tackling low-level crime and anti-social behaviour. One approach which we are particularly interested in piloting is that of Neighbourhood Justice Panels. These provide a form of restorative justice in which local volunteers and criminal justice professionals are brought together to decide what action should be taken to deal with some types of low level crime and disorder. We will be bringing forward plans to test their effectiveness in the summer.

### **South Somerset Community Justice Panels**

People in Chard, Somerset took the initiative and worked with local criminal justice agencies and the local authority to develop an innovative, community-based solution to tackling low-level crime in their area. Cases that needed to come to court were being heard at Yeovil and news about the outcomes was not always reported in the local newspaper. Local people decided to do something to tackle the perception that nothing was being done about offences which had been reported to the police.

Community groups got together with a councillor, the police beat manager and the local newspaper to discuss a solution. This led to the establishment of a Neighbourhood Justice Panel to deal with low level crime and anti-social behaviour within the community. The types of cases dealt with by the panel include assaults, neighbour nuisance, public order, criminal damage and race hate. Volunteers from the community bring offenders and victims together to apply a restorative justice approach, concluding with the offender signing an acceptable behaviour contract, focused on repairing the harm done and stopping the behaviour.

### **Consultation question**

**Q56.** What sort of offences and offenders should Neighbourhood Justice Panels deal with and how could these panels complement existing criminal justice processes?

### **Increasing freedoms and flexibilities for local areas**

288. The Government is committed to the principle of decentralisation. We will devolve accountability and decision making to the lowest appropriate level and encourage criminal justice agencies to draw authority from their locality rather than central government. This means giving frontline staff and their local communities more control over resources and the power to develop local solutions that really meet their needs.

289. We want to reduce the burdens on local partners – such as excessive performance targets or overly bureaucratic inspection regimes – to enable them to focus their efforts where they are really needed and to ensure that it is the local community that holds them to account. The abolition of local area agreements, comprehensive area assessments and public service agreements signalled the Government’s move away from centrally driven targets and restrictive performance management regime. We are currently consulting on replacing the six existing reoffending related measures with a single, comprehensive and easily understandable outcome. Along with the reduction in performance targets for youth justice, described in Chapter 5, this will free up local agencies to address their local crime and offending priorities.

290. The partnership structures already in place have an important role in supporting this approach. The local criminal justice boards, which are

mapped on to police force areas, involve a range of agencies including court managers, the Crown Prosecution Service, prisons and probation. At a more local level members of community safety partnerships have a statutory responsibility to work together to reduce reoffending in their area.

291. We know that in some areas local partners are building on this to bring together a broader range of partners across criminal justice and community safety. For example, in Gloucestershire, local agencies have brought together a range of county and district level partnerships to form a single commission, to improve use of mainstream budgets in advance of the appointment of the first Police and Crime Commissioners. We welcome such proactive efforts by local areas to reconsider how they work together in order to be more efficient and more responsive to local priorities.
292. To prepare the way for more radical approaches, the spending review announced that pilots will be run to test the concept of community budgets in England. From April 2011, 16 local areas, with their electorates, will decide which local projects and services public money should fund from a pooled budget in order to offer the best support for families with complex needs. Many members of these families are offenders or are at risk of becoming offenders, and building enduring family relationships can have an important stabilising impact on them. Intervening at an early stage will benefit both families and communities by reducing reoffending and interrupting the cycle of intergenerational crime. We will support the development and delivery of these pilots locally and nationally, and continue to work with the Department of Education on our response to families with multiple problems.

#### **Consultation questions**

**Q57.** What are the other ways in which we can work effectively across Government to increase local flexibility to tackle offending?

**Q58.** What more can be done to support family relationships in order to reduce reoffending and prevent intergenerational crime?

#### **A transparent system that is accountable to communities**

293. The approach we have set out in this Green Paper is built on the principles of the Big Society: opening up public services to new and independent providers; increasing social action so that people give time, effort and money; and empowering citizens and communities to hold local agencies to account and share responsibility for making their neighbourhoods safer.
294. Increased transparency through the provision of better information to the public is a crucial element of our proposed reforms. We have already described our proposals to make sentencing clearer; to simplify the way reoffending rates are measured; and to look at ways of involving victims and communities in action to tackle low level crime and anti-social

behaviour. To support this further, we will publish more and better information about crime and reoffending and what is being done about it locally. We have already made a start. In October we published sentencing data by offence type at area level and, for the first time, at individual court level. In January 2011 the Home Office will publish crime data at street level and we are looking at the feasibility of mapping justice outcomes by area.

