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Probation and Ageing

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Abstract: Despite increased focus on the increasing ageing population in prison probation services sit betwixt and between gerontological research around ageing in communities, and criminological research about ageing in custodial settings. This poses problems for probation practitioners, who mainly work with younger people. Probation practice tends to be predicated on criminogenic need risk assessment and intervention. However, these interventions do not tend to factor in age. This chapter outlines the history of probation's focus on young people; identifies political, social, and demographic factors shaping the ageing probation caseloads and develops a typology of older people on probation their needs. This includes physical and mental health, social care, accommodation, employment, finances and relationships. The chapter identifies how gerontological approaches may support probation practice and considers ethical dilemmas relating to the conflation of ageing and disability which may stifle innovative ways of working.

Introduction

Over the last few decades, increased attention has been paid to the growing ageing population in prison. However, probation services and community penalties more broadly have tended to sit betwixt and between gerontological research around ageing in communities, and criminological research about ageing in custodial settings. This poses problems for probation practitioners, whose main workload is with younger people on probation. A further challenge relates to the supervisory requirements of people on licence following a custodial sentence. Probation practice tends to be predicated on assessing criminogenic need and risk and putting interventions in place to meet such needs. However, these pathways may either be inappropriate in their entirety for older people on probation or require modifications to mainstream practice.

This chapter outlines the historical development of probation and their focus on young people; outlines the changing political, social, and demographic factors which are shaping changes to the ageing probation caseloads and develops a typology of older people on probation and how their needs may differ. This will include considering issues relating to physical and mental health, social care, accommodation, employment, finances and relationships.

Defining ageing

The UK, along with most other western societies, is an ageing population. The projections are that by 2050 one in four people will be aged 65 or over, compared with one in five in 2018 (Office for National Statistics (ONS), 2022). In 2019, almost one in every 100 people (0.9%) in the UK were aged 90 years or over (ONS, 2020). Global estimates are that by 2050, there will be two billion people worldwide aged over 50 compared with one billion in 2020 (World Health Organisation (WHO), 2021).

However, ageist attitudes are widespread and is more pervasive across Europe than racism or sexism (Ayalon, 2014). The WHO (2021, p.15) define ageism as:

‘...when age is used to categorize and divide people in ways that lead to harm, disadvantage and injustice and erode solidarity across generations. Ageism takes on different forms across the life course’.

In gerontology (the study of ageing), there are definitional differences between ‘old’ and ‘elderly’, and ‘maturity’ around age 60, whereby people are likely to still have high function and independence compared with entering ‘old age’ around 80, which is often associated with declining health and functioning, and greater dependence on others. (Gilleard and Higgs, 2013, p.368).

In recognition of the fact that there are a variety of ways of defining ageing, gerontologists often use one of three methods: biological, chronological and functional (De Medeiros, 2017), all of which contribute to age (and ageing) being defined as a social construct (Forsyth et al, 2015) whereby age dependent events such as state retirement age may intersect with health conditions which may take place at different rates in different contexts.

- Biological ageing: a process which moves from growth to decline, and ultimately death
- Chronological ageing: an arbitrary number prescribed a social meaning, a ‘social or cultural construction, based on the rules of society, rather than on the individual’s ability to perform.’ (De Medeiros, 2017:6.) and was underpinned by the development of industrial capitalism (Philipson, 1998 in Powell, 2012). Chronological ages are often seen as problematic given the heterogeneity of individual experiences and can lead to the development of homogenous “population categories”
- Functional ageing: recognises both the effects of ageing, and the fact that this can take place at differing rates.

