

Community Sentencing



A review by the 2017/18 External Services Scrutiny Committee and its commissioned working group members:



Councillors Ian Edwards (Chairman); Jane Palmer, Catherine Dann, Henry Higgins, Lynne Allen; Manjit Khatra



HILLINGDON
LONDON

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Chairman's Foreword

‘A review of community sentencing in Hillingdon’



On behalf of the External Services Scrutiny Committee, I am pleased to present this report prepared by a Working Group we established, which was intended to look at the effectiveness of community sentencing in Hillingdon. However, as the review progressed it became apparent that changes introduced in the Government's Transforming Rehabilitation programme initiated in June 2014 have had a significant impact on the accountability of organisations providing former probation services both locally and nationally. Regrettably, the lack of participation of one of the principal organisations involved in community sentencing has restricted the feasibility of conducting a thorough review of the effectiveness of community sentences within the Borough. As a consequence, our residents cannot be reassured that community sentences for less serious crimes are effective in their purpose of reparation and punishment. This is damaging to public confidence in the judicial system and should therefore be of great concern.

Furthermore, it was not possible to determine that the rehabilitation services provided to offenders in our Borough were effective, which is equally concerning should offenders not be receiving the help that they need to prevent their reoffending.

Further to this review, the External Services Scrutiny Committee recommends that the findings regarding the accountability of local partners in terms of scrutiny be forwarded to the appropriate Government departments requesting that improvements be undertaken in this area.

I would like to take this opportunity to thank those officers who have given up their time to help the Committee, and commend them for their continued hard work in providing a high quality community safety service to the residents of the Borough.

Councillor John Riley

Chairman of the External Services Scrutiny Committee 2017/18

Summary of recommendations to Cabinet

Through the witness sessions and evidence received during the detailed review by the Committee, Members have agreed the following recommendations to Cabinet:

1	That Cabinet note the changes in how probation services operate since the service was split in June 2014 into the London Community Rehabilitation Company (CRC), responsible for the supervision of community orders for low to medium risk offenders, and the revised National Probation Service with responsibility for higher risk cases.
2	That Cabinet recognise the challenges faced by the review, particularly in view of the London Community Rehabilitation Company's failure to answer Members' questions and participate readily in the scrutiny process; as a result of which the Committee was unable to conduct a thorough review of community sentencing in the Borough.
3	That Cabinet recognise the recent recommendations of the Communities and Local Government Select Committee and request that the Chief Executive forward the External Services Scrutiny Committee's findings both to local MPs (with a request for comments and feedback) and to the Justices Committee, the Secretary of State for Housing, Communities and Local Government and the Chairman of the Housing, Communities and Local Government Parliamentary Select Committee, requesting that action be taken to improve the local accountability of Community Rehabilitation Companies (CRCs), specifically in terms of scrutiny.
4	That Cabinet also note the non-attendance of the London Community Rehabilitation Company at Community Safety Partnership meetings, which has had a negative impact on the Partnership's ability to reduce crime and reoffending in the Borough.
5	That Cabinet request the Chief Executive write to HM Chief Inspector of Probation to seek an inspection of the services provided by the London Community Rehabilitation Company in Hillingdon.

Background to the review

Community sentencing, alternative sentencing and non-custodial sentences are terms used in criminal justice for different methods by which courts can punish and rehabilitate an individual who has been convicted of committing an offence. At the heart of community sentencing is compulsory unpaid work - community payback, the aim of which is that offenders make reparation to the community. Traditionally, victims of a crime played a small part in the criminal justice process. However, the restorative approach to justice often requires the offender to apologise, compensate for the damage that they have caused or repair it with their own labour as part of the sentence.

Offenders are likely to be put on probation supervision when a judge or magistrate sentences them to a Community Order which would allow them to make amends for their crime. Instead of depriving those who commit less serious offences of their freedom, the courts put some limitations on them and give them certain duties. Examples of community sentencing that could be ordered by the court include:

- up to 300 hours of compulsory unpaid work on local community projects under close supervision. This work could include collecting litter, clearing local land, redecorating community centres (or other public buildings) or assisting the local authority in removing graffiti in public spaces (this can be called community payback or community service);
- participation in specific activities which could include day centre activities, education and learning, and basic skills assessment and training;
- participation in programmes accredited by the Home Office which follow a national core curriculum aimed at changing offending behaviour;
- regularly visiting a probation officer to help the offender improve their behaviour;
- curfews may be imposed by the court; and
- wearing an electronic tag.