295. It is important that members of the public can access and understand information about the amount of crime and reoffending taking place in their communities. They should also have information about the service standards and commitments they can expect in response. So we are looking at what local information should be provided as a minimum in each area and what communities can do if they do not feel they are getting the standards of service they have a right to expect. This will increase the extent to which members of the public can hold their local services to account, and contribute to improving trust in criminal justice services, and in court outcomes in particular.
296. In addition, we want to increase community awareness of and involvement in a range of local action on crime and justice issues, whether this is through attendance at police beat meetings, involvement through regular local consultative or other criminal justice partnership events or through more formal volunteering opportunities. The aim is to increase community involvement in action to tackle low-level crime and anti-social behaviour and to increase community resilience and influence.
297. Volunteering is an important part of this. There is already a significant number of volunteers in the criminal justice system committed to making our society safer. We have 29,000 volunteer magistrates; 6,500 volunteers in Victim Support; 15,000 special constables; 6,000 police support volunteers; and over 3.1 million Neighbourhood Watch members. We also benefit from the commitment of volunteers who support our goals to protect the public and rehabilitate offenders. This includes members of Independent Monitoring Boards for prisons or Youth Offender Panels and lay advisors on Multi-Agency Public Protection Panels, along with many others working in prisons and with offenders and ex-offenders in the community. We are committed to making volunteering more accessible to those members of the public who want to play a bigger role in tackling crime in their communities.
298. We will bring forward more detailed plans for increasing community access to local criminal justice, through information, consultation and direct involvement by March 2011.

**Consultation question**

**Q59.** What more can we do to engage people in the justice system, enable and promote volunteering, and make it more transparent and accountable to the public?

### Working in partnership across government

299. In order to achieve our ambition for radical reform of our justice system, implement the range of policies set out in this Green Paper and achieve the benefits we want to see, it is essential that the Ministry of Justice works closely with our partners in other government departments and agencies. We are therefore committed to partnerships in the following areas, as discussed more fully in the earlier chapters:

- with the **Home Office** on reducing crime and working in partnership with the police on integrated approaches to managing offenders. We will also support the work on protecting freedoms and civil liberties set out in the forthcoming Freedom Bill. We will also work with **UK Border Agency** and the **Foreign and Commonwealth Office** to remove foreign national offenders;
- with the **Crown Prosecution Service** to ensure that the criminal justice system operates as efficiently as possible end to end. Partnership with the **Attorney General's Office** will help us achieve this aim;
- with the **Department for Communities and Local Government**, supporting improvements to local initiatives to reduce crime and reoffending and the effective delivery of youth justice through local Youth Offending Teams. We will identify how to increase the freedom and flexibilities of local partners, and provide them with the right information and data, to target their resources effectively and efficiently, and to help reduce the barriers into stable and suitable housing for those offenders who have shown their willingness to change their behaviour;
- with the **Department of Health** to tackle drug and alcohol misuse and improve mental health outcomes for offenders, both in prison and in the community. We will work together on plans to commission drugs services jointly on a payment by results basis; implement liaison and diversion services in courts and police stations, supporting diversion of offenders with mental illness into NHS treatment, in the community where that is appropriate;
- with the **Department of Work and Pensions** in getting offenders into employment and contributing to society, both through improving their skills and access to jobs. We will work together on plans to commission jointly services on a payment by results basis to improve employment and reducing reoffending outcomes for offenders. We will also continue to work to improve joint working between NOMS and Job Centre Plus at a local level;
- with **Department for Business, Innovation and Skills** to achieve our aims to make prisons places of industry and hard work, and make Community Payback meaningful for local communities. Involving also the Department of Work and Pensions, we will publish plans to improve the offender learning and skills provision to help develop employability and help link offenders up with employers;



- with the **Department for Education** to prevent young people entering a life of crime, to improve outcomes for young offenders, to support children and families at risk of offending and ensure that Youth Offending Teams and probation services place an emphasis on preventative work; and
  - with the **Office for Civil Society** to support our aim to open up the market in the management of offenders and rehabilitation interventions to private and voluntary sector providers, to support the development of more flexible and innovative responses, making best use of the expertise available in our communities to tackle crime and offending.
300. By working together at a national, regional and local level we can make a real difference in tackling crime and reoffending and hence improve public safety.

