

COVID-19 and Community Sanctions

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Title: COVID-19 and Community Sanctions

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Abstract

In this chapter we explore the ways probation providers in England and Wales adapted to the Coronavirus pandemic, considering what this meant for providers, probation staff and people on probation. We draw on research evidence and policy to consider the way in which the pandemic shaped the way the Service met official aims and objectives and the impact on people under probation supervision and staff. As with many of the changes that occurred during the pandemic, we see both positive developments as well as tensions (some previously hidden) being exposed in ways that starkly illustrate the pressures which service users and staff have been facing for many years. We conclude the chapter, therefore, with some reflections on how probation providers can and should take some positives from the pandemic and Exceptional Delivery Model and consider any implications for the future.

Introduction

The Coronavirus pandemic sent shockwaves around the world resulting in radical changes to how people in all sectors were expected to do their jobs. The probation service was no exception, with the National Probation Service (NPS) in England and Wales introducing an Exceptional Delivery Model (EDM) following the announcement of the first lockdown on 23rd March 2020. This chapter focuses on the impact these changes had on the Service, staff and people under supervision. The EDM led to Unpaid Work (UPW) ceasing (temporarily at least), a pause to the delivery of accredited programmes for all but the highest risk individuals (which were delivered on a one-to-one basis), and most court related activities were suspended (Phillips, 2020). The EDM mandated the completion of assessments to review risk management actions and sentence plan objectives for all individuals subject to community supervision (Justice Select Committee, 2020; Napo, 2020) and determine the method and frequency of supervisory meetings under the new model of delivery (Napo 2020). Face-to-face meetings with people on probation were reduced in frequency to enable people to adhere to the 'Stay at Home!' message and most probation practitioners quickly transitioned to working from home. Face-to-face meetings were limited to people assessed as posing a very high risk of harm, prison leavers reporting for their initial appointment, people managed in accordance with counter-terrorism legislation and, finally, those without access to remote communication. Where face-to-face meetings were deemed necessary, they were conducted at a probation office and/or via doorstep visits at the client's home.

Remote communication thus became the primary method for delivering community supervision. Clients were contacted by telephone, WhatsApp and Skype, with video messaging to be used wherever possible (Napo, 2020). Remote supervision was considered inferior when compared to traditional face-to-face contact and so contact requirements were increased to twice the frequency (Napo, 2020). As the pandemic progressed, this requirement was relaxed to allow greater professional judgement, ameliorate logistical difficulties, and respond to a perception that these additional reporting requirements were too onerous for people under supervision.

Step Two of the 'road map to recovery' started on 6 July 2021 with reductions in doorstep visits and increased face-to-face contact. This was achieved by reopening some offices and extending the opening hours of others (Ministry of Justice, 2021b). In June 2021 – when the privatised Community Rehabilitation Companies and public sector NPS merged to create the Probation Service – new National Standards were introduced (HMPPS 2021a). These new Standards state contact can be blended in nature (depending on the nature and level of risk posed by the person under supervision) but that 'direct face to face contact ... remains central to the supervision process' (15). That said, the new Target Operating Model (TOM) (HMPPS, 2021b, 52) states the Probation Service will adopt a 'blended approach to contact (applying learning from COVID-19 delivery arrangements)' and so we can assume that some of these developments introduced as a direct response to the pandemic are here to stay for the long term.

In this chapter we draw upon a range of research studies and policy developments to consider how these changes impacted on the capacity for probation to achieve its main objectives (delivering and enforcing court sentences, facilitating rehabilitation, reintegration and reducing re-offending, and public protection). We also consider the impact these changes had on the experiences of those people involved in the probation service including staff and clients and conclude with some discussion of the implications of the pandemic on the future of probation practice. Throughout the chapter we draw on data from research we conducted during the pandemic which took place as part of a larger study that had been designed to evaluate the revised staff supervision framework (Reflective Practice Supervision Standards formerly known as Supervisory Line Management and Meetings Framework). As part of this, we conducted a survey of all staff in the NPS just prior to the pandemic and then interviewed practitioners and managers between January and March 2021 about their experiences of staff supervision, well-being and – more broadly, the emotional labour of probation practice. We have published the findings from this study elsewhere (Phillips et al 2021a; Westaby et al 2021; Phillips et al, 2021b).

Due to the timing of the interviews, participants often talked about what practice had been like during the pandemic. The primary focus of the study will have shaped our data, but they also reflect the feelings and priorities of our participants who were given freedom to steer the content of interviews. In total, we interviewed 61 participants: 28 senior managers or Senior Probation Officers (SPO), 30 frontline practitioners (Probation Officers (PO) and Probation Service Officers (PSO), and Residential Workers (RW)), as well as three learning and development POs who had been involved in delivering the supervision framework training the original study was evaluating. Participants were from a wide range of operations such as case management, courts, prisons, approved premises and victim liaison units. 43 participants were female and 18 were male, generally reflecting the gender make-up of the NPS. The research was approved by Sheffield Hallam University's Ethics Committee and agreed by the HMPPS National Research Committee. Additionally, the NPS Senior Leadership Team approved the research, providing us with access to all divisions in England and Wales. Interviews were between 45-90 minutes and were transcribed and analysed to identify key themes that emerged. One team member collated and coded all instances where the pandemic was referenced, and this was then recoded by other team members to ensure accuracy of interpretation through reflexive thematic analysis (Braun and Clarke, 2006).

