

*HM Inspectorate of Probation  
HM Inspectorate of Court Administration*

THEMATIC INSPECTION REPORT

'Getting Orders Started'

A joint inspection  
assessing the  
arrangements for starting  
Community Orders

## Foreword

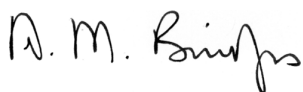
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There is an expectation in British justice that a sentence passed by a court should start with immediate effect. We take this expectation for granted, although this is not always the case in some other jurisdictions around the world. Custodial sentences have always started from the date of sentence in this country, and continue to do so despite the current pressure of numbers in the prison system. But with community sentences, before the arrival of national standards in the 1990s, it is probably fair to say that the promptness with which a community penalty started was somewhat variable. In the current decade however, the expectation of a swift start to a community sentence is a well-established expectation, and is seen as one of the key elements in promoting public confidence in such sentences.

It is easy to assume that the apparently simple task of the court passing a sentence and communicating the necessary information to the probation service to action that sentence must unfailingly happen without difficulty on every occasion. But, as we learned with the fiasco over foreign prisoners in 2005, it is not always safe to make such assumptions with apparently simple processes: many offenders commit offences, and are subsequently convicted, in areas away from their own locality, or they change address during the course of the court process, and such complications can present potential pitfalls to an 'apparently simple process'.

The two Inspectorates decided that it would be prudent to undertake a short focused inspection to check that systems are working as everyone would hope and expect. By tracking a sample of cases from the hands of one criminal justice system agency, the courts, to another criminal justice system agency, the probation service, we would find out whether the necessary communication is being done well enough and how often.

We found that generally the system works well, with courts and probation taking their respective responsibilities for ensuring that results are transmitted accurately. Community orders start on time even in some of the tricky cases, although there are local variations in how this is achieved. It is evident that front-line operational staff often rightly take the initiative in developing solutions in response to identified problems. However, despite this, in a small minority of cases the order is either not started at all or not started with the completely correct requirements. Although the percentages involved are small, this is not acceptable in terms of public confidence. Accordingly we have made recommendations for the fine tuning of current arrangements.



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## Contents

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|   | Page |
|---|------|
| Foreword                                | 2    |
| Contents                                | 3    |
| Acknowledgements                        | 4    |
| Glossary                                | 5    |
| EXECUTIVE SUMMARY                       | 6    |
| RECOMMENDATIONS                         | 7    |
| INTRODUCTION AND BACKGROUND             | 8    |
| METHODOLOGY                             | 9    |
| COMMENCING COMMUNITY ORDERS             | 10   |
| ADDITIONAL DETAILS FROM THE CASE SAMPLE | 20   |
| LIAISON/PROTOCOLS                       | 22   |
| Appendix                                | 23   |

## Acknowledgements

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This joint thematic inspection draws on the findings of fieldwork into court and probation processes undertaken during February 2007. We would like to express our thanks to the staff who assisted in the inspection fieldwork in the following courts:

|                             |                             |
|-----------------------------|-----------------------------|
| Bristol Magistrates'        | Newcastle Crown             |
| Cardiff Crown               | Reading Crown               |
| Chester Magistrates'        | Scarborough Magistrates'    |
| East Berkshire Magistrates' | Stratford Magistrates'      |
| Gateshead Magistrates'      | Wellingborough Magistrates' |
| Leicester Crown             | Woking Magistrates'         |

and in the following probation areas:

|                  |                 |
|------------------|-----------------|
| Avon & Somerset  | Northumbria     |
| Cheshire         | North Yorkshire |
| Leicestershire   | South Wales     |
| London           | Surrey          |
| Northamptonshire | Thames Valley   |

and to the staff who provided information from the following probation areas:

|                    |                 |
|--------------------|-----------------|
| Cambridgeshire     | Lancashire      |
| Devon and Cornwall | Northumbria     |
| Durham             | North Wales     |
| Essex              | Nottinghamshire |
| Gwent              | Suffolk         |
| Hampshire          | Surrey          |
| Hertfordshire      | West Midlands   |
|                    | Wiltshire       |

## Glossary

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|               |   |
|---------------|---|
| ASRO          | Addressing Substance Related Offending (accredited programme)   |
| CPS           | Crown Prosecution Service   |
| CRAMS         | Case Record Administration and Management System – Probation database   |
| Equis         | Legacy magistrates' courts case management system   |
| ETE           | Employment, training and education  |
| HMCS          | Her Majesty's Courts Service  |
| HMICA         | Her Majesty's Inspectorate of Court Administration  |
| HMI Probation | Her Majesty's Inspectorate of Probation   |
| IT            | Information technology  |
| Libra         | Project to standardise IT in magistrates' courts.   |
| LJA           | Local Justice Area – units in England and Wales established by the Courts Act 2003, replacing and based on the previous PSAs. They have been in existence since 2005. |
| MCC           | Magistrates' Courts Committee   |
| MCS           | Legacy magistrates' courts case management system   |
| NOMS          | National Offender Management Service  |
| OASys         | Offender Assessment System  |
| OGRS          | Offender Group Reconviction Scale   |
| PO            | Probation officer   |
| Portal        | Facility linked to Crown Court case management system allowing criminal justice agencies to access case information electronically                                    |
| PSA           | Petty sessions area   |
| Resulting     | Recording, checking and transferring information  |
| SLA           | Service Level Agreement   |
| Tier          | Describes the level of Risk of Harm/reoffending posed by an offender as assessed by NOMS  |
| Xhibit        | Crown Court information provision system which links to the Portal  |

## EXECUTIVE SUMMARY

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The inspection found that systems for the prompt provision of court results and initial management of the community sentence were in place in both courts and probation areas and that most of the time the systems worked satisfactorily. However, in four out of 212 cases the order was not started.

