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A View from the Bench

Roisin Muldoon*

Summary: This article contains the full speech of the Presiding Magistrate for Northern Ireland, Fiona Bagnall, as delivered to the Probation Board for Northern Ireland (PBNI) Centenary Conference on 13 March 2008, with comments from the author in relation to the various themes addressed.

Keywords: Sentencer, probation, offender, legislation, satisfaction survey, delay, community service.

On 13 March 2008 the Presiding Magistrate for Northern Ireland, Fiona Bagnall, addressed the PBNI Centenary Conference, convened to mark the celebration of the centenary of the probation service. Mrs Bagnall was appointed as Presiding Magistrate for Northern Ireland in September 2006. In June 2008 the Presiding Magistrate was renamed the Presiding District Judge (Magistrates' Courts) in Northern Ireland. In her opening remarks, she acknowledged that:

The theme of the conference is a changing world, a changing role; with the objective to examine the contribution of probation to criminal justice at present and in the future. The role of the probation service both within the criminal justice system and indeed in society in general should never be underestimated as it is tasked with the job of managing offenders in a way which reduces reoffending and, as importantly, provides public protection. To successfully carry out such an important role it is vital that the probation service maintains not only the trust and confidence of the public at large, but also, to function properly, maintains the trust and confidence of those working within the criminal justice system, and from my perspective, in particular those who sentence convicted offenders. I think as a general

*Roisin Muldoon is Assistant Chief Officer with the Probation Board for Northern Ireland.
Email: roisin.muldoon@pbni.org.uk

statement you can be content that the probation service does indeed enjoy such trust and confidence.

It is fair to say that all judges and magistrates, whether in the Crown Court or Magistrates' Court, value the contribution of the probation service in providing information about offenders: his or her life setting, the risks he or she poses and what possible options are available to deal with the defendant in the community where such an option is appropriate. The recent Northern Ireland Office Sentencer Satisfaction Survey is still in its draft form, however the indications are that, of the sentencers who responded, nine out of ten were satisfied with the quality of sentencing proposals included in the pre-sentence reports and with the detail of such proposals. Furthermore, 97% of respondents reported that they were satisfied with the objectivity of pre-sentence reports and 95% reported that they were satisfied with the usefulness of pre-sentence reports in reaching a sentencing decision.

The Northern Ireland Sentencer Satisfaction Survey, which had the prior approval of the Lord Chief Justice, was conducted by the Northern Ireland Office (NIO) in the autumn of 2007 at the request of the PBNI. The conduct of the survey was therefore independent of the PBNI. The main purpose of the survey was to gauge the level of sentencer satisfaction with services provided by the PBNI.

The sample for the survey comprised 63 sentencers: all judges of the Supreme Court, 18 full-time County Court judges, 21 full-time resident magistrates and 10 lay panel members. The questionnaire was issued during November 2007. It was completed anonymously and achieved a 62% response rate, this can be broken down as follows: judges (66%), lay panel members (70%) and resident magistrates (48%).

Clearly as a general comment the level of satisfaction amongst the judiciary is high in relation to the information provided to the courts to facilitate sentencing. When one considers that the Probation Board for Northern Ireland provides around 6,200 pre-sentence reports to the Magistrates' and Crown Courts per year, this is significant testament to the professionalism and competence of all probation officers. However, it may well be that issues in relation to the length of time it takes to prepare reports will become more important in the future.

Timeliness is a key issue being addressed across all criminal justice agencies at the present time. Mrs Bagnall continued by acknowledging the PBNI's key contribution to reducing delay, the re-launch of the specific sentence report:

In the Magistrates' Courts, resident magistrates, as sentencers, have worked closely with the probation service to re-introduce the use of specific sentence reports, these can be prepared on the day of the court or within a short time of the court date. Such reports provide a considerably reduced amount of information and risk assessment and therefore clearly are only suitable for relatively straightforward, low level offences which do not have a violent or sexual element and where the offender does not have complicating characteristics such as mental health issues or an extensive addiction history necessitating detailed assessments. However, where such reports are appropriate it creates a win-win situation for everyone: probation officers don't have to carry out lengthy detailed assessments, defendants can have their cases dealt with more quickly, victims learn the outcome almost immediately, and from the court's perspective cases are disposed of more expeditiously. The re-introduction of specific sentence reports has been successfully piloted in Belfast and is now being rolled out across the province and I am particularly grateful to those within the Probation Board who have assisted in identifying appropriate cases for such reports and developed the format of the reports themselves.

The specific sentence report is only available to sentencers in the Magistrates' Courts, and this was reflected in the survey responses: 38% of respondents reported that they had often requested specific sentence reports, 30% reported that they had occasionally requested them, 22% reported that they had never requested them and 11% reported that they were not applicable to their work.