Achieving the aims of probation practice during the pandemic

We start our analysis by considering the impact of the EDM on the ability of the NPS to meet its statutory obligations and be 'effective'. We then ask how the pandemic affected its ability to undertake its core functions of delivering and enforcing court orders; managing risk and protecting the public; and delivering rehabilitation and supporting desistance. These different objectives align

with the overarching mission of the Probation Service (which has the strapline 'Assess, Protect, Change'), the purposes of sentencing as laid out in the Criminal Justice Act 2003 and with what we know about why probation officers themselves do the job and how they define quality practice (Shapland et al, 2012). Although not mutually exclusive, they are sufficiently different to have different outcomes or measures of 'success' and we draw on these as we progress through our discussion.

Punishment, enforcement and compliance

The pandemic had a profound effect on the way in which sentences were imposed by the court and subsequently delivered. Here we focus on the delivery of these sentences focusing on the implications for 'punishment' and how probation staff enforced orders and maximised compliance. Since the Legal Aid, Sentencing and Punishment of Offenders Act 2012 all community sentences must contain a 'punitive element'. The Act defines punitive elements as curfews, exclusion zones and prohibited activities but it is most often implemented through the imposition of UPW requirements. Undertaking a set number of hours of UPW within the community is a significant restriction on liberty alongside an opportunity to make reparation and build skills that can support rehabilitation. The suspension of UPW, then, severely impacted the ability of probation services to deliver 'punishment' on behalf of the Court and restricted the ability of people on UPW to give back to the community as a form of reparation. This quickly led to a backlog in the number of hours that needed doing, resulting in several important implications for the delivery of punishment. Firstly, it raised the risk of a perception that people were not being appropriately punished. Secondly, the backlog risked leading to potential capacity issues once UPW was restarted during the recovery period. One solution to this – implemented by the Scottish Government – was to reduce the number of hours by 35% across all cases, except for those sentenced for domestic abuse, sexual offences and stalking (Casey et al, 2021). Such a move raises questions about the state of community sentences during the pandemic and how they are parsimonious, productive or proportionate (McNeill, 2018). For example, we might ask whether these newly reduced sentences - which result in a less onerous punishment for people sentenced before, during and after the sentence – are proportionate. Similarly, we could also ask whether the original sentence was ever parsimonious if a reduced sentence is seen to deliver an acceptable 'amount' of punishment.

Curfews (with or without electronic monitoring) are another method of punishment available to sentencers as part of community sanctions. Whilst there was a noticeable reduction (21%) in the number of UPW commencements across the period January - March 2021, there was a 17% increase in curfew requirement commencements when compared to the same period in 2020 suggesting that UPW was replaced – temporarily at least – as the main method for delivering punishment in the community over this period (Ministry of Justice, 2021a). Lockdown legislation introduced a form of curfew or home detention for all but those deemed to be 'essential' workers and, although this fails account for differences in levels of poverty, quality of housing between the 'offending' population and the 'general' population, it does raise questions about whether the wide-reaching restrictions on everyday life reduced the marginal effect of imposing a curfew requirement. The specific punitive pains associated with the visible stigma of an electronic tag and lack of autonomy (Payne and Gainey, 1998) would have been reduced given the lack of freedom to interact with others in community settings. By contrast, the recognised pain of family dysfunction (Payne et al, 2014) could have been exacerbated for many by virtue of longer periods spent at home and this is particularly concerning given the documented increase in reporting of domestic abuse during the pandemic (Office for National Statistics, 2020). Ultimately the 'pain' of a sanction is subjective and best articulated by those who have lived experience and so to truly understand the impact of serving a curfew during the pandemic further research is required. Given the stated intention to further

increase the use of curfews and electronic monitoring (as set out in the 'Smarter Approach to Sentencing' white paper (Ministry of Justice, 2020) such research would be vital for shaping understanding of the 'calculus of compliance' (Nellis, 2020, 1) and the burden that such modes of punishment place upon service-users and their families.

In addition to inhibiting the ability of probation services to deliver punishment, the EDM curtailed probation practitioners' capacity to enforce sentences. For example, if a client was deemed to be in breach of their order cases could not be returned to court for breach during the original lockdown. On a theoretical level, this could impact on perceptions of legitimacy of the Service should practitioners be unable to enforce sentences and suggests an area for future research. Other types of enforcement activity – such as recall for those on licence after release from prison – remained available. However, here we see accentuated ethical and human rights tensions given COVID-19 infection rates in prisons, the inability for prisoners to have family and legal visits and the response by the Prison Service which involved locking people in their cells for almost 24 hours per day to prevent infection (see Chapter ??, this volume). Although the context for complying with human rights obligations is not quite the same for probation as it is for prisons (who must comply with the Optional Protocol to the Convention against Torture and are part of the National Preventive Mechanism), such considerations may have shaped practitioner decisions around recall and enforcement in ways that are not observable in compliance and enforcement statistics.