Court systems included processes to transfer information from sentencers to administrators and then on to probation. The most efficient courts made sure that resulting (recording, checking and transferring information) was done within the targeted three days, which included sharing information with probation. There was little uniformity in the method of transfer of orders to the supervising probation area from the courts however, particularly where the offender was resident in another LJA. Having good IT systems helped, although court staff were not always capitalising on the functionality of their software systems. Additionally, neither Xhibit nor Libra was able to create automatically an order for suspended sentences.

The accuracy of orders proved to be an issue in a number of courts. The implementation of the Criminal Justice Act 2003 appeared to have caused a degree of confusion amongst court staff particularly when a supervision requirement had been imposed. On occasion supervision appeared to have been assumed rather than stipulated. Both agencies reported that this had already been identified as a problem and that improvements had been made following our inspection visit.

In places where the systems worked most speedily and accurately it appeared that there was understanding and commitment, by both agencies, of the need to share information. In some courts we detected an attitude that, apart from the despatch of the order, their part in the process finished when the sentence was pronounced; that it was the responsibility of probation to ensure that it picked up the information rather than the court's to ensure that it was received. Only half of the courts and their respective probation areas had negotiated protocols or SLAs.

In probation areas there was differing practice in terms of staffing, location of teams and resources and hence systems and processes also appeared to be different. Several looked more efficient, streamlined and better organised, however there was no evidence that these were any more or less successful at obtaining and processing accurate information from the courts. It was evident that where gaps had been identified in systems probation staff had sought to find ways to plug those gaps. Good back-up systems had been put in place in a number of areas with the help of courts through the provision of extra information. In some areas the lack of suitable accommodation for probation within the court building made the job of probation staff significantly more difficult.

## RECOMMENDATIONS

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### ***HMCS should ensure that:***

- the software which produces results can generate suspended sentence orders
- orders are always clear and accurate
- clear systems are established for the dispatch of orders to the relevant outside probation areas
- staff are aware of the courts' responsibility to make certain that probation receive notification of results on the day that sentence is passed.

### ***NOMS should ensure that:***

- probation records are always cross-checked with court orders so that sentences are accurately implemented
- examples of good practice in court work are disseminated to probation areas.

### ***HMCS and NOMS should ensure that:***

- key staff from both agencies at an area level undertake joint initiatives to establish better communication and improved information sharing.

## INTRODUCTION AND BACKGROUND

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HMCS was created in April 2005, by amalgamating the 42 Magistrates' Courts' Committees of England and Wales and the Court Service. At the time of the inspection the magistrates' and Crown Courts did not have a single system for the transfer of information to probation areas. They were also currently utilising several different computer systems. The systems used by the magistrates' courts included MCS, Equis (legacy systems) and Libra. Libra, the new HMCS computer system, was gradually being rolled out across England and Wales. All of the Crown Courts were using the new Xhibit computer system, an external facing information provision tool, in addition to the existing Crown Court Crest system which tracked case progress.

HMCS magistrates' courts had to validate registers (check the register is an accurate record of the sentence passed) and dispatch the case results to other criminal justice agencies within three working days of the date of hearing. The Crown Courts had a similar or same target, but this performance was not currently being reported nationally.

Whilst probation had undergone major changes in recent years, particularly with the creation of NOMS, these had not fundamentally affected probation areas' work in the court setting. The introduction of the offender management model had impacted on court work however. When a report was ordered, the new model had sometimes resulted in an offender manager being allocated at an earlier stage.

Probation targets for the start of orders were contained within national standards. The required time limits for contact with offenders by offender managers depended on the risk assessment tier allocated. Tiers 1 and 2 should be seen within three working days and Tiers 3 and 4 within one working day. The exception was where requirements needed to start before three working days. However all should be seen before leaving court.



## METHODOLOGY

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A joint inspection commissioned by the Chief Inspectors of HMICA and HMI Probation took place in early 2007, the focus of which was community orders made on adult offenders in magistrates' and Crown Courts to ascertain:

- whether community sentences made by courts were always, promptly, passed to the relevant probation area and actioned by the latter
- if they were not, the reasons for this.

We visited 12 courts in total – eight magistrates' courts and four Crown Courts across England and Wales. The courts were chosen to address a variety of criteria including geographical spread, different types of courts (urban, rural, satellite as well as Crown and magistrates) and where different computer systems were in use.

Courts were asked to identify 20 adult community orders made from the beginning of October 2006 to include five orders with outside LJAs. In some courts it was not possible to produce this number made within a reasonable period of the start date of the sample. In the event we inspected 212, cases of which 22 offenders were sentenced in courts outside of their home area.

We obtained advance documentary evidence from courts and inspected court and probation papers and records on site. We also interviewed key staff from both agencies. Additionally we obtained information from probation areas who were the recipients of out-of-area orders.