The shift towards alternative sentencing means that some offenders avoid imprisonment with its many unwanted consequences. This is beneficial for society, as it may assist in preventing the following:

- loss of employment of the offender;
- harm to or break-up of the immediate family;
- the inability of a person to go back to normal life after leaving a prison;
- the revolving door syndrome and the possibility of becoming a career criminal.

Furthermore, it is hoped that alternative sentencing could alleviate prison overcrowding and reduce the cost of punishment. However, if an offender breaks the rules of their community sentence, they could be returned to court and, if they have recently been released from custody, be sent back to prison.

Aim of the review

The primary intention of this review by the Committee was to ensure that community sentencing was operating effectively within the Borough, thereby enabling us to build confidence in the criminal justice system amongst local residents and reassure them that community sentences for less serious crimes were being used effectively for the purpose of reparation, punishment and to reduce re-offending rates.

The External Services Scrutiny Committee agreed to set up a Working Group, with the Terms of Reference outlined in this report and chaired by Councillor Ian Edwards, tasked with undertaking the detailed review and witness testimony.

The review aimed to gain an understanding of the range and effectiveness of the rehabilitation programmes to which offenders in Hillingdon may be sentenced, as well as the operation and effectiveness of compulsory unpaid work within our community. It sought to offer an insight into the roles of the organisations involved in community sentencing namely the Community Rehabilitation Companies (CRCs) and the National Probation Service (NPS) and to understand how the responsibility for community sentencing was shared between the two organisations. The review also intended to consider the effectiveness of community sentencing in terms of a reduction in repeat offending both across London and, more specifically, within the London Borough of Hillingdon. Having explored the above, the review aimed to investigate the ways in which community sentencing could be improved in Hillingdon and to consider the potential role of the Council in this process. Moreover, this review aspired to reflect on best practice elsewhere by conducting case study reviews, considering policy ideas and obtaining further information via witness sessions attended by relevant parties. Having considered all the above, the review would then bring forward recommendations to the Cabinet in relation to the topic being discussed.

Whilst it was recognised that the Council had no direct responsibility in the area of community sentencing, it is ideally placed to assist in identifying opportunities for compulsory unpaid work and to make reparation to the community more effective.

Evidence & Witness Testimony

Prior to commencement of the review, it had been noted that the use of community payback as a sentencing tool had declined both nationally and locally. On 27 April 2017, The Times had published an article entitled 'Number of offenders handed community sentences halves' in which it was reported that 'Magistrates have lost confidence in community punishments and have reduced by half the number of offenders given such sentences.... Despite increasing pressure on prisons, ... community sentences are being used less than at any time in the past 13 years.' <https://www.thetimes.co.uk/article/number-of-offenders-handed-community-sentences-halves-lpcb3m7lj>

The aforementioned article also made reference to a report produced by Crest Advisory (an independent consultancy firm specialising in criminal justice) evocatively entitled 'Where did it all go wrong? A Study into the use of community sentences in England and Wales.' This report, dated 25 April 2017, presented a detailed picture of developments in community sentencing over the previous 10 years. It raised a number of concerns regarding both the reduction in the use of community sentences and the delays between sentencing and commencement of orders. Moreover, said report claimed that community sentences:

- 'are implemented in a way that bears little resemblance to the evidence of what works'
- 'are failing to transform lives, acting as little more than a stepping stone on the path to prison'
- 'have lost the confidence of magistrates'

Furthermore, prior to the commencement of the review, the non-attendance of the London Community Rehabilitation Company at Safer Hillingdon Partnership meetings had been highlighted as an additional area of concern. The Partnership had expressed concern that the result of this non-participation was a lack of understanding of the work and effectiveness of the CRCs. Such matters constituted the fundamental premise of the initial decision taken by the External Services Scrutiny Committee to set up a Working Group to report back on the issue.

At the onset of the review, Members were informed that, in June 2014, the then coalition Government's Transforming Rehabilitation programme had replaced the 35 English and Welsh public sector Probation Trusts with a new National Probation Service (NPS) responsible for the supervision of high-risk offenders, together with 21 Community Rehabilitation Companies (CRCs) responsible for the supervision of medium- and low-risk offenders. The NPS remained in the public sector whilst contracts to run the 21 CRCs were awarded to eight new providers, seven of which were private sector companies. As reported in The Howard Journal of Crime and Justice Vol 56 No.2. June 2017, under the revised system 'the CRCs are now responsible for the lion's share of offender management work.' The National Audit Office estimates that around 80% of new cases are now allocated to CRCs.