Furthermore, gerontologists have identified a number of possibilities and challenges of approaches which may responsabilise citizens rather than society around the way in which these concepts are manifest. For example, successful ageing strategies (Rowe and Kahn, 1997) have been criticised for the emphasis on the actor who may not have control over the health outcomes which are contingent upon

their interactions with other aspects of intersectionality (e.g. gender, race), class, income and genetics. All of these are relevant to people in the criminal justice system. Consequently, the World Health Organisation coined the term 'active ageing,' a term which can be used at individual, population and societal level. They define active ageing as 'the process of optimising opportunities for health, participation and security in order to enhance quality of life as people age' (WHO 2002:12). Extending the WHO framework, Bowling (2008) identified the constituents of active ageing as including physical health and functioning; leisure; social contacts, mental activities; access to services and support; psychological resources; outlook and financial circumstances; productivity, empowerment, dignity, human rights and an enabling environment.

A lack of understanding of the issues relating to age and ageing often means that the needs of older people are overlooked. There are assumptions that all adult needs are the same, and thus, focused on younger adults (often the same younger individuals responsible for making policy). Issues that face older people can of course affect younger people too, in terms of poor ill health, disability, or loneliness. Stereotypical tropes of older people as vulnerable or difficult to engage are also pervasive. Any such needs which are identified tend to focus on deficits rather than the strengths and experiences that older people have. Additionally, the heterogeneity of this population has been used to justify a lack of action.

Ageing and the criminal justice system

The increase in older people in society is also borne out in the criminal justice system. Internationally, it is well-recognised that there are increasing numbers of older people in the prison system. For example, the United Kingdom's prison population grew by 51% between 2000 and 2009, whereas the prison population over the age of 60 grew by 216%. Japan has seen a 160% increase, (Bedard et al, 2018) and the US there was a 181% increase in the number of prisoners aged over 55 between 2000 and 2010 (Wilkinson and Caulfield 2020).

Although part of the increase in older people in the criminal justice system is attributed to ageing in society, Wahidin's (2006) typology of older prisoners identified four cohorts of older prisoners:

1. repeat prisoners ageing throughout their life course
2. prisoners growing old throughout a long sentence
3. short-term first-time prisoners and
4. long-term first-time prisoners, possibly for historic offences.

Despite age being a protected characteristic under the *Equality Act 2010*, ageing has faced less attention than other diverse characteristics, such as gender, race and ethnicity, and the intersections across diverse populations within the CJS.

The variety in definition of 'older' across international settings and institutions also demonstrates that age is a social construct, and that experiences relating to ageing and ageism may differ. Regardless of how age and ageing are defined, there are common issues relating to how ageism may be manifest. For examples, perceptions about abilities to enter, and stay in the labour market, and access to health and social care for those with chronic health conditions.

Increasingly, the chronological age of 50 is seen as the point at which people in the CJS are defined as 'older'. A systematic review (Merkt et al., 2020) identified that a range of ages between 45-65 have been used in research. However, because of 'accelerated ageing' due to the prior lived experiences of many individuals who find themselves in the CJS, their physiological age is ten years older than their chronological age. Having an agreed definition of 'older' also supports the development of international comparative research. However, former prisoners interviewed as part of a life history project identified that in many ways they felt younger than their chronological age due to maturation factors and the infantilisation rife in prison settings (Sparkes and Day, 2016).

This increased focus on older people in prison has yet to be translated into a focus on people on probation. The majority of research about older people on probation has focused on those moving from incarceration into the community, either in terms of 're-entry' or 'resettlement'. (Maschi *et al*, 2014, Forsyth *et al*, 2015, Wyse, 2018). The main issues identified include anxieties about accommodation, social networks, concerns about physical safety for those convicted of sexual offences, and access to healthcare (Maschi et al 2014; Forsyth et al, 2015; Wyse, 2018).

Other research which touches on ageing in community settings is around Approved Premises (Reeves, 2013). This research highlighted the formation of social identities and use of space included dimensions related to the age of residents.

Traditionally, the age-crime curve, whereby age(ing) is one of the most consistent predictors of desistance from offending (Psick, et al., 2017) forms the cornerstone of much of criminal justice practice and intervention, meaning that most work is focused on younger men - there is also a lack of focus on women per se, meaning that older women are a particularly excluded minority in the CJS (see McNeill *et al*, 2012 for an overview of key desistance literature). Given high rates of reoffending, and the complex issues facing younger people in the CJS it can be argued that the system is not particularly effective for younger people either, and therefore the prospect of successfully meeting the needs of a minoritised older population are minimal.

Over twenty years ago, Codd and Bramhall identified the invisibility of research into older people on probation, not least as a consequence of prioritising youth crime:

‘Youth crime is central to academic and political debate, especially in relation to probation. Whilst recognising the importance of youth crime issues, focusing on young offenders creates the danger that older people become deprioritised and disempowered, rendered invisible and excluded’ (Codd and Bramhall, 2002: 33).

At the younger end of the probation client spectrum, probation services have a long history of considering the needs of younger people in the probation system. Probation staff are key statutory members of multi-agency youth offending teams, working with young people aged 10-17. They also have a role to play in terms of transitions from youth to adult services. However, transitions continue throughout life, and for older people may be focused around transitions from employment to retirement (Hofacker, 2015); roles around giving and receiving care (de Medeiros, 2017); the changing nature of relationships, and transitions around health (World Health Organisation, 2021).

Defining probation caseloads

In probation settings, age is not routinely collected at aggregate level from probation caseloads. A Freedom of Information request (Cadet 2020) found that during 2018/19, 26,065 people on probation caseloads were aged over 50. This represented almost 17 per cent (one in six) of the caseload, with similar proportions for men and women. This is a similar percentage as people in prison, albeit, there is a higher proportion of older women on probation than in custody. Additionally, probation caseloads are three times larger than the number of people in prison. The largest increase was in the proportion of over 50’s being supervised post-release or licence. Twenty-two per cent of all people on licence (released from custody and subject to supervision from probation staff) in 2018/19 were over 50 (13,281), compared with 17 per cent in 2015/16.

Furthermore, 18 per cent of those aged over 50 on licence were over retirement age (including 25 people aged over 90). This is important, as the traditional notions of defining, and meeting criminogenic need will differ for this cohort, e.g. expectations around employment, particularly for those in Approved Premises. In 2018-19, over one in five residents in Approved Premises were aged over 50 (22 per cent; 352 people). Twenty per cent of those aged over 50 who were resident in Approved Premises were over retirement age.

These figures are likely to rise, as the numbers of older people in prison are projected to increase by a quarter by 2025. Older people in prison, and due to be released on licence, will have a direct impact on the workload of probation staff, particularly if they are also resident in Approved Premises.

The majority of older prisoners have not been convicted of a sex offence, despite assumptions that this will be the case. However sex offences do constitute the largest proportion of offences committed by older people in custody (45 per cent). Twenty five per cent have been convicted of violence against the person offences, and the third highest category is drugs offences. (House of Lords, 2020). For those who have been convicted of a sex offence, there will be additional considerations relating to risk, licence conditions, and accommodation in Approved Premises (Reeves, 2013).

What are the needs of older people on probation?

Older people on probation have been convicted of a diverse range of offences and are involved in probation in a number of settings, including through supervision, unpaid work, and participation in group programmes. Adapting Wahidin's (2006) older prisoner typology to probation caseloads can act as a descriptive mechanism to identify potential commonalities of experience as a consequence of offending:

1. Recidivist 'revolving door' offenders: they have not 'grown out' of crime and as such may be managed by multi-agency teams as they may have multiple or complex needs, such as substance misuse, mental health, unemployment etc.
2. First-time community order clients who have committed a first offence at an older age: this group may have different socio-demographic characteristics in terms of previous education, employment history, relationship status etc. There could be ambivalence and perceived lack of legitimacy for this group around compliance and participation in programmes. This was seen in Cadet's (2019) research whereby older first-time prisoners ascribed to ageist tropes of 'not being able to teach an old dog new tricks.'
3. Former prisoners, released on standard licences: this group of people may have a range of resettlement needs, including health and wellbeing, exacerbated by age, and a lack of information sharing, communication and through the gate services.
4. Former prisoners, released on extended licences/subject to additional restrictions: this group may be subject to multi-agency public protection arrangements (MAPPA), particularly for sex offences. This may require accommodation in Approved Premises and consideration of risk for move-on accommodation, alongside restrictions on where they can live which may also affect family members (Cadet, 2019).

As identified above, most research about older people and probation has been around resettlement needs for people being released from prison. Much of this has also been focused on anticipatory challenges, rather than the lived experiences following release from prison. However, Forsyth et al. (2015) interviewed individuals four weeks prior to release, and four weeks after release. They found that release planning for older prisoners was 'virtually non-existent' with particular concerns about the lack of formal communication and worries about continuity of care. Although older prisoners were anxious about living in Approved Premises, those who were required to move into such accommodation had their health and social care needs better met than those not living in probation accommodation. There were also anxieties about the stigma of being convicted of a sexual offence.

Codd (2020, p.10) identified that older people in the criminal justice system

'carry multiple marginalised identities linked to poverty, mental health, race and ethnicity, sexuality, illness and disability, and offence type...it is important to recognise and unpack diversity within and between older people, and not to assume homogeneity on the basis of age. Ageing intersects with other factors including ethnicity, gender, sexuality, and socio-economic status, although the nuances...are under-researched.'

Additionally, these experiences may interact with 'institutional thoughtlessness' (Crawley, 2005), which in the prison context is a system designed for young, fit men. A similar accusation could potentially be levied at probation, leading to potential claims of indirect discrimination under the *Equality Act 2010*. The ways in which probation could be perceived to potentially be 'systematically thoughtless' to the needs of older people on probation may include:

- sentence planning emphasis on traditional considerations of reducing reoffending pathways and risk
- probation offices which are not readily accessible by public transport, or have adequate car parking
- the physical environment of probation spaces, such as seating, acoustics, adaptations and *Disability Discrimination Act* compliance.
- scheduling of appointments, where older people maybe juggling a number of other appointments relating to health and wellbeing
- selection of placements for unpaid work
- a lack of holistic consideration of other needs such as loneliness, resilience and the impact of bereavement (Cadet, 2020).

Additionally, the majority of research to date in prison or probation has focused on older men, due to the smaller number of older women in the criminal justice system (there are under 500 women in prison aged over 50). However, the needs of older women, just like women *per se*, remains an under-researched field of enquiry, alongside intersectionalities around race, and disability – particularly where age and disability are often (wrongly) conflated. However, considering issues relating to disability may also lead to improvements for older people on probation and vice versa. However, probation services are well placed to apply learning from working with young adults making the transition to adult services to adopt an ‘age first’ approach which considers the holistic needs of an individual, which moves beyond risk and criminogenic need.

What are the needs of older people on probation?

For many older people on probation, their life experiences may be bound in poor mental and physical health, precarious financial situations and unstable accommodation, all of which shapes their health and wellbeing as they age (Falkingham et al., 2020). These areas have potential challenges for assessing and responding to criminogenic needs and also map onto probation reducing re-offending pathways. Similar significant issues may also be faced by older people in the community who do not have a criminal record. However, a criminal record will also exacerbate these issues.

Research in gerontology also affords an opportunity to reflect on the extent to which those who are resident in our communities who are simultaneously experiencing probation are having their broader, non-criminogenic needs met. This includes social isolation and loneliness (Age UK, 2018) which can have a significant impact on physical and mental wellbeing, and the importance of strong social connections. This is increasingly seen to be important by Government (see the Scottish Government strategy (2018) for an example of how this is being implemented in practice). The importance of connection is increasingly being highlighted in literature relating to recovery and desistance. (McNeill *et al*, 2012; see also Best, Musgrove and Hall (2018) for a further overview relating to social identity and community capital). However, there is also the danger of demarcating interventions on the basis of chronological age, creating binary positions. For example, younger people are more likely to experience loneliness and social isolation than older people with one in ten people aged 16-24 years being often lonely, compared to three per cent of people aged 65 and over (ONS, 2018). Loneliness is also disproportionately experienced by people with disabilities (Macdonald et al