Judges and magistrates recognise the value of the work carried out by probation officers under the various orders handed down from the courts. It is important to realise that the Probation Board are supervising around 4,000 offenders, with 80% of them in the community. A number of specific programmes of work are of particular value to the Magistrates' Courts. The drink-driving course has been recognised by magistrates as very successful in challenging

offenders with regard to their behaviour and it has been shown to have significant impact in reducing re-offending. Other programmes relating to alcohol or substance abuse, anger management, and driving while disqualified are all considered very worthy programmes of work which are carried out by the Probation Board under probation supervision orders. We appreciate that the Probation Board continues to develop the programmes available and I understand a new Think First programme which focuses on cognitive behaviour is soon to be introduced and will no doubt provide further options of work to be undertaken by offenders.

The provision of such programmes as part of court orders has given sentencers confidence in relation to handing down probation as part of a disposal because the judge or magistrate can specify courses or programmes of work to be undertaken during the order. This allows emphasis to be placed on addressing issues which impact on reoffending, where it is appropriate, and tailors the order to make it genuinely challenging for the offender. In this way the sentencer can be satisfied that the order will meet the objectives envisaged by the court and will provide constructive challenging work for the offender.

The PBNI is presently completing a rigorous training schedule in relation to the Think First programme and programme delivery is due to commence in August 2008. Think First is an intensive Home Office accredited programme that tackles the way participants think and behave. It aims to change behaviour by teaching problem-solving skills, which will enable participants to manage difficulties in their lives and to avoid future reoffending.

The success of such orders is, of course, always difficult to quantify, however one of the most important measurements must be reconviction rates. According to Northern Ireland Office figures published in September 2007, two-thirds of adults commencing supervision in 2003 were not reconvicted within two years. I understand that these statistics compare very favourably against the experience of other jurisdictions and therefore pay tribute to the work of all probation officers in Northern Ireland.

The NIO has responsibility for the publication of statistics and research relating to the effectiveness of the criminal justice system. A key measure

of effectiveness is indeed the rate of reconviction. More recent Northern Ireland adult reconviction rates, published on 30 April 2008, are equally positive and include the following findings:

- 7 in 10 people subject to community supervision (custody probation order, combination order, community service order and probation order) are not reconvicted within two years (31% reconviction rate overall).
- 3 in 4 people who complete unpaid work (community service) are not reconvicted in the next two years (a reconviction rate of 25%).
- The two-year reconviction rates for combination orders and probation orders are 43% and 32% respectively.
- Supervision in the community following a period in custody reduces reconviction – the two-year reconviction rate of custody probation orders was 38%, compared to 48% for those with no post-release supervision (Freel and French 2008).

Turning to the area of community service, Mrs Bagnall noted:

Community service orders are of course another important order which is supervised by the Probation Board and available to the courts as a sentencing option. Approximately 100,000 hours of community service per year have been completed by convicted offenders. There are, however, challenges for the Probation Board in this regard: community service is frequently considered unsuitable in the Magistrates' Courts because offenders have mental health conditions or are on incapacity or similar benefits. This can inhibit the courts' opportunity to consider such orders when sentencing offenders and clearly has an impact on the usefulness of community service orders as a sentencing option. It may be that in the future the Probation Board can design programmes of work which are suitable for such categories of offenders.

The PBNI is committed to exploring the possibility of facilitating the courts in using community service in cases where the offender is on Sickness or Incapacity Benefit. This work will be piloted initially within the Magistrates Court in which Mrs Bagnall sits at Laganside, Belfast, during the autumn of 2008.

In recognition and acknowledgement of the pending legislative changes in Northern Ireland, Mrs Bagnall continued:

Paul Goggins has recently published the draft Criminal Justice (NI) Order 2008. This, I think it is fair to say, will, never mind the impact on the courts, potentially have very significant implications for your work especially in the post-release field and in dealing with dangerous offenders. Clearly the new provisions will need to be phased in very carefully so that the existing services you provide do not suffer. I do not envy you the challenge!

In conclusion the Probation Board can be assured that it is held in high esteem by judges and magistrates. We recognise and value the role it plays in the criminal justice system, a role which is likely to become more important and demanding in the future. I am sure all those within the Probation Board are ready to meet and indeed relish the challenges which lie ahead.

All that is left is to congratulate you on your first 100 years and wish you well for the next 100 years.

Presiding District Judge Bagnall acknowledged the dedication of probation officers and the valuable contribution that the PBNI makes through the preparation of pre-sentence reports. She also highlighted areas where efforts need to be made to improve on service delivery, namely in relation to the timeliness of reports, the availability of community service to offenders who are dependent on sickness benefits, and the challenges which face us now as we prepare for the roll-out of the new sentencing framework review. The PBNI welcomes these challenges and looks forward very much to a continued positive working relationship with sentencers in an effort to resolve or improve on these areas.

References

- Bagnall, F. (2008), 'Speech Delivered at the Probation Board for Northern Ireland's Centenary Conference', Galgorm Manor, Ballymena, 13 March
- Freel, R. and French, B. (2008), *Experience of Crime: Findings from the 2006/07 Northern Ireland Crime Survey. Research and Statistical Bulletin 1/2008*, Belfast: Northern Ireland Office
- Northern Ireland Office (2008), 'Sentencer Satisfaction Survey 2007', Belfast: Northern Ireland Statistics and Research Agency