The review highlighted the fact that the NPS was responsible for determining which offenders would be allocated to CRCs and which would be retained by the NPS. Members were informed that the CRCs were responsible for supervising Community Orders and licences for all offenders

assessed by the National Probation Service (NPS) as not presenting the highest risk of imminent harm. The CRCs also assumed responsibility for initiating the risk escalation process to the NPS when an offender's circumstances changed significantly or if their behaviour resulted in them presenting an increased and imminent risk of harm to the public. Finally, the CRCs were responsible for initiating breach action in addition to the majority of recalls to prison.

National Probation Service (NPS)

In two witness sessions attended by a representative of the National Probation Service (NPS), Members were appraised of the differing roles of the NPS and the CRC and how the two worked together.

The NPS representative explained that cases were initially assessed in Court to decide whether offenders should be referred to the CRC or the NPS. Once cases had been passed to the CRC, the NPS no longer had any involvement with them. However, if the risk were to escalate at any time, the decision would be taken to pass the case on to the NPS at that point. If subsequently the risk were to be reduced, the case would still stay within the remit of the NPS and would not be passed back to the CRC.

Members were advised that the NPS dealt with the high risk or MAPPA cases (Multi-Agency Public Protection Arrangements); usually those with a 12 month custodial sentence or sentences included in Schedule 15 of the Criminal Justice Act 2003. It was reported that the NPS worked with people released on licence. Offenders had to report regularly to a manager depending on the level of risk involved; high risk cases were expected to report weekly. Officers produced sentence plans for offenders which included interventions to reduce the risk of re-offending. It was clarified that the CRC handled the vast majority of medium / low risk cases.

Councillors were advised that community orders were the responsibility of the CRC (with the exception of sex offender programmes) and varied considerably depending on what was considered appropriate to rehabilitate each offender. It was confirmed that one of the community orders most frequently in use was unpaid work, constituting approximately 60% of the total. There was an expectation that this type of work would include a punitive element and would be for the benefit of the community. It was reported that the main areas of concern related to delays in starting the community orders and the supervision of said orders.

Members were advised that the decision regarding the nature of community orders would be taken by the implementer thereby ensuring that health and safety considerations were taken into account. It was felt that the link between local offending and local payback no longer existed; this had changed since the probation service split into the NPS/CRC.

With regard to offenders for more serious crimes, it was confirmed that there were currently 140 offenders on licence under the supervision of NPS Hillingdon and 52 of those had previously received a community sentence. The largest reoffending group was for violence (18); 10 were for driving matters; 10 for theft; 3 for burglary; 2 for handling stolen goods; 2 for stalking; 2 for public order offences; 2 for possession of drugs; 1 for sexual assault; 1 for perverting the course of justice; and 1 for breach of a restraining order. Members were advised that each previous conviction aggravated the offence. Repeat offenders would eventually be sent to prison.

Magistrates' Court, Local Justice Area

The Deputy Justices' Clerk attended the second witness session and briefed the Committee on community sentencing in the Borough from her perspective.

It was explained that magistrates had strict sentencing guidelines which they had to adhere to and which acted as a starting point for sentencing. For minor offences, offenders would receive fines or discharges. The vast majority of cases dealt with in the Magistrates' Court would result in a fine being imposed. Community sentences (or community orders) were utilised for offences which were considered more serious but which did not necessitate a custodial sentence. Members were informed that there were a number of different community order accredited programmes which varied in length and complexity and were targeted according to risk and need. The magistrates' main priorities when sentencing would be punishment and rehabilitation. Prior to sentencing, Magistrates would consider the probation officer's report; the Bench would then decide on the order and its length and the magistrates would sentence the offender accordingly.

It was said that magistrates generally had confidence in the community sentencing programmes but had significant concerns regarding delayed start dates; an area which was the responsibility of the CRCs.

Members were also informed that an inspectorate existed - Her Majesty's Inspectorate for Probation. At present, inspections were conducted on ad hoc basis but would be annual from 2018 onwards. It was considered that an early review of services provided by the North West branch of the London CRC would be extremely beneficial.