'Effectiveness and compliance are, in the field of community penalties, topics that are inextricably linked' (Bottoms, 2013, 89). Compliance can be measured through either tangible (and often binary) measures such as attending appointments, providing (clean) drug tests, absence of reconviction and successful completion of requirements or more ineffable behaviours such as engagement and co-operation by the person on probation. Formal compliance – 'behaviour which technically meets the minimum specified requirements of the order' (Robinson and McNeill 2008, 3) – was both facilitated and hindered by the pandemic. As mentioned above, the EDM largely removed the requirement for face-to-face contact in favour of remote communication, and particularly telephone calls. This meant that – for most – answering the phone was all that was required to ensure they were formally complying with their Order which, for some, was considered easier than the requirement to attend an office:

they just pick up their phone....At the end of the day, they've answered you and you've contacted them. (Dominey et al 2021, 11)

Getting people 'through their Orders' has long been a strategy of practitioners who work in a system which has become managerial in its approach to measuring 'good' practice, with many practitioners in Phillips' (2016) study relying on making contact remotely or changing the conditions of an Order to make it easier for people to formally comply. Many of the changes to practice that were introduced as part of the EDM would have made 'technical compliance' (Robinson and McNeill, 2008) easier to facilitate. Whilst a lack of face-to-face contact and closed Probation Offices meant activities such as drug tests were more difficult to administer, they also became unnecessary as the Service sought to reduce the amount of face-to-face contact.

Distinct from formal compliance, Robinson and McNeill (2008, 4) argue that substantive compliance 'implies the active engagement and co-operation of the offender with the requirements of his or her order'. We would suggest this was made more difficult by the pandemic. The EDM changed the priorities of supervision – rather than engagement, practitioners were asked to manage risk through doorstep visits and regular check ins. Practitioners found this way of operating challenging in terms of risk assessment and antithetical to engagement (Phillips et al, 2021b). Moreover, remote

communication made the engagement required to engender substantive compliance more difficult. It is not difficult to imagine that to actively engage people in their sentence planning, take individualised approaches and developing productive relationships with people whom staff have never met and only communicate with by phone is difficult. Indeed, practitioners in both our study and Dominey et al's (2021) suggested that remote communication was particularly difficult for people they had not met prior to the pandemic and hindered their ability to develop constructive working relationships.

In Weaver et al's (2021) research on compliance with criminal justice interventions in Scotland three key elements that shape non-compliance were identified: motivational postures and attitudinal stances, systemic structural and social influences, impacts and effects of interactions with authorities. Passive disengagement (as opposed to overt hostility towards supervision) was seen to result from the pull of other concerns that undermine the salience of community sanctions and override concerns about the consequences of non-compliance. In 'normal' times these concerns are likely to include a myriad of social and structural issues that impact on willingness to comply. It is reasonable to argue that the pandemic and resulting restrictions were a significant concern with the potential to impact on motivation to fully engage with community sanctions and thereby increase the potential for passive disengagement. Furthermore, supervision delivered in line with the EDM has the potential to result in perceptions of procedural injustice given Weaver et al's (2021) findings that this is most linked to the brief nature of most interactions, inadequate support and the outcome of risk-centric decision making. Put simply, remote communication methods could be perceived by some people on probation as superficial, lacking in substantive help or devoid of care and concern. Similarly, doorstep visits risk contributing to a sense of surveillance and monitoring but without the concomitant commitment to support and assistance that is expected by the individuals under probation supervision.

Finally, we would suggest that the pandemic changed the nature of structural barriers to compliance. Barriers to compliance include unstable accommodation, financial problems, lack of community ties, unemployment and literacy issues. Staff have been found to work to remove such structural barriers to make compliance easier (Phillips 2016; Ugwudike and Phillips 2019). The pandemic will have made some of these barriers more acute and remote supervision will have limited the ability of staff to deal with them. Indeed, participants in our research highlighted how remote communication made it easier for service-users to comply formally (because of the removed structural barrier of having to travel) but increased the difficulty in knowing exactly how someone was getting on.

Obviously it's the ones on the telephone that you can't get a sense of how they're looking or whatever, but I feel that most of them have been quite open and so actually sometimes there is a bit of a relief, I think, that they're not having to perhaps trapse in for another appointment or come into an office or whatever. (Ava PSO Courts)

Mine are loving it, if I'm being honest. It's so much easier for them. They've got to pick up the phone once a week and have a twenty-minute phone conversation, but I don't think you get the same engagement out of them. You don't get the same information. You can't have the same conversations because they're sat at home in their living room with their partner and kids in the same room and you've got to talk about offence related things and they don't want to have those conversations in front of their family. So, engagement's just not there. (Esther PQIP)

When it comes to punishing people on behalf of the court, enforcing Orders and maximising compliance we can identify countervailing effects of the pandemic and EDM. On the one hand, it made the delivery of sentences more difficult because it impinged on the Service's ability to deliver punitive elements of the sentencing framework, made substantive compliance more difficult to engender and enforcement more difficult. On the other hand, it made formal compliance more feasible and resulted in some Orders being more parsimonious because people on probation had to adhere to fewer requirements as UPW and programmes were paused.