## 7. Consultation

301. This Green Paper is open to public consultation. For such a radical set of proposals to be successful, and for it to be delivered with significantly reduced resources, we will need to consider the ideas and contributions of professionals, users, victims, and stakeholders, who have the experience and expertise that we need to get this right. We also want to invite members of the public to respond with their views on our proposed reforms.
302. We would welcome contributions that help us to consider the impacts that the proposals might have on offenders according to their age, ethnicity, disability, gender, sexual orientation, religion, or any other protected characteristics identified in the Equality Act 2010. This programme of reform presents us with opportunities to address areas of disproportionality and inequality, in the context of the areas we are consulting on. However, we must acknowledge that there may also be risks. An initial equality screening exercise that supports this Green Paper can be found alongside this publication. The consultation responses will form an important part of the full impact assessments on the proposals that will be undertaken following the consultation exercise.
303. We are working with the Welsh Assembly Government to consider how to take forward our plans in the devolved administration in Wales. We welcome further views on how we can work with Welsh services and providers on how our plans can help reduce reoffending and improve public safety in Wales.
304. We will also consult with the Scottish Government to understand any impact that our proposals may have in Scotland.
305. We are keen to encourage views from communities, and in particular those who have been directly affected by the crimes that offenders commit. In order to do this we have engaged with the Victims Commissioner to ensure that the voices of victims, and those who represent them, are heard as part of the consultation. We would welcome responses too from community groups who may have views about how crime can be tackled in communities, and how offenders might be reintegrated into their communities.
306. The consultation period will end on 4 March 2011, at which point all of the responses received will be analysed and considered.
307. Responses to the consultation can be submitted directly through the Ministry of Justice website at [www.justice.gov.uk](http://www.justice.gov.uk), via email to [breakingthecycle@justice.gsi.gov.uk](mailto:breakingthecycle@justice.gsi.gov.uk) or by post to Breaking the Cycle, Ministry of Justice, 10.08, 10<sup>th</sup> Floor, 102 Petty France, London, SW1H 9AJ.

## Annex A – Timetable for delivery

The Ministry of Justice Business Plan 2011–2015 sets out an ambitious timetable for delivering the proposals described in this Green Paper.

Business Plan Action Points	Date	
	Start	End
1.1 – Develop an overall strategy for the ‘rehabilitation revolution’ for adults and youths, including paying local private and voluntary organisations by results	Oct 2010	Nov 2011
1.2 – Introduce payment by results schemes, working with local, voluntary and private sector organisations that specialise in the rehabilitation of offenders	Started	Aug 2016
1.3 – Design and run pilots to pay contractors by results to rehabilitate offenders with drug problems, working with the Department of Health and other government departments	Started	Sept 2013
1.4 – Incentivise Work Programme providers commissioned by the Department for Work and Pensions to give employment support to unemployed offenders, with the providers paid by the results of getting people into work	Started	Sept 2014
1.5 – Explore alternative forms of residential treatment-based accommodation for mentally ill and drugs offenders	Started	Dec 2011
1.6 – Support the Department of Health to roll out liaison and diversion services for mentally ill offenders	Nov 2010	Nov 2014
1.7 – Increase the number of prisoners doing meaningful work for real wages and ensure greater reparations to victims	Started	May 2011
2.1 – Conduct a full examination of sentencing policy to ensure that the justice system reduces reoffending by introducing more effective sentencing policies and considering the use of restorative justice for adult and youth crimes	Oct 2010	Nov 2012
2.2 – Help ensure that historical convictions for consensual gay sex with over-16s will be treated as spent and will not show up on criminal record checks, with Home Office	Started	Feb 2011
2.3 – Explore reform of out-of-court disposals, including restorative justice approaches	Started	Feb 2011
2.4 – Explore the use of Neighbourhood Justice Panels to divert a number of low-level cases from court to be heard by a panel of community volunteers and Criminal Justice System practitioners	Started	Jul 2011
5.1 – Invite private and voluntary organisations and local communities to provide services where they can do so effectively and at a lower cost	Nov 2010	Spring 2012

## **Annex B – Full list of consultation questions**

**Q1.** How should we achieve our aims for making prisons places of hard work and discipline?

**Q2.** How should we best use the expertise and innovation of the private and voluntary sectors to help develop the working prison?

**Q3.** How can we make it possible for more prisoners to make reparation, including to victims and communities?

**Q4.** How do we target tough curfew orders to maximise their effectiveness?

**Q5.** What are the best ways of making Community Payback rigorous and demanding?

**Q6.** How can communities be more involved in influencing the type of work completed by offenders on Community Payback?

**Q7.** How should we seek to deliver Community Payback in partnership with organisations outside government?

**Q8.** What can central government do to help remove local barriers to implementing an integrated approach to managing offenders?

**Q9.** How can we incentivise and support the growth of Integrated Offender Management approaches?

**Q10.** How can we ensure that providers from the voluntary and community sector can be equal partners in the delivery of this integrated approach?

**Q11.** How can we use the pilot drug recovery wings to develop a better continuity of care between custody and the community?

**Q12.** What potential opportunities would a payment by results approach bring to supporting drug recovery for offenders?