Members were advised that, on a day to day basis, the CRC were responsible for checking that community orders were carried out; they had to adhere to national standards and follow a set of criteria to ensure each order was completed satisfactorily. Magistrates could request an update from the CRC if they chose to do so but this would be rare due to the high volume of cases they had to deal with. It was confirmed that the CRCs were paid by results and had been awarded 7 year contracts.

Community Rehabilitation Companies (CRCs)

The Area Manager of the North West branch of the London CRC was invited to attend as a witness but stated that, although willing to answer specific queries by email, she was unable to attend in person due to insufficient resourcing and time constraints. The CRC representative reported that the NPS had responsibility for sentencing and was therefore best placed to assist with any enquiries. Members were informed that the London CRC regularly provided feedback regarding sentencing via PLC meetings with the Courts and interface meetings with the NPS to ensure that sentencing was as joined up and effective as possible. Despite repeated attempts to engage with the CRC at all levels - to include communication with the Area Manager of the North West branch of the London CRC, the Director of Probation of the London CRC and the Chief Executive Officer of MTC Novo, (the company providing services in London & Thames Valley CRC areas), no additional evidence was forthcoming.

Additional research conducted

In addition to the main evidence gathering review meetings, research was conducted into the operation and Criminal Justice Experience of community sentencing under CRC and related organisations.

Research suggested that the contracts awarded were at extremely low costings, such that much of the intended work with offenders became very difficult to apply. In the contracts there was no requirement for the CRCs to report periodically to the Local Authority to ensure accountability to the local community who were to be the recipients of the “pay back” element of the work undertaken by offenders.

Moreover, further research revealed that the original contracts with the CRCs, as set out by the Ministry of Justice in 2014, included an element of ‘payment by results’ (PbR) linked to reoffending rates. As indicated in the Ministry of Justice’s report entitled “Final and Interim Proven Reoffending Statistics for the Community Rehabilitation Companies and the National Probation Service” which was published on 26 October 2017, ‘PbR is paid for the achievement of statistically significant reductions in reoffending against the baseline year of 2011 as set out in Transforming Rehabilitation contracts with CRCs’. This gives rise to suspicion that the CRC could be deterred from sending back to court those offenders that fail to properly complete their community sentence as this may have financial repercussions for the CRC.

Findings & Conclusions

Transforming Rehabilitation - changes to the Probation Service

Members were advised that, in June 2014, the Government's Transforming Rehabilitation programme replaced 35 Probation Trusts with a new National Probation Service (NPS) responsible for the supervision of high-risk offenders, together with 21 Community Rehabilitation Companies (CRCs) tasked with the supervision of medium- and low-risk offenders. Under the Transforming Rehabilitation programme, Members were informed that the principal responsibilities of the revised National Probation Service were as follows:

- Court reports and parole reports;
- Initial assessments;
- High risk offenders and MAPPA;
- Breaches beyond first warning;
- Changes in risk of harm;
- Approved premises;
- Victim liaison;
- Sex offender programmes.

whereas the new Community Rehabilitation Companies assumed responsibility for:

- Managing the majority of offenders in the community, excluding those who were MAPPA (Multi Agency Public Protection Arrangements) registered;
- Offending behaviour programmes (for example, to tackle domestic abuse and improve thinking skills) excluding Sex Offender Treatment Programmes;
- Support services including: housing; education, training and employment; mentoring; and Restorative Justice;
- Integrated Offender Management (a multi-agency approach to reducing reoffending by those whose crimes cause the most damage and harm locally);
- Community Payback;
- Senior Attendance Centres;
- New 'Through the Gate' resettlement services aimed at ensuring that all offenders were given continuous support by one provider from custody into the community. This included accommodation, employment and financial advice.

On that basis, it is recommended that:

1

Cabinet note the changes in how probation services operate since the service was split in June 2014 into the London Community Rehabilitation Company (CRC), responsible for the supervision of community orders for low to medium risk offenders, and the revised National Probation Service with responsibility for higher risk cases.