Managing risk and public protection

The focus of probation practice during the pandemic was 'offender management and risk supervision' (Buckland, Justice Committee, 2020, 1), highlighting the enduring importance of this aspect of probation practice. To this end, policy makers focused on how to supervise clients by managing risk effectively and prioritising individuals assessed as posing a high or very high risk of harm. In England and Wales, practitioners could see low or medium risk clients face-to-face but only where there was a perceived increase in risk. Risk management has long been a key objective of probation and it is interesting that during the pandemic it resurfaced as the main method of allocating resources. As such, doorstep visits were introduced for high and very high-risk clients to allow 'staff to have sight of the offender at the address whilst also facilitating a discussion' (Napo, 2020, 1). Despite this, doorstep visits were considered 'a poor substitute for proper face-to-face supervision and proper home visits' (Russell, Justice Committee, 2020, 1), yet continued to be used as a legitimate way of assessing risk. Probation staff in our study complained that using doorstep checks as a risk management tool was time consuming (partly because of the need for two practitioners to go on each visit) and mostly ineffective:

We still have to see people at home, but we do these doorstep checks, you go and knock on the door, stand two meters back and say hello and how are you doing and, sorry, we can't talk about that on the street and that's it really. That's a doorstep check. Apparently that's meant to be a risk management tool. (Paul PO Generic)

Despite having ineffective tools to assess clients, probation staff remained conscious of being held to account with respect to potential serious further offences and felt that they would be held to account for failing to gather enough information to assess risk or meaningfully engage with their clients:

Basically all they were doing was checking that the person was at the house at that point, but people have felt – it has been really difficult to get information to do formulations with, so they've kind of shied away a bit from having those conversations about some of the childhood trauma experiences and rightly so... So all of that, and people have said it hasn't felt like doing what I should do. Which has been very difficult for officers...then there was worries around 'Will I be hauled up for this?' (Dionne PO PD Pathway)

We have argued elsewhere (Phillips et al, 2021b) the restrictions on face-to-face contact led to practitioners 'defaulting to welfare checks and basic forms of surveillance', reinforcing the idea that substantive compliance was difficult to achieve (McNeill, 2020). Moreover, we identified an overarching perception amongst practitioners that the organisation was seeking to cover its back at all costs:

There was a lot of pressure to carry on regardless, but carry on doing more regardless as well. So that's taken its toll on everyone. (Zachary PO Generic cited in Phillips et al, 2021b)

So that makes me really cross because to me that's not about actually managing risk, that's a back covering exercise in case something goes wrong. Somebody kills somebody, god forbid, during lockdown and they want to cover themselves. (Charmaine PO Generic cited in Phillips et al 2021b)

Dominey et al (2021, 7) also discovered that staff found risk assessment in the pandemic difficult, partly because of the need to communicate remotely: 'Practitioners were particularly concerned that the loss of sensory feedback reduced their ability to make accurate judgments about risk'. In relation to risk management we can observe, then, a real tension between preventing the spread of COVID-19 and doing effective or quality work. At times, people struggled because they had to remain physically distanced whilst at other times, they wanted to remain physically distant because the only alternatives were ineffective and served to put people at risk of either spreading the virus or doing work which was perceived to be solely about back covering. A further consideration here is the way in which COVID-19 shaped the risk that people posed in the first place:

Sometimes you've just felt that there have been more people that are being - there are people out there that haven't been given credit for the fact that they've actually reduced their own risks by actually adhering to COVID restrictions and not all of those have led to an increase in DV or sexual crimes being committed. (Zachary PO Generic)

Zachary's comment suggests that solely focusing on managing risk and public protection fails to take into consideration the fact that – on the whole – complying with COVID-19 restrictions meant that people on probation were also reducing the risk they posed. Risk has long been the 'raison d'être' Kemshall (1998) of the probation service, yet remote communication and the need for social distancing made risk assessment, risk management and – by implication – public protection more difficult.

Rehabilitation, supporting desistance and working relationally

It is a longstanding belief amongst probation staff that 'relational engagement with individuals is 'at the heart of the probation enterprise' and that rehabilitation is a core endeavour of this relational work (Burnett and McNeill 2005; Phillips 2013; Senior et al 2016). The development of an effective working relationship between probation practitioners and service users enables probation workers to manage risk, protect the public and induce compliance, but also fulfil another equally important value to which probation practitioners are committed; a belief in the service user and their capacity to change (Lewis, 2014).

Despite challenges around 'using' criminal justice to rehabilitate people, rehabilitation has survived as a legitimate correctional penal policy by adapting to three dominant discourses. According to Robinson (2008) rehabilitation is now: utilitarian by becoming justified on the grounds of protecting the public from harm; managerialist by making use of prescribed processes and interventions determined by risk and measured via quantitative outcomes; and expressive in that it is a punishment in its own right rather than an alternative to punishment. We would suggest that rehabilitative work during the EDM suffered along each of these lines. McNeill (2012) identifies four forms of rehabilitation: personal, social, moral and legal. Personal rehabilitation relates to promoting positive individual level change and, as seen above, this was incredibly difficult through remote communication and doorstep visits:

I'm struggling to work out how to do workbooks. I know it's a mental block that I haven't delivered a workbook over the phone, I'm used to having a bit of paper there between

us and going through it and they've got a bit of paper...So yeah I've kind of put it off.
(Isabela PO Generic)

Moral rehabilitation relates to offenders making reparation as a means of restoring their social position and social rehabilitation relates to recognition and acceptance of the ex-offender within the community. This occurs via interventions such as UPW or restorative justice, all of which were prevented from taking place by the EDM. Finally, rehabilitation can be '*social*' in the sense that rehabilitation seeks to promote the restoration or establishment of social bonds that will support the (re)integration of the individual ex-offender into the community and in doing so, strengthen collective efficacy of society itself' (Burke et al., forthcoming). The pandemic posed serious challenges to this way of working with people on probation:

It's been much more difficult because there's less resources there to help them. Less activities, more restrictions so it's been much more difficult. (Abby PO Generic)

Rather than probation rehabilitating people, a 'desistance paradigm' (McNeill 2006) asks us to think about doing probation *with* people rather than *to* them. Thus, desistance-focused probation practice empowers people to make their own decisions about where they want to be in their lives and supports them to get there. We can, thus, consider 'effectiveness' by thinking about how practitioners were (un)able to perform their role in a way which supports the pre-conditions for desistance. Being a 'counsellor', who develops motivation and 'holds hope' was difficult during the pandemic, particularly given the impact of lockdown on our participants' own emotional wellbeing (see below).