## COMMENCING COMMUNITY ORDERS

### Courts

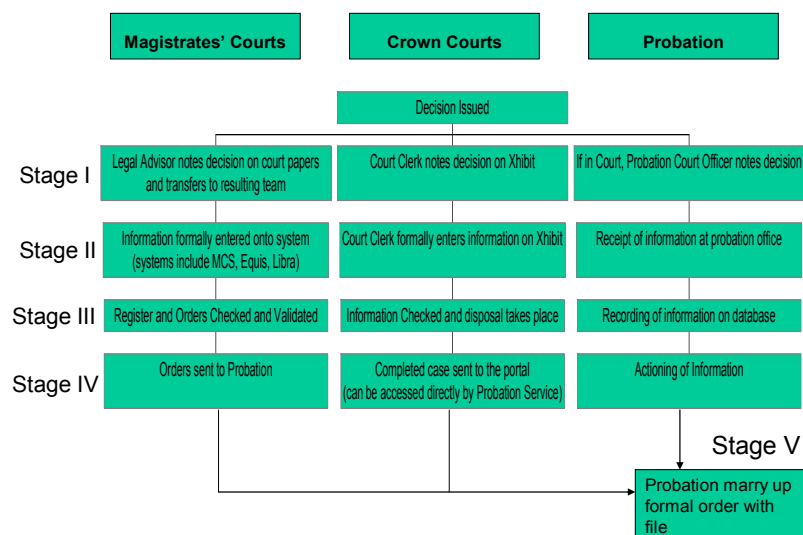
The processes for starting community orders in the magistrates' and Crown Courts were largely similar. A number of court staff were involved in the transmission of the information once the judicial decision had been made. Within the courts' systems, the decision was collected and entered onto a computer system, checked and the order then despatched to the probation area. In both magistrates' and Crown Courts the target for the dispatch of case results was within three working days of the date of hearing.

Ensuring that probation was made aware of the sentence, either before it was passed or immediately afterwards, was usually the remit of court ushers. Legal Advisors also played a part in a number of courts by providing results during gaps in court proceedings.

### Probation

The arrangements of probation court work varied across areas, although fundamentally practices were similar. Systems and processes were often the result of local factors such as the location of the court or the facilities available within the court building. Practice had evolved to take account of these factors and had often been practitioner led. In places it was evident that processes had arisen as a result of problem solving by staff to ensure that there were no gaps in the system.

### The process of getting orders started



## Stage 1 - Courts

### Legal advisor notes decision on court papers and transfers to resulting team/court clerk notes decision on Xhibit

In the magistrates' court, legal advisors noted the decision of the magistrates on the case file and also sometimes on copies of the court registers. At this point, the LJA where the defendant was resident and where the supervising probation office was located was also identified. The results were collected and passed to the administration staff. In Crown Courts, the court clerks entered the information informally onto Xhibit during the hearing. The relevant LJA where the defendant was to be supervised was identified and included in the order. The staff entered the information into a free text section on the system or formally entered the information onto Xhibit immediately.

### **Strengths**

- Where courts were performing well, the results were being passed to the administration staff for processing either on the day of hearing or immediately on the first day after the hearing. This was correct even where the court was a satellite court that required the results to be transported to an administration centre.
- In Crown Courts, potential delays were minimised by the court clerks entering the information onto Xhibit during the hearing.

### **Areas for improvement**

- Only one of the magistrates' courts we visited had the new Libra computer system in place. The potential benefits of the system were not being captured, however, as decisions were not entered onto the computer system during the hearing.
- In most areas the receipt of the order by the probation area was the first point at which court and probation records were compared. In 56% of cases courts met the three day target for resulting. Failure to do so meant a delay in ensuring that both agencies had the correct result. It also had a deleterious effect on the whole of the criminal justice system as this was the mechanism for communicating results to the Police National Computer.

## Stage 1 – Probation

### If in court, PO notes decision

Probation areas had staffed their courts very differently from each other. We saw a magistrates' court with six operational courts staffed by two staff, another where two courts were covered by three staff and a Crown Court with six courts using five staff. Court work was usually carried out by dedicated court staff, however in some areas they were supported by a duty system drawn from field staff. The make-up of the teams normally included at least one PO, usually for the purpose of report preparation, however they were not always on site.

For the most part probation court staff had a base within the court buildings, although it was sometimes less than ideal in terms of space.

### **Strengths**

- Through the prior identification of relevant cases using court sheets, it was the practice of most areas to have a member of probation staff in court at the point that an order was made.
- There was an understanding in most courts that probation staff would be alerted by court staff if they were not in court when sentencing was due. Good relationships between court and probation staff were the mainstay of ensuring that this happened and largely these systems, a number underpinned by protocols, worked.

### **Good practice**

The protocol between Surrey Probation Area and Surrey Magistrates' Courts (reproduced as the appendix to this report) clearly established and described the responsibility of the courts to ensure that information on sentencing was passed to the probation area immediately.

### **Areas for improvement**

- Where there was no probation staff presence in court, and the court did not make sure they were alerted, there was potential for the order not to be picked up initially.
- The provision of facilities by the court to probation staff was an issue in a few areas. We visited one team that had no office facilities at all within the court building and this was clearly impacting on its ability to provide a service to the courts and offenders with discussions taking place in public areas.