The London Community Rehabilitation Company - lack of engagement

In view of the aforementioned challenges experienced due to the CRC's unwillingness to participate in the scrutiny process and attend meetings, a decision was taken to send a letter from the Council's Chief Executive Officer to her counterpart at MTC Novo - owner of the London CRC. The response received on 31 August 2017 from the Director of Probation and the London CRC reiterated that the CRC's attendance at the Working Group was an impossibility due to a lack of resources. However, an offer was extended to answer in writing any specific questions the Working Group might have. As a result of this communication, CRC was asked to respond to a comprehensive list of questions that had been formulated by Members in collaboration with officers. These questions were considered necessary in order to understand the range of services provided to Hillingdon offenders and the effectiveness of those services. (Appendix 1). Regrettably the CRC failed to provide a response to said questions, expressing surprise at the 'vast quantity of questions asked and the level of detail requested.'

The difficulties encountered by the Working Group were also raised with the Association of Democratic Services Officers (ADSO) to establish whether other authorities had experienced similar problems.

Subsequently a number of specific questions raised by Members were put to HM Prison and Probation Service (HMPPS). A response was received confirming that HMPPS had responsibility for managing the CRC contracts and for assessing the performance of all CRCs 'through a range of service levels and through a robust contract management and assurance process.' HMPPS also confirmed that CRCs could receive payment-by-results income for meeting targets in reoffending, that performance data was published quarterly and that CRCs were expected 'to engage with statutory and non-statutory local strategic and delivery partnerships.'

Whilst the review was somewhat successful in clarifying the roles of the organisations involved in community sentencing, the performance of the CRCs continued to be hidden from public scrutiny due to their refusal to engage with the local authority despite the best efforts of Members. Members concluded that this willful lack of participation in the scrutiny process demonstrated a failing in the contract appointing the London CRC and meant that the efficacy of the CRC in Hillingdon could not be assured which was a matter of considerable concern.

On that basis, it is recommended that:

2

Cabinet recognise the challenges faced by the Committee particularly in view of the London Community Rehabilitation Company's failure to answer Members' questions and participate readily in the scrutiny process; as a result of which the Committee was unable to conduct a thorough review of community sentencing in the Borough.

Recent concerns

Prior to the onset of the review, a report in the Times had raised concerns regarding community sentencing. Such concerns were reiterated in a recent article published in The Times on 3 January 2018 entitled 'Judges have lost all faith in community sentences' which claimed 'Ministers are worried at the drop in community sentences being handed down by judges and magistrates'

<https://www.thetimes.co.uk/article/judges-have-lost-all-faith-in-community-sentences-x37ltsgw3>

The article quoted John Samuels, a former judge, who stated that 'There is a widespread perception among sentencers at all levels that the probation service and the new CRCs are struggling to cope with their supervisory role'.

Such proclamations in the media served only to further fuel the concerns of Members around the performance of the Community Rehabilitation Companies both locally and nationally.

Call for Parliamentary action

Laws regarding the local authority scrutiny function and local partners

As the review progressed, it became apparent that the Working Group would not be in a position to conduct a detailed and worthwhile evaluation of community sentencing in the Borough without the input of the London CRC. As a result of this, a decision was taken to explore the legal obligations of the CRC as a local partner and, if appropriate to do so, exert pressure on them to engage with the Working Group. Research revealed that the London CRC was obliged to *cooperate* with the Council's Scrutiny Committees in exercising its Crime and Disorder functions, but could not be *compelled* to attend meetings. It was found that:

1. Section 19 of the Police and Justice Act 2006 requires the Council to have a "crime and disorder committee" whose function is "to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions".
2. The term "responsible authorities" is defined in Section 5 of the Crime and Disorder Act 1998. Included within this definition is "every provider of probation services operating within the area in pursuance of arrangements under Section 3 of the Offender Management Act 2007". (This definition was changed to include "providers of probation services" on 1 April 2010)
3. Section 5(2) of the Crime and Disorder Act 2010 requires "providers of probation services" to "cooperate" with the Council in the exercise of its Crime and Disorder function which includes scrutiny arrangements.

Given the difficulties encountered in the conduct of this review, the Chairman of the Working Group elected to attend an informal workshop of the Communities and Local Government Select Committee. The aim of said workshop was to consider the effectiveness of local authority overview and scrutiny committees. Further to the workshop, the Select Committee produced a detailed report highlighting the conclusions reached for the consideration of Her Majesty's Government. One of the pertinent conclusions reached related to the difficulties that scrutiny committees may experience when monitoring services delivered by external agencies and companies. The report found that:

‘Scrutiny committees must be able to monitor and scrutinise the services provided to residents. This includes services provided by public bodies and those provided by commercial organisations. Committees should be able to access information and require attendance at meetings from service providers and we call on DCLG to take steps to ensure this happens. We support the CfPS proposal that committees must be able to ‘follow the council pound’ and have the power to oversee all taxpayer-funded services.’