Empowering clients and promoting a sense of agency in the context of widespread restrictions on 'normal life', building a trusting working relationship and the lack of ability for anybody to exert control over their circumstances within the constraints of lockdown rules will all have been constrained by the pandemic. Additionally, the difficulties in delivering programmes and one-to-one supervision made it difficult for practitioners to perform the role of 'educator' where they seek to develop human capital, normally achieved through programme completion, RAR interventions and structured work aimed at improving cognitive skills. Finally, working remotely made it difficult to advocate on behalf of clients; accessing services to support social capital growth was severely restricted given the lack of community services which would normally work with and alongside probation interventions. In short, the pandemic and resulting EDM had serious implications for both the social-relational and structural dimensions of the desistance process which practitioners are expected to assist (McNeill, 2006).

Ultimately, to be effective in assisting desistance, practitioners need to provide practical help and resources alongside 'sustained positive feedback and encouragement' (Villeneuve et al, 2021, 1). This was difficult for practitioners especially when examined through the lenses of emotional literacy (Knight, 2014) and emotional labour (Fowler et al, 2016). Emotional labour requires worker's emotional displays to conform to feeling rules or display rules established through the organisation (through for example induction, recruitment, policy and staff supervision) and as a result of becoming occupationally acculturated within their chosen profession (Ashforth and Humphrey, 1993; Hochschild, 1983; Adams and Mastracci, 2019; Rafaeli and Sutton, 1989). Display rules can also be societal, and these more general norms often influence organisational and occupational display rules (Ashforth and Humphrey, 1993; Ekman and Friesan, 1975). Probation staff are expected to perform emotional labour because of such display rules (Fowler et al, 2016; Westaby et al, 2019), which can be achieved through surface or deep acting. Surface acting is the feigning of outward emotional displays, which disguises incongruous inner feeling (Hochschild, 1983). While deep acting is where a worker attempts to align their feelings with outward emotional displays through either experience or

training their imagination (Hochschild, 1983). Emotional labour is one way in which practitioners contribute to the over-arching goals of an organisation and so any changes to emotional labour expectations, are likely to impact on how 'effective' practitioners might be.

Emotional labour performed by probation staff prior to the pandemic was primarily face-to-face, but the EDM prioritised remote communication. As McNeill (2020, 1) points out 'Practitioners are used to reading and relying on non-verbal cues to guide their interventions.' For some of the participants in our study, the lack of face-to-face contact proved difficult in determining the emotional labour they needed to perform:

I found it very difficult trying to manage from afar with just telephone calls and I think nothing can replace that face-to-face structure that you have with your service user because you can read their body language, you can see if their eyes are dark, you know, you're picking up on all these things that are going on, if there's a change in their appearance. All that was missing because also I couldn't do a home visit either because I was shielding completely. I've got to be honest; I was worried constantly that I wasn't picking up on important issues or that the phone calls were becoming quite static because on the whole people were doing what they needed to do and were staying in so there wasn't really anything to discuss. (Nettie PSO Generic)

This reflects findings from other studies with Dominey et al (2021), for example, describing the way staff found it difficult to establish satisfactory supervisory relationships over the telephone. Although our participants reported that where there was an established working relationship the adjustment to voice-to-voice contact was easier:

the only ones that I've really had that I've allowed telephone contact with is the ones that I've got a really good established relationship with, so on the phone I can - I know their confident enough to tell me when they're not coping, they're confident enough to say I need to see you and then I do then see them in the office regardless. (Abby PO Generic)

In Sturm et al (2021) telephone calls proved difficult where there was no working alliance between the probation practitioner and the client or where English was the service user's second language (Dominey et al 2020). Where probation staff had no prior relationship with a client this proved to be a barrier to developing a working relationship which inevitably affected their ability to work towards rehabilitation with individuals on probation:

I hate it with a passion. I've got a few offenders who have come out and it's been during lockdown and you just feel as though you just don't know them. I really feel as though I struggle to get to grips with people more recently. I much prefer the relationships that I've developed prior to lockdown, because I feel as though they are more trusting as well, so they will talk a bit more freely... it tends to be phone calls and again for the phone call you just don't feel as though you've got that level of the relationship. (Violet PSO Generic)

Trying to rehabilitate people on probation in 'normal' times is challenging and rehabilitation as a penal strategy is a difficult one to justify. To do so during a pandemic appears to be even more difficult. Indeed, regardless of the lens we have used to examine rehabilitation in the pandemic, this element of probation practice has been severely affected. That said, the flexibility that remote communication provides may prove useful in the longer term (Sturm et al, 2021) and the lack of data

on the impact of this on longer term compliance, reoffending rates and desistance (as difficult as that is to measure) means it is difficult to fully assess the impact of the pandemic in this area.