**Q13.** How best can we support those in the community with a drug treatment need, using a graduated approach to the level of residential support, including a specific approach for women?

**Q14.** In what ways do female offenders differ from male offenders and how can we ensure that our services reflect these gender differences?

**Q15.** How could we support the Department of Work and Pensions payment by results approach to get more offenders into work?

**Q16.** What can we do to secure greater commitment from employers in working with us to achieve the outcomes we seek?

- Q17.** What changes to the Rehabilitation of Offenders Act 1974 would best deliver the balance of rehabilitation and public protection?
- Q18.** How can we better work with the private rented sector to prevent offenders from becoming homeless?
- Q19.** How can we ensure that existing good practice can inform the programme of mental health liaison and diversion pilot projects for adults and young people?
- Q20.** How can we best meet our ambition for a national roll-out of the mental health liaison and diversion service?
- Q21.** How can we reshape services to provide more effective treatment for those offenders with severe forms of personality disorder?
- Q22.** Do you agree that the best way of commissioning payment by results for community sentences is to integrate it within a wider contract which includes ensuring the delivery of the sentence?
- Q23.** What is the best way of reflecting the contribution of different providers within a payment by results approach for those offenders sentenced to custodial sentences and released on licence?
- Q24.** What is the best way of developing the market to ensure a diverse base of providers?
- Q25.** Do you agree that high risk offenders and those who are less likely to reoffend should be excluded from the payment by results approach?
- Q26.** What measurement method provides the best fit with the principles we have set out for payment by results?
- Q27.** What is the best option for measuring reoffending and success to support a payment by results approach?
- Q28.** Is there a case for taking a tailored approach with any specific type of offender?
- Q29.** What are the key reforms to standards and performance management arrangements that will ensure that prisons and probation have more freedom and professional discretion and are able to focus on the delivery of outcomes?
- Q30.** What are the key reforms to financial arrangements that will support prisons and probation in delivering outcomes at less cost?
- Q31.** How do we involve smaller voluntary organisations as well as the larger national ones?
- Q32.** What are the best ways to simplify the sentencing framework?

**Q33.** What should be the requirements on the courts to explain the sentence?

**Q34.** How can we better explain sentencing to the public?

**Q35.** How best can we increase understanding of prison sentences?

**Q36.** Should we provide the courts with more flexibility in how they use suspended sentences, including by extending them to periods of longer than 12 months, and providing a choice about whether to use requirements?

**Q37.** How can we make community sentencing most effective in preventing persistent offending?

**Q38.** Would a generic health treatment community order requirement add value in increasing the numbers of offenders being successfully treated?

**Q39.** How important is the ability to breach offenders for not attending treatment in tackling their drug, alcohol or mental health needs?

**Q40.** What steps can we take to allow professionals greater discretion in managing offenders in the community, while enforcing compliance more effectively?

**Q41.** How might we target community sentences better so that they can help rehabilitate offenders before they reach custody?

**Q42.** How should we increase the use of fines and of compensation orders so as to pay back to victims for the harm done to them?

**Q43.** Are there particular types of offender for whom seizing assets would be an effective punishment?

**Q44.** How can we better incentivise people who are guilty to enter that plea at the earliest opportunity?

**Q45.** Should we give the police powers to authorise conditional cautions without referral to the Crown Prosecution Service, in line with their charging powers?

**Q46.** Should a simple caution for an indictable only offence be made subject to Crown Prosecution Service consent?

**Q47.** Should we continue to make punitive conditional cautions available or should we get rid of them?

**Q48.** How can we simplify the out of court disposal framework for young people?

**Q49.** How can we best use restorative justice approaches to prevent offending by young people and ensure they make amends?

**Q50.** How can we increase the effective enforcement of youth sentencing?

**Q51.** How can we succeed in reducing the need for custodial remand for young people?

**Q52.** How do you think we can best incentivise partners to prevent youth offending?

**Q53.** How can we deliver a performance management and inspection regime that achieves our aim to reduce burdens and increase local accountability?

**Q54.** What are some of the ways we might be able to further involve local communities in youth justice?

**Q55.** How can the functions of the Youth Justice Board best be delivered by the Ministry of Justice?

**Q56.** What sort of offences and offenders should Neighbourhood Justice Panels deal with and how could these panels complement existing criminal justice processes?

**Q57.** What are the other ways in which we can work effectively across Government to increase local flexibility to tackle offending?

**Q58.** What more can be done to support family relationships in order to reduce reoffending and prevent intergenerational crime?

**Q59.** What more can we do to engage people in the justice system, enable and promote volunteering, and make it more transparent and accountable to the public?



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