<https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/369/36902.htm>

CRCs - additional contractual concerns

As indicated previously, Members were also made aware of a ‘payment by results’ element included in the contracts awarded to the CRCs in 2014 whereby a contractual link existed between offender failure and financial gain. Members were informed that, as a result of this contractual arrangement, breaches were allegedly not being reported or acted upon in the same way as they had been in formative years because breach proceedings were seen as a “Corporate” failure and were linked to performance pay.

Moreover, Members were appraised of widespread concerns across the Criminal Justice System (CJS) regarding the effectiveness of the CRCs, locally and nationally; largely attributable to the fact that the initial contracts were so poorly designed in terms of finance. It was also felt that, if the judiciary were anxious as to the effectiveness of non custodial sentences such as community orders, then less would be used as an alternative to custody and more offenders would be sent to prison unnecessarily. This was considered to be an unintended consequence of the failure or potential failure of this scheme as seen by some in the CJS.

Furthermore, the findings of the recent workshop of the Communities and Local Government Select Committee stated that local authority scrutiny committees had to be able to monitor and scrutinise effectively the services provided to residents. The Select Committee found that the conflict between commercial and democratic interests meant that many companies were not set up to accommodate public accountability. The report stated:

‘We would like to see the law changed and consolidated, to reflect the realities that local authorities now face—particularly the fact that much council business is now transacted in partnership. We would like to see an approach which uses the “council pound” as the starting point for where scrutiny may intervene—that is to say, that scrutiny would have power and responsibilities to oversee taxpayer-funded services where those services are funded, wholly or in part, by local authorities.’

Overall, significant concerns were raised regarding the lack of local accountability of the North West branch of London CRC. Members therefore concluded that there was no evidence to suggest that the London CRC was operating effectively within the Borough and that this would inevitably have repercussions on local residents in terms of the effectiveness of community sentencing. Considerable consternation was expressed regarding Members’ perceived inability to give assurance to residents that community sentences for less serious crimes were being used effectively for reparation and punishment. The Committee, therefore, considered it essential that these concerns be highlighted beyond the Council. On that basis, it is recommended that:

3

Cabinet recognise the recent recommendations of the Communities and Local Government Select Committee and request that the Chief Executive forward the External Services Scrutiny Committee’s findings both to local MPs (with a request for comments and feedback) and to the Justices Committee, the Secretary of State for Housing, Communities and Local Government and the Chairman of the Housing, Communities and Local Government Parliamentary Select Committee, requesting that action be taken to improve the local accountability of Community Rehabilitation Companies (CRCs), specifically in terms of scrutiny.

Safer Hillingdon Partnership

As previously mentioned, the non-attendance of the London CRC at Safer Hillingdon Partnership meetings (the Safer Hillingdon Partnership is Hillingdon’s statutory Community Safety Partnership) has been drawn to the attention of the Committee and is an area of considerable concern.

The Crime and Disorder Act 1998, the Police and Justice Act 2006 and Police and Crime Act 2009 make Community Safety Partnerships responsible for:

- anti-social behaviour
- behaviour affecting the environment
- crime and disorder
- reducing re-offending

The Partnership comprises representatives at an executive level of the 'responsible authorities' (police, local authority, fire and rescue authority, health service, probation service), the elected Cabinet Member responsible for community safety at the Council, the Director of Public Health, a representative from the London Mayor's Office for Policing and Crime and the Chairman of Hillingdon's Safer Neighbourhood Board.

In a report published in November 2013, the Ministry of Justice set out its expectations regarding CRCs and their responsibilities to Community Safety Partnerships (CSPs). The report stated that 'We will designate CRCs as a responsible authority under section 5 of the Crime and Disorder Act 1998 in the contracts, and therefore subject to the statutory requirements to participate in CSPs. We will expect them to fully meet their statutory responsibilities to these partnerships as we believe it will be a key forum for providers to participate in and integrate with wider partners. The NPS will also continue to be a responsible authority. We expect the NPS and CRCs to decide how best to engage in the partnership in this instance. In transition, this function will be carried out by a representative from the CRC but the NPS can identify a lead representative to liaise with the CRC or also attend the CSP if resources allow.'