Impact on staff of working in probation in the pandemic

The boundary between work and family life and how it is managed effectively is an important consideration in promoting the wellbeing of probation staff. There is no single correct way to manage the boundary between work and family life. While one person may carefully divide work and family life, another may allow their work life to overlap with their personal life (Kossek, 2016). However, where work spills over into family lives work family conflict can arise and impact on wellbeing (Westaby et al 2016) and our data suggests this was exacerbated by the pandemic:

It's the appropriateness of it, isn't it. And I think that is one of the things that was missed at the beginning of this pandemic. If you can work from home then work from home, so we physically can work from home – but having a detailed MAPP meeting when you're talking about somebody's sexual offending isn't appropriate when you've got children around. I think that is something that the service failed to acknowledge, that actually the nature of our work is not child friendly, is it. We don't have children coming to the office for a very good reason. And my kitchen is now my office, and on top of that my husband also works for the service, he works with offenders, so we are both working in the kitchen, and we have all that juggle going on as well. (Vicki PSO VLO)

Our participants reported that having to do their work at home meant that they could not easily detach from the 'emotional dirty work' (Ward and McMurray, 2020) expected of them. As Ursula (SPO Generic) states, there is no 'safe space to switch off'. The pandemic also resulted in staff working longer hours and needing more flexible work patterns because of caring for children and/or vulnerable family members (HMI Probation, 2020; Norton 2020) resulting in even more acute work family conflict.

Given the emotionally demanding work required by probation practitioners, it is important to consider the amount of work expected from staff. Probation staff in the NPS find their work to be 'relentless' (Phillips et al, 2016), and increasing workloads and complexity of cases only serves to decrease their wellbeing. In a study of US probation officers it was also found that the more service users who have mental health concerns are supervised by probation staff the more it affects negatively the mental and emotional wellbeing of those practitioners (Gayman et al, 2018). Prior to the pandemic staffing issues were already present within the NPS: at the end of March 2020, the NPS reported over 600 vacancies in England and Wales in June 2019 (HMIP, 2019, 4) and the pandemic exacerbated already high workloads. With no workload compensation granted to practitioners, this created additional pressures for probation staff:

In fact what they did ... was double the number of times we have to have contact with people. They increased the level of contact we had to have ... if you try and do everything that you're supposed to in the job, and we have seen it time and time again, those people burn out and they go off, or they become managers because they don't want to do it anymore, it's just impossible to do that...So, yeah. COVID made that much more difficult because they were really on top of the tracking systems as in the monitoring systems to make sure that you're having the contacts that you had to have and you'd literally double. (Zachary PO Generic)

So I am now working longer. Whereas when I was in the office I wouldn't mind staying longer because there at least I know when it's done it's done and I'm not taking it back home with me. (Charmaine, PO Generic)

To ensure the continued wellbeing of staff it is important to have access to both organisational and peer support (Lee, 2017) and a limited number of practitioners in our study they felt unsupported by their line manager at crucial points during the pandemic:

It was the start of COVID, working a lot from home, nearly all the time from home really...I had this man I'd been working with for about six months became really, really aggressive and threatening. It was all over WhatsApp. It was on the phone. I don't think it was because I was in my own home or what, but it felt really, really threatening...I asked for quite a lot of support with that, but I didn't feel I got it. It felt very much like, well, you know, we have difficult people all the time and we deal with them and it was like well actually this felt really different, it felt really targeted, it felt very personal, but I didn't get anything back really. So it's stuff like that really that I feel is missing, feeling that sometimes that's the support I need sometimes that we just don't get. (Gabrielle PO Generic)

That said, SPOs in our study were mindful of the additional emotional toll working in accordance with the EDM had taken on their staff. And it is clear from discussions with some frontline practitioners that they were gaining support from the NPS through SPOs.

You build up a resistance and an ability to be able to cope with separating the work from home and [my SPO has] gone through the process of talking about that, so how can you do that, what's going to be useful for you, what do we not need to do, what do we need to do, you know, going through that kind of process...We talked about, okay, so what can you do in terms of having space? What about having somewhere different to work, all those kinds of things and this is something we just kind of talked about. Yeah. It's been a process of us having a conversation which I imagine she's had with lots of other people as well. (Kian PO Trainer)

Moreover, the emotional support provided to frontline practitioners has in turn placed additional emotional strain on SPOs who were also trying their best in a difficult situation:

There is always time when a staff member will be struggling or will be completely emotional about something or has a really bad week, but it's just been more frequent and that has meant a lot more energy has had to go into that and when you're having those conversations with staff you yourself as an SPO are absorbing that as well, so you are then carrying it around and that has been really tough. I've had periods where I've been quite upset off the back of having conversations with individuals and the team as a whole because you just want to be doing your best for people. It's really hard to support everyone and make things good for people. You just can't do it, so you end up feeling 'Oh have I done enough? Is there something more? I wish I could take that off you but you are just doing your best really... (Ursula SPO Generic)

The most significant impact on staff wellbeing came from the need to be able to engage in collective emotional labour and offload with other colleagues as a coping mechanism (Fowler et al, 2016). Described as 'communities of coping' (Korczynski, 2003) such networks enable service workers to turn to each other for emotional support. While some participants described being able to gain support

from peers in alternative ways during the pandemic, working from home has generally been detrimental in terms of staff peer support:

The thing that I missed the most was the unquantifiable exchanges that you have with your colleagues all the time who've just heard you have a difficult phone call or a difficult exchange and you can release the pressure of thatit took me a long while to realise how important that was and how hard it was to work without it - that sort of glue or whatever it was that was helping us manage that has gone and it's made it much more important for us to acknowledge the emotional impact of the work. (Brianna SPO Generic)

Yeah. It's more difficult really I think. I've got a couple of people I'm quite close to that I would ring up just for a chat about things, but I think most people you only contact them if there's a work-related issue. Certainly in the office you could be making a cup of coffee and someone will walk in and say are you all right? You go, no! You barge into it sort of thing! (Gabrielle PO Generic)

Remote supervision appears to have taken its toll on people working in the Service. The sensorial nature of penal supervision: using senses to assess and understand where someone is, where they are going and communicating by phone made this difficult and, in the words of one participant in Dominey et al's (2021, 19) study, as 'demanding and tiring'. We already know that probation work is hard work because of the nature of the work – talking about sensitive issues with people, dealing with high workloads and the pressure of managing so-called high-risk people can take its toll. Working from home, combined with remote supervision methods and increased frequency of contact with people made doing probation in the pandemic even more difficult. Our own research and that of others in the field of probation suggest that the pandemic has exacerbated many of these pre-existing issues.

How did people on probation experience being under supervision during the pandemic?

There is a small body of literature exploring the lived experience of people on probation. Our own participants referred to their service users and the way in which it became more difficult to provide services that they would normally rely on:

Up to recently as well in the last three, four years I ran a mental health group at [location] and at [location] as well which was very much service user led really looking at people's emotional wellbeing, sort of coping with being on probation, coping with release from prison and stuff like that. Well that's stopped with COVID at the moment. (Gabrielle PO Generic)

Gabrielle's take here is that people's experiences will have been negative, but staff are poor proxies for understanding peoples' experiences. In their study of justice affected people in Scotland Casey et al (2021) found that people reported a reduction in access to support services because of difficulties in accessing online services. Casey et al (2021) highlight that people under supervision reported having restricted access to technology and others were prohibited from using the internet as part of the sentence conditions. At a time when all aspects of life pivoted to online, the experiences of people under probation supervision of the pandemic are likely to have been particularly acute.

Despite this, participants in Casey et al's (2021) study suggested that their supervision became looser because they could just 'go through the motions' by phone'. On the other hand, Dominey et al (2021) found that remote communication afforded both parties greater accessibility

which could enable more proactive and reciprocal forms of communication which had not been available before the pandemic. For some this meant supervision became easier and less disruptive to their lives:

I'm actually much happier. It always seemed a chore to go to the office. Sometimes it would take an hour to get there just for a 10-minute meeting. (HMI Probation, 2021, 4)

However, the move of the NPS to remote supervision also impacted negatively on some clients. User Voice (2021) reports that while remote supervision suited some people under probation certain vulnerable clients struggled due to a lack of support systems (see also Dominey et al 2021). Remote communication increases the chances for miscommunication (in one example a probation practitioner said one thing which was then contradicted by a text message), or a lack of communication between probation staff and clients and this risks creating further anxiety:

Got a text message telling me that I have an appointment in the office, but I've already sorted that with my case manager and it's a phone call not me going into the office. It's confusing when the case manager tells me one thing and a text message is telling something different. Causes me stress and anxiety. (User Voice, 2021, 9)

I have not heard anything since before Christmas. I have had 2 calls scheduled but nobody has rang. I have tried to get hold of my PO but was told that she was on sick and someone else would ring but nobody ever has. I don't have long to go so don't want anything else to go wrong. (User Voice, 2021, 8)

The difficulty in developing a rapport and working relationship described by probation practitioners was also highlighted by clients:

I didn't meet my officer while in prison and I thought it wasn't OK for someone I had never even met to be making such massive decisions about me and my life. (HMI Probation, 2021, 4-5)

The pandemic extended the period of supervision because final review meetings were delayed (Casey et al. 2021) and, as noted above, people undertaking UPW were not able to do them as quickly as planned. This has impacted negatively on clients, not only in terms of potentially extending their order, but also with respect to the uncertainty it brings in terms of when an Order will end and also whether they might be recalled for not completing the work:

I need help with my CP - I don't know anything - not knowing what I'm doing or if I'm going to be recalled for not attending CP- no one has told us anything about what is going on - until now- thank you for keeping me up to date Jason - why can't they just do the same as what you are doing. (User Voice, 2021, 10)

I have not heard a thing about when I can complete my hours. I only have 6 hours left and feel as though I am in limbo until I can finish them. Not sure how long this is going to go on for, surely I could do them with some social distancing or whatever, shops and pubs are open so why can't unpaid work be done? (User Voice, 2021, 10)

Lockdown affected me mostly because I wanted to get going but everything was, and still is, at a standstill. (HMI Probation 2021, 5)

People on probation also raised concerns about where they would access support when their Order finished. They had come to rely solely on their probation officer due to a lack of support elsewhere and felt unprepared life after their Order had ended:

I'm off my order soon, so the phone calls will drop off a cliff. I do worry as there is nowhere else to get support at the moment and probation have been helping with more than just reoffending. They've been there the whole time, and filled the gaps of other services. (HMI Probation 2021, 6)

There were, then, countervailing themes in that 'while less may have been demanded of some of those subject to UPW requirements, the social marginalisation associated with supervision has been exacerbated, and the pains of being suspended in punitive limbo have also been sharpened' (Casey et al 2021, 13). That said, more research clearly needs to be done to understand how people under probation supervision experienced the pandemic. Such research will have potentially important implications for how probation can learn from what went well during the pandemic and what lessons should be learned from this unplanned transition to remote working.