## Stage II – Courts

### Information formally entered onto system/court clerk formally enters information on Xhibit

In magistrates' courts administrative staff entered the sentence onto the computer system from the handwritten notes of the legal advisor. In Crown Courts, the type of order and particular requirements were electronically entered by clerks in court onto the Xhibit system.

#### **Good practice**

At Chester Magistrates' Court the legal advisors recorded information onto a file cover which allowed administrative staff to identify the relevant information immediately.

A similar form had been developed at Gateshead Magistrates' Court.

#### **Areas for improvement**

- Of the cases sampled (in both magistrates' and Crown Courts) 93% had been accurately entered onto the computer system. The error rate of 7% was significant and left considerable room for improvement.
- The design of the Xhibit system had led to certain problems. Where there were a number of requirements it was time-consuming to make the entry in a busy court setting; additionally, the number of designated programmes was limited. This had led to the manual amendment of orders after printing.
- Xhibit was unable to create a suspended sentence order; this had to be created manually. This meant that the system and the printed order did not always record the same details.

#### **Recommendation**

*HMCS should ensure that the software which produces results can generate suspended sentence orders.*

### **Stage III – Courts**

#### *Register and orders checked and validated/information checked and disposal takes place*

A number of magistrates' courts checked orders alongside the register, others waited until after the register was checked and then printed the orders. In each case checking was done either by a duty legal advisor or a senior member of the administrative staff. In the Crown Court Xhibit created the orders according to the requirements selected by the court clerk.

#### **Strengths**

- In each of the magistrates' courts visited, systems to check all register entries were in place. All had procedures for checking the orders against the court file, or other notes made by the legal advisors. All Crown Courts had systems in place for checking the orders against the log made in court.
- We found some excellent systems in place to ensure that the court results were collected from the courtroom immediately (either that day or the first day after the date of hearing), inputted as soon as possible, with contingency measures available where the IT system was down, validated by legal and administrative staff as a high priority and orders dispatched on a daily basis.

#### **Areas for improvement**

- The clarity of orders themselves was inconsistent across the courts that reflected the different IT systems and varying degrees of understanding by court staff. In several courts the orders were particularly vague and unclear. In a number the supervision period was not stated at all. In some the enforcement dates did not cover the periods of supervision and requirements were not always distinct from each other which left them open to misinterpretation by probation staff.
- In a few courts the printed orders listed all potentially available options, with those actually imposed indicated with a tick or cross, or by having the other requirements crossed out. We were concerned about the lack of uniformity across courts and the potential for confusion.
- The format of orders created by Xhibit was reasonably clear, although there were inconsistencies between Crown Courts with the details of the requirements. In one Crown Court an agreement had been reached on the form of words 'as directed by the PO rather than specifying a number of days or sessions whereas others were specifying the duration. In other courts the order specified the number of sessions or days which the court had imposed, making it clearer for both the offender and the probation staff.
- Of the 212 cases inspected we found that four unpaid work orders had not been recorded on probation records, resulting in these hours not being worked.

- We found a further 14 cases where there were discrepancies between what was written on probation records and what was recorded on the court order. In seven of the 14 cases this resulted in the offender being supervised to a more onerous standard than the court had intended. In four of the cases not all of the court order requirements were recorded on probation records, resulting in a less onerous sentence than courts had in fact made. Of the other cases two offenders had received slightly different conditions and one order was unclear.
- We also found examples of incorrect details on orders such as dates of birth. In one Crown Court there were a number of instances where the date of the order and the date of the hearing differed.
- Overall there was room for improvement in the recording of results by court staff and of probation staff checking that their records matched the information contained on the court order.

### **Recommendations**

*HMCS should ensure that orders are always clear and accurate.*

*NOMS should ensure that probation records are always cross-checked with court orders so that sentences are accurately implemented.*

## **Stages II & III - Probation**

### Receipt of information at probation office

### Recording of information on database

Arrangements for receiving and entering results onto the probation area's database varied. Where administrative staff were fully integrated into a court team, they played a role in ensuring that results were received rather than merely recording them. The geography of the courts in relation to the field offices also played a part in the way that court work had developed. Sometimes court administrators entered the result onto the system at court before passing the information to probation case administrators for allocation and/or commencement. Sometimes it was sent to field teams by court officers using fax, paper or email. The responsibility for alerting outside areas similarly varied from court officers to administrators and was carried out variously by telephone, email and/or post.

### **Strength**

- In a number of areas probation administrators were very well integrated and seen as part of the court team even where they were not situated at court. They had helped with preparation so knew what orders they were expecting and took an active part in chasing up information.

### **Areas for improvement**

- On occasion probation administrators acted as recipients and processors of information only. They were therefore unable to assist the court officers in ensuring that all results were received.
- It was not always clear at what point information was received, put on the system, allocated, actioned and/or commenced.
- Unsurprisingly different databases were used differently, although we also found varying practice across areas with the same databases, for example some administrators used the contact log to record the result as well as a court appearance screen.
- The systems for advising outside areas of orders were not robust or consistent. Where there was a report, the report author was generally the first point of contact but if they were unavailable court staff then often had to decide where to send the information. Receipt by the outside area was not routinely monitored.



## Stage IV- Court

### Orders sent to probation/completed case sent to the Portal

#### **Good practice**

At Woking Magistrates' Court, if the MCS system was down, administrative staff manually produced the orders and dispatched them so that the result was communicated within the three day target.