Given the aforementioned concerns regarding the reported non-participation of the London CRC at Safer Hillingdon Partnership meetings, and the resultant repercussions of this in terms of the perceived impact on local residents should the local CRC not be operating effectively in the

Borough, the Committee considered that this issue should be brought to the attention of Cabinet.

On that basis, it is recommended that:

4

Cabinet also note the non-attendance of the London Community Rehabilitation Company at Community Safety Partnership meetings, which has had a negative impact on the Partnership's ability to reduce crime and reoffending in the Borough.

Her Majesty's Inspectorate of Probation

As previously indicated in this report, Members were informed of the existence of an inspectorate - Her Majesty's Inspectorate of Probation - with responsibility for:

- assuring Ministers and the public that adult and youth offending work is being delivered effectively;
- highlighting enablers and barriers to effective practice;
- making recommendations to improve the quality and impact of the work in areas they inspect;
- enabling improvement in the effectiveness of probation and youth justice services across England and Wales.

Given the specific concerns raised regarding the lack of participation and more general concerns around contracts and the effectiveness of CRCs, it was concluded that an early review of services provided by the North West branch of the London CRC was essential. Such a review would fall within the remit of HM Inspectorate of Probation and the Committee agreed that this issue should also be brought to the attention of Cabinet to consider raising it further.

On that basis, it is recommended that:

5

Cabinet request the Chief Executive write to HM Chief Inspector of Probation to seek an inspection of the services provided by the London Community Rehabilitation Company in Hillingdon.

Terms of Reference of the review

The Committee established a working group to undertake the detailed investigation, who's membership comprised:

- Councillor Ian Edwards (Chairman)
- Councillor Jane Palmer
- Councillor Catherine Dann
- Councillor Henry Higgins
- Councillor Lynne Allen
- Councillor Manjit Khatra

The following Terms of Reference for the Working Group were agreed by the Committee from the outset of the review for the working group:

1. To understand the roles of each organisation involved in community sentencing;
2. To explore the effectiveness of community sentencing in terms of a reduction in repeat offending;
3. To identify what the implications of community sentencing have been for communities across London and in Hillingdon;
4. To explore ways in which community sentencing could be improved in Hillingdon;
5. To examine the Council's role in community sentencing and identify whether/how this could be improved;
6. To examine best practice elsewhere through case studies, policy ideas and witness sessions;
7. After due consideration of the above, to bring forward recommendations to the Cabinet in relation to the review.

Witnesses and Committee activity

The Committee's Working Group received evidence from the following sources and witnesses:

Witness Session 1 - 28 June 2017	Antony Rose, Head of Ealing, Harrow & Hillingdon, London Division, National Probation Service;
Witness Session 2 - 21 September 2017	Margaret O'Keefe, Deputy Justices' Clerk, HM Courts & Tribunals Service; Antony Rose, Head of Ealing, Harrow & Hillingdon, London Division, National Probation Service; Jacqui Robertson, Community Safety Team, LB Hillingdon

References

Frances Gibb, (2017) 'Number of offenders handed community sentences halves', *The Times*, 27 April 2017

Sophie du Mont and Harvey Redgrave (2017) 'Where did it all go wrong? A study into the use of community sentences in England and Wales', *Crest Advisory*, 25 April 2017

Gwen Robinson, Lol Burke and Matthew Millings (2017) 'Probation Privatisation and Legitimacy', *The Howard Journal of Crime and Justice Vol 56, No.2, June 2017 p.138*

Government legislation - Section 15, Criminal Justice Act 2003

MOJ (2017) 'Final and Interim Proven Reoffending statistics for the Community Rehabilitation Companies and the National Probation Service', *Ministry of Justice*, 26 October 2017

Frances Gibb, Richard Ford (2018) 'Judges have lost all faith in community sentences', 3 January 2018

Government legislation - Section 19 of the Police and Justice Act 2006

Government legislation - Section 5 of the Crime and Disorder Act 1998

Government legislation - Section 5(2) of the Crime and Disorder Act 2010

Communities and Local Government Select Committee (2017) 'Effectiveness of local authority overview and scrutiny committees', 14 December 2017

Government legislation - The Police and Crime Act 2009

Appendix A - Questions sent to the London CRC

Community orders - general questions

Who determines which programmes are necessary for the training, treatment or rehabilitation of offenders on community sentences?

How does London CRC tailor interventions for an offender?