Discussion and Conclusion

The challenges for probation services and those on probation during the pandemic is clear to see. We have shown that meeting the statutory aims of probation has been challenging and now consider what this means for the future of probation. Our analysis suggests it was difficult to deliver the key objectives of probation in the context of paused UPW, closed courts and restricted access to support services and traditional ways of developing relationships with people on probation. The understanding of 'compliance' shifted to surface level assessments as the sensorial qualities of informed risk assessment were inhibited due to remote communication. Similarly, we have heard that people on probation did not have access to the same support services, yet successfully managed their own risk and adhered to the Government message to 'Stay at Home!' This reveals important questions, opportunities and observations about the future direction and nature of the Probation Service.

The pandemic brought to the fore key questions about probation work, its aims and how they should be achieved. Staff and supervised individuals experiences of probation were, in many ways, intensified and became less satisfactory. Moreover, the pandemic raises questions about how equity and proportionality are implemented in sentencing; how the burden of punishment is experienced by people on probation; how compliance should be measured and what should the role of co-production should be in compliance all bubbled to the surface. Finally, we might ask broader questions that become more pronounced in this context: what is the role of the senses in risk assessment? How can remote communication be used in the context of rehabilitative work? What is an appropriate caseload, in terms of risk, complexity of need and volume? And finally, what support do probation workers require to deal with the toll that probation practice can take?

There is currently no data on the impact of the EDM on compliance, reoffending and desistance and it might be wise to see what transpires before making recommendations. However, we can confidently say probation staff continued to support people on probation, their colleagues, and the community during and in spite of the pandemic. Whilst coping with their own pressures of lockdown, social distancing, and COVID-19 the desire for a welfare orientated approach in probation became prominent rather than hidden, apologetic and behind the scenes. Looking ahead to the newly unified Probation Service in England and Wales, there is an opportunity to create a service which prioritises certain aims and objectives (Ainslie, 2021) building on learning from Transforming Rehabilitation and the pandemic:

Therefore, in probation, our aim is to use recovery work not simply to return to business as usual as quickly as possible, but to transition to a reformed, unified model of probation. Our Recovery Programme will ensure that everything we do pulls together to deliver the probation system we want for the future and that we have a consistent approach to

achieving this which maintains continuity of essential service delivery and minimises disruption to front line delivery. This presents opportunities of learning and innovation for potentially new ways of working, and to build a more resilient service which is better prepared for any future emergencies. (Ministry of Justice, 2021b, 1)

If this new model is to succeed, we would suggest it is time to harness the experiences of people on probation in the vision of this new 'resilient' service. The support one participant experienced during the pandemic revealed the humanity at the core of the probation endeavour:

What COVID has done as well is every now and again I've had an offender turn round and I've asked them how they are, they've turned round and said how are you though? How are you coping through all of this? You don't always get that in this job. It means a lot sometimes. It's nice of them to say it and it's nice to hear it but you don't hear it often enough in this job from people that you're working with or colleagues or partnerships. (Zachary PO Generic)

These insights have a great deal to teach us about how probation might move forward. Rather than being focused almost exclusively on risk – as happened in the EDM and which many of our participants eschewed, probation might start to move towards a re-emergence of 'radical socialist model' in which the commitment to social reform, community change and empowerment of service users' comes to the fore (Ainslie 2021, 44). The pandemic forced the State to intervene in society to protect the vulnerable (e.g. through the furlough scheme and the all-out project to put homeless people into accommodation) in a way not seen since the Second World War. Perhaps this represents an opportunity for such an approach to be adopted and pursued by organisations and practitioners who are responsible for working with one of the most vulnerable groups of people in society, however tainted they may be. Rather than referring to welfare focused probation work as 'old school' we would argue that this form of practice should more visible and acceptable. If the pandemic allows for this then at least one good thing could be rescued from the ashes of an otherwise devastating pandemic.

To conclude, in this chapter we have presented an analysis of previously published literature and new research data to argue that the pandemic made it difficult for probation services to achieve their official objectives. In response to the pandemic, probation services initially reverted to risk assessment as the main focus of practice with staff working from home, finding it difficult to engage people substantively by phone and video-call. This way of working took its toll on staff who struggled with reduced access to communities of coping and increased demands around the performance of emotional labour. That said, the increased flexibility afforded by remote working appeared to work well for some people. One such group was the people who are under supervision who, despite losing access to systems of support, found the experience as less 'tight'. The pandemic recovery period in conjunction with the ongoing move towards a unified service provides opportunities to rethink the way probation defines its objectives and over-arching aims. We would argue that this period should be used to find the balance between making probation more flexible and responsive to the needs of people on the caseload (through, for the example, the potential that remote communication provides) and - at the same time - protecting the wellbeing of staff and individuals on probation from the loneliness that characterised so many peoples' experiences of life in lockdown.

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