**Table showing number of working days between the date of sentence and the court notifying the probation area, in the inspection sample**

|                | <b>Number</b> | <b>Per cent</b> |
|----------------|---------------|-----------------|
| 0-3 days       | 108           | 56%             |
| 4-7 days       | 40            | 21%             |
| 8 or more days | 26            | 13%             |
| Not known      | 19            | 10%             |

#### **Areas for improvement**

- There was a lack of consistency in the systems for dispatch of orders to probation areas and only one court monitored the receipt of orders by probation. In a number of courts the arrangement was that they were collected on a daily basis. Although this meant that passing of results was quick and efficient, it did not always allow the court to be sure that the order had been collected. To resolve this issue, one court had instituted a system of signature on receipt of the orders, but this reduced the speed with which the orders were provided.
- There was no single system for the dispatch of orders where a defendant did not reside in the same LJA as that of the court. Some courts sent the order to their own local probation office, with the understanding that they would be forwarded to the relevant probation office. Others sent the order to the local court and others again to the probation office which would be supervising the order. One Crown Court was unnecessarily informing the local magistrates' courts of the existence of the order.
- Of the orders sampled only 57% had been dispatched to the probation area within three working days of the date of hearing.
- HMCS and probation staff were not always using the Xhibit system to its full potential. For example, the use of the Xhibit system to produce automatic alerts of sentences passed was not in place in all courts.

#### **Recommendations**

*HMCS should ensure that clear systems are established for the dispatch of orders to the relevant outside probation areas.*

*HMCS should ensure that staff are aware of the courts' responsibility to make certain that probation receive notification of results on the day that sentence is passed.*

#### **Stage IV – Probation**

##### Actioning of order

- The actioning of the order, i.e. the start of supervision by probation was not reliant on the receipt of the order from courts.
- Where the offender management model was in place the case was usually started by the case administrator and passed to the offender manager. Where allocation was necessary, because there had been no previous request for a report, systems varied. Some allocation was carried out by managers, some court officers self-allocated and some was carried out by administrators. Where court work was not integrated into offender management separate systems were in place for allocation.

##### **Strength**

- All the probation areas visited took full responsibility for their part in obtaining information 'on the day' to ensure that arrangements were in place to supervise offenders from the moment the order was made by the court.

## **Stage V – Probation**

### *Probation marry up formal order with file*

- Checking the order for accuracy against probation records largely rested with offender managers, although we also found incidences of it being carried out by case administrators and/or court officers.

### ***Area for improvement***

- We found only one area that had a formal system for monitoring the receipt of orders. Hence if one was not produced or went astray, it was unlikely to be noticed until the order itself was needed, for example for breach purposes.

## **ADDITIONAL DETAILS FROM THE CASE SAMPLE**

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The small minority of cases incorrectly implemented were spread over all the probation areas and courts visited with the exception of Chester Magistrates' Court (and Cheshire Probation Area) and East Berkshire Magistrates' Court that were free of any errors.

### **Examples of missed or inaccurately recorded requirements**

- A sex offender was made subject to a community order with a condition to attend an accredited programme for sex offenders. He was living in a hostel. Probation staff in court had recorded that a condition of residence had been imposed and this information was entered on CRAMS. The order itself did not stipulate a condition of residence; this had not initially been noticed or followed up by probation.
- A requirement to do ETE was imposed by the court and specified on the order, but this was not recorded on CRAMS so the condition was not being enforced.
- An order specified a community sentence with a requirement of drug rehabilitation. It was recorded on CRAMS that there was also a condition for ASRO (accredited programme) – but there was no record of this being specified by the court.
- The supervision requirement of an order had not been recorded or implemented, although the unpaid work element had.
- There can be significant public protection issues when the court does not ensure that probation has been alerted to the making of an order. We found one case involving domestic violence which had been assessed eventually as a Tier 3 case. The circumstances were not clear. The offender was sentenced on 6 October 2006 but not recorded on probation systems or seen until 27 October 2006. There was no record of how the information was eventually picked up.

### **Contingency arrangements (back-up systems)**

The primary responsibility for ensuring that information is passed clearly lies with the courts. However in several areas the agencies had put good contingency arrangements in place to pass information quickly to probation where results had been missed initially.

In a number of areas courts were providing copies of the court register to probation or other forms of advice of orders made. In only one, however, was this information being used proactively by probation to check that its own

records were complete and accurate. In one area probation had access to the court IT system but did not make use of it.

Largely, the receipt of the paper order was the event that alerted probation to a missed result.

### **Recommendation**

*HMCS and NOMS should ensure that key staff from both agencies at an area level undertake joint initiatives to establish better communication and improved information sharing.*

## LIAISON/PROTOCOLS

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Of the 12 courts visited, only half had protocols with probation. Of the six existing protocols, only four were up to date, e.g. were appropriately designated as relating to the current HMCS organisation, rather than the previous Court Service or MCC.

All of the court staff interviewed felt that there was a good relationship with probation staff, with formal and informal meetings allowing each agency to raise issues regarding the start of orders amongst other things. The response of probation staff was also mainly positive and clearly the smooth day-to-day running of court work relied on good, informal relationships. Not all probation court staff were aware of the existence, or lack of a protocol or, where it did exist, the contents.