Are there any plans to change the location, content or delivery of courses?

Do offenders receive assistance to travel to locations (unpaid work and courses) that are some distance away from home?

Offender Programmes / Courses

The NPS have advised us that the following accredited offender programmes are delivered to offenders on community sentences:-

- a) Violence including Domestic Violence Programmes -
Building Better Relationships
Resolve
- b) Substance Misuse Programmes -
Building Skills for Recovery (BSR)
Drink Impaired Drivers (DIDP)
- c) Cognitive and Motivational Programmes
Thinking Skills (TSP)
New Me Strengths (NMS)

For each of the programmes, please describe:

- a) Where they are delivered in London
- b) What each programme is expected to achieve
- c) What KPIs exist for each programme
- d) How performance of each programme is monitored
- e) How each delivery centre is monitored and/or inspected to ensure it operates to standard

How does London CRC assess offenders to determine which programme they should attend?

Please state the closest location for Hillingdon residents for each of the programmes?

How many Hillingdon residents have attended each category of programme?

For each programme please provide the maximum and average length of time that Hillingdon offenders have to wait before commencing the programme.

Unpaid Work

What steps does London CRC take to engage with Local Authorities to identify suitable unpaid work?

Please give examples of best practice in working with local authorities to deliver unpaid work.

Please describe how London CRC engages with LB Hillingdon to identify projects suitable for unpaid work.

What is London CRC's assessment of their engagement with LB Hillingdon with regard to unpaid work?

How might this relationship be strengthened?

What unpaid work is presently available to offenders in LB Hillingdon?

Please detail the different unpaid work programmes that have been delivered in Hillingdon in 2015 and 2016.

How is unpaid work identified? What are the criteria for unpaid work?

How can partners / public suggest possible unpaid work opportunities?

What number and percentage of unpaid work suggestions are taken up?

Why are some unpaid work opportunities taken up and others not?

How does London CRC determine what type of unpaid work is most appropriate for each offender?

How many Hillingdon offenders have attended unpaid work in 2015 and 2016?

How does London CRC deal with offenders that are signed off work sick?

What percentage of local offenders undertakes local unpaid work? And what is this percentage for Hillingdon offenders?

What level of leniency is given by CRC to offenders undertaking unpaid work orders or courses (in terms of attendance and effort)?

Where is unpaid work currently undertaken by offenders resident in LB Hillingdon?

Monitoring, supervision and effectiveness

How many (and what percentage of) offenders breach the conditions of an unpaid work order in London and in Hillingdon?

How many (and what percentage of) offenders breach the conditions of a programme / course in London and in Hillingdon?

What reports are produced by the London CRC to illustrate the effectiveness of unpaid work orders and courses?

Does London CRC benchmark its courses / programmes against other CRCs?

If so, what benchmark measures are used and where is the data published?

What feedback is given to the court on work orders and courses? How often is this feedback given?

How does London CRC ensure that unpaid work is done properly?

How are offenders supervised in unpaid work? How do you ensure the effectiveness of this supervision?

What feedback is gathered from those who carry out work orders?

How is success of unpaid work measured?

Although a work plan is part and parcel of punishment, it should serve a wider purpose. With this in mind, what interaction is there with wider businesses and employers to bring them on board?

How effective is the Attendance Centre and how is this monitored (specifically Mill Hill and Hounslow)?

How many repeat offenders are seen by CRC (number and percentage for Hillingdon and London for 2015 and 2016)?

Holding the CRC to account

Who holds the CRC to account and how is this done?

How does the CRC payment by results contract work? What does 'results' mean? Exactly what is the CRC measured on?

Would the CRC describe the service it provides in Hillingdon and London as being robust and properly managed? What evidence is there to support this?

Communication

How does London CRC actively communicate with offenders?

What is the standard for the timeliness of CRC contact with an offender sentenced to a community sentence?

What is the performance against this standard in London and in Hillingdon for 2015 and 2016?

How does the CRC monitor the effectiveness of its communication and interventions?

What communication does CRC have with residents to assure them of the effectiveness of community sentencing in general and the CRC's monitoring thereof?

How frequently does CRC communicate with the NPS, police and Council? What form does this communication take? What is the purpose of this communication?

How would CRC describe its relationship with the NPS, police and Council in Hillingdon? How does this compare with other boroughs?

What steps does the CRC take to ensure the public continue to have confidence in Community sentences?