Some areas reported a much more cooperative, partnership approach to information sharing than others. In one area, where relationships were reported to be less positive, the number of missed requirements and inaccurate details on orders was significantly higher, although it was difficult to say that this was the cause of the problem.

### Recommendation

*NOMS should ensure that examples of good practice in court work are disseminated to probation areas.*

## Appendix

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*Enforcement, rehabilitation and public protection*



**A PROTOCOL  
OF  
SERVICE ARRANGEMENTS  
BETWEEN THE  
SURREY MAGISTRATES' COURTS  
SERVICE AND THE  
SURREY PROBATION AREA**

**AUGUST 2005**

## CONTENTS

|              |                                      |         |
|--------------|--------------------------------------|---------|
| Introduction |                                      | Page 3  |
| Section 1    | Court Liaison Service                | Page 4  |
| Section 2    | Pre-Sentence Reports (Standard)      | Page 6  |
| Section 3    | Pre-Sentence Reports (Fast Delivery) | Page 8  |
| Section 4    | Breaches, Discharges and Transfers   | Page 9  |
| Section 5    | Liaison Arrangements                 | Page 10 |



## **INTRODUCTION**

**The purpose of this Protocol is to set out the agreed standards and arrangements, which will inform the working relationship between the Surrey Magistrates' Courts Service and the Surrey Probation Area. It will be reviewed annually and in light of developments may be amended with the agreement of both parties.**

## **Section 1: Court Liaison Service**

### **A. Court Duty**

- 1.1 The Surrey Probation Area will provide a Court Duty Service to all the Magistrates' Courts in Surrey. Its purpose is to ensure appropriate, prompt and effective communication between the Court and the Probation Service.
- 1.2 Demands from the different Courts for a duty service have to be met from finite staff resources. The main Courts (remand and reports) will have a Court Officer in attendance or available on standby. The other Courts will not be routinely covered, but requests for a Court Officer (usually communicated via the Ushers) will be responded to as quickly and practically as possible (when a significant delay is envisaged, an estimate of its length will be given).
- 1.3 The Court will provide the Probation Service with sufficient copies of Court lists as soon as they are available (usually by 3 p.m.) plus access to Court registers.
- 1.4 The Probation Service cannot fund travel for defendants appearing at the Courts, even if the defendant has no funds.

### **B. Committals**

- 1.5 The arrangements for Plea and Direction Hearings at the Crown Court necessitate reliable and prompt communication between Solicitors and the Probation Service, regarding pleas so that, if necessary, Pre-Sentence Reports can be prepared for the first Crown Court Hearing.
- 1.6 Copies of the committal notification (including direct transfer) will be forwarded by the Court to the Crown Court Liaison Unit and to the Manager of the Offender Management Team, within 2 working days. Court staff to inform Probation staff of committals in the absence of the duty Court Officer.

### **C. Bail Information Scheme**

- 1.7 The Surrey Probation Area may provide a First Stage Bail Information Scheme to some Magistrates' Courts in Surrey. This will be delivered by specialist Court Officer staff. The purpose of the scheme is to assess defendants held in custody overnight and produce reports that focus on bail issues which are provided to the Crown Prosecution Service and defence Solicitors. Information highlighting public risk will also be appropriately communicated to relevant agencies.
- 1.8 Second stage (Prison based) Bail Information Schemes cover all Magistrates' Courts in Surrey. Court Officers will ensure Courts are provided with relevant information about such schemes. Court Officers will also communicate relevant information to such schemes, to assist in their assessments.
- 1.9 If required, Court Officers will undertake the necessary liaison and arrangements for placements at Bail Hostels and other suitable accommodation in respect of defendants held overnight in Police custody, after court has agreed in principle to the acceptance of a bail note.

### **D. Advice/Assessment Schemes**

- 1.10 Probation staff operating in the Courts (i.e. Bail Information and Court Officers) will, in their dealings with defendants, assess their needs and, if required, refer them to appropriate schemes/agencies (i.e. Substance Misuse, Mental Health provision, Accommodation Agencies etc).
- 1.11 In particular, probation staff will liaise closely with Mentally Disordered Offenders' Assessment Schemes and through the Legal Advisor will arrange for mental health assessments if required.

## **E. Liaison with Sentenced Offenders**

- 1.12 Legal Advisors will ensure that when a Community Order is imposed, the Bench will emphasise to the offender the importance of compliance and the potential consequences of Breach Action.
- 1.13 Court Officers will provide information and instructions to offenders made subject to Community Orders, to ensure that they are commenced promptly in line with Home Office National Standards. It is expected that Surrey residents made subject to a Community Order will be given initial reporting instructions before they leave Court.
- 1.14 Court Officers will prioritise the interviewing of those sentenced to custody (e.g. suicide risk, young offenders and first time custody) to ensure relevant information is passed to prison staff and probation colleagues, plus an OASys assessment to the prison establishment.
- 1.15 Legal Advisors will ensure that if a Community Order is made in the absence of a Court Duty Officer, then the relevant information is communicated as soon as possible via the Court Office. In particular, if a Community Order is imposed which is to be supervised by the Probation Service, then the offender should be told either not to leave the Court precincts until seen by a Court Officer, or to attend the local Probation Office immediately.

## **F. Liaison with other Agencies**

- 1.16 The Probation Service in its Court role, has a responsibility to liaise and engage with other Court users (i.e. Legal Advisors, Crown Prosecution Service, advice schemes, etc) to ensure effective communication and inter-agency cooperation.
- 1.17 The Probation Service has a particular role in communicating vital information to relevant agencies to ensure public protection in relation to Child Protection, High Risk Offenders and Prevention of Suicide procedures.
- 1.18 The Court will ensure that the Probation Service has speedy access to the relevant information required to fulfil its public protection responsibilities and undertakes to communicate appropriate information as speedily as possible.

## **Section 2: Pre-Sentence Reports**

### **A. Criteria**

- 2.1 Pre-Sentence Reports (Fast Delivery and Standard Delivery Reports) will normally be requested when the Court is considering either a community or custodial sentence.
- 2.2 The exceptions to this might include:
- Where an Oral Report would be sufficient.
  - When the defendant is already serving a custodial sentence and the Court wishes to impose a concurrent custodial term.
  - When the Court wants to sentence in line with an existing Community Order, e.g. extra unpaid work; concurrent Community Order, where an Oral Report might suffice.
- A request for a Court Officer to confirm suitability may be used to assist on such occasions.
- 2.3 When the offence is not considered serious enough to warrant a Community Order, there will not normally be a remand for a Pre-Sentence Report. If, in such cases, the Court has concerns about the welfare of the defendant or the defendant's family, the Court Officer can be asked to advise on the sources of assistance available.
- 2.4 When adjourning for a report, the Bench should outline the purpose of the adjournment and communicate any particular issues or disposals that the Court wishes the report writer to address. The 'Sentencing Reasons' pro forma should be completed and accompany all requests.

- 2.5 The Court must emphasise to the defendant the need to keep appointments with the Probation Service and, if necessary, impose bail conditions to secure compliance.

**B. Remand Arrangements**

- 2.6 If the Court Officer is not in Court when a Pre-Sentence Report is requested, the Legal Advisor will ensure that the defendant is either instructed to await the arrival of the Court Officer, or attend the local Probation Office immediately. The appropriate information and Sentencing Reasons form should be made available. In the absence of a Court Officer, the Legal Advisor will complete the Report Request Form which will be faxed to the local office forthwith.
- 2.7 Defendants remanded on bail will be seen by the Court Officer prior to leaving Court and be given relevant information.
- 2.8 *The adjournment period for Pre-Sentence Reports will normally be 15 working days for both bail and custodial remands.*
- 2.9 When a psychiatric or medical report is required, this will be arranged by the Legal Advisor for custodial and bail remands. In both instances, fees incurred will be reimbursed by the Court in accordance with the regulations. It is anticipated that early referral to Mentally Disordered Offenders' Assessment Schemes will alleviate the need in many instances for such reports.

**C. Quality and Content**

- 2.10 *Pre-Sentence Reports will be prepared in line with Home Office National Standards and provide an assessment of the nature and causes of a person's offending behaviour. Proposals in reports will often be for a single sentence, but if the Court has requested that a particular option be considered, then comment will be made on its appropriateness. The Probation Service will address the Court's comments within the Report.*
- 2.11 Under recent changes in legislation, the Probation Service is required to apply certain criteria to all report requests. These are an OASys Risk of Harm screening and an OGRS assessment. In the case of the latter, a score of 41% (assuming the Risk of Harm is medium or low) will result in the report being submitted in Fast Delivery form. However, should other concerns come to light during interview with the offender, a Standard Delivery Report will be submitted.
- 2.12 Delays in receiving relevant documents (i.e. previous convictions, CPS offence information) may affect the content and quality of reports prepared and their absence will be highlighted in the Sources Section.
- 2.13 When a defendant fails to keep appointments or withholds their consent to the preparation of a report, then an Information Report (Non-Report) will be prepared, setting out what has occurred and offering a further appointment where appropriate.
- 2.14 If an interpreter is required to assist in the preparation of a Report, this will be arranged by the Probation Service and will not be funded by the Court.

**D. Report Presentation**

- 2.15 The completed Report will be given to the relevant Court by 9.30 a.m. on the morning of the adjourned Court sitting. Copies of Pre-Sentence Reports will be provided to the defendant and/or the defence solicitor. Faxed reports will only be submitted in exceptional circumstances.
- 2.16 The author of a Pre-Sentence Report will not usually attend Court for sentence. Court Officers will have read the Reports and will be briefed to deal with enquiries from Sentencers.

### Section 3: Fast Delivery Reports

#### A. Criteria

3.1 Fast Delivery Reports are written reports that will normally be requested when the Court is considering a Community Order, and where it is reasonable for the Court to proceed without the need for Standard Delivery Report.

3.2 Fast Delivery Reports will advise on the appropriateness of specific Community Orders. Currently these are:

- *Unpaid Work – Max 150 hours – Surrey  
– Max 100 hours O/S*
- *A Community Order with a supervision requirement up to a maximum of 12 months, which can also include a programme requirement of Drink Impaired Drivers programme only.*

The list of Community Penalties suitable for a Fast Delivery Report may be amended by agreement with the Director of Legal Services, the Justices Issues Group and the Director of Operations, Surrey Probation Area.

3.3 When requesting a Fast Delivery Report, the Bench should identify the particular disposal or issues, in writing, that the Court wishes the report to address.

3.4 A Fast Delivery Report will not replace a Standard Delivery Report as the Reporting Officer will refer back to the Court in the event that aspects of the defendant's life indicate the necessity for a fuller assessment.

#### B. Availability

3.5 The Court would need first to ascertain that a Court Officer is available (and not engaged on other Court duties) to undertake a Fast Delivery Report.

#### C. Operation

3.6 In order to undertake the assessment for a Fast Delivery Report, the Report Writer will require the Sentencing Reasons form, a full list of previous convictions and the details of the current offence. The Court will require the CPS to ensure this is available.

3.7 Fast Delivery Report assessments will require a case to be 'stood down' and could take up to two/three hours to complete, which may result in Court Officers being unavailable during that period. However, should it be more convenient to the Bench and other parties, matters could be adjourned for up to 5 days. Legal Advisors will advise Duty Officers of the progress of other relevant cases during the period they are out of Court preparing a report for the same day.

#### D. Quality and Content

3.8 Fast Delivery Reports are written rather than verbal reports and will be submitted to the Bench in the same way that a Standard Delivery Report is currently presented, e.g. each member of the Bench and the Legal Advisor will be presented with a separate copy.

3.9 Fast Delivery Reports will follow the national format and:

- be based on an initial assessment of the risk of serious harm and the likelihood of offending;
- clearly set out the offender's suitability for a particular penalty as requested by the Court;

- recommend an adjournment for a Standard Delivery Report if the report writer believes that further investigation is required.

#### **Section 4: Breaches, Discharges and Transfers**

- 4.1 Applications for a summons will be made directly to a Legal Advisor and signed on the same day by the Legal Advisor.
- 4.2 Breach Proceedings will normally be resolved **within 25 working days** of the failure that instigates the breach.
- A first hearing date will be confirmed to the offender in writing by the Probation Service, having obtained a Court date from the Listings Office within 10 days of the second unacceptable absence.
- 4.3 *Both Probation and the Court will ensure that all appropriate documentation will be provided to the Crown Court within 4 working days of committal.*
- 4.4 Court administrative staff will notify the appropriate enforcement agency of warrants that are withdrawn. When warrants are withdrawn the Probation Service will remind the Court to obtain the warrant back from the Police.
- 4.5 Transfers of Community Orders may be processed by application to an authorised Legal Advisor.
- 4.6 Applications involving amendments and revocations of Community Orders will be made to the Court. The Probation Service will provide brief details to the Court as advance notice of such applications.

#### **Section 5: Liaison Arrangements**

##### **A. Facilities**

- 5.1 The Court, where required, will seek to provide in the Court precincts, an interview room and telephone for the exclusive use of the Probation Service.
- 5.2 The Court will facilitate access by probation staff to defendants in custody.
- 5.3 Court Ushers will alert Court Officers when their attendance is required in Court, or when a Court decision (e.g. committal/sentence) has been made in their absence, which requires some action.

##### **B. Complaints**

- 5.4 Criticism or complaints about the work of either Service should normally be processed out of Court via the Head of Legal Services and Manager of the Offender Management Team. Complaints may be 'informal' and therefore be dealt with through discussion or may be 'formalised' and put in writing. With the latter, non-resolution at a local level may require intervention by Senior Management.
- 5.5 The spirit informing all such transactions will be one of a positive commitment by both the Court and Probation Service, to seek a positive resolution of the issue with a view to effecting change and improving practice.

##### **C. Equal Opportunities**

- 5.6 The Surrey Magistrates Courts' Service and Surrey Probation Area are committed to ensuring a service based on the principles of Equal Opportunities and Diversity. The Head of Legal Services and Manager of the Offender Management Team will actively promote an anti-discriminatory approach to work in Courts.

**D. Court/Probation Liaison**

- 5.7 The Head of Legal Services and the Manager of the Offender Management Team will meet quarterly to review the working arrangements between the Court and the Probation Service and to consider matters of mutual interest and concern.
- 5.8 The Head of Legal Services and Manager of the Offender Management Team may, from time to time, arrange joint meetings/training events involving their respective staff to promote new initiatives and improved working practices.
- 5.9 The Manager of the Offender Management Team will attend the Court User Group and participate in other appropriate inter-agency meetings concerned with the management of Court business.

**E. Probation Liaison with Magistrates**

- 5.10 In each of the four PSAs, a Probation Liaison Magistrate will be appointed. This liaison will provide a focus for the planning and implementation of a wide variety of communications between Magistrates and the Probation Service, rather than a means of communication itself.
- 5.11 The Head of Legal Services and the Manager of the Offender Management Team will work with the Probation Liaison Magistrate to ensure effective planning of agendas and the implementation of the local liaison plan.

**F. Monitoring of Agreement**

- 5.12 The Head of Legal Services and the Director of Operations will meet annually to review the working arrangements between the respective agencies, and determine any changes necessary to this document by providing a written report to the Area Director and Chief Officer. The Area Director and Chief Officer will meet annually to discuss the review and decide on any recommended variations to this protocol.

Karen Page  
Chief Officer  
Surrey Probation Area

Date:

Simon Townley  
Area Director  
For Surrey Magistrates' Courts

Date:

LB/lml/Courts/courtsprob.protocol  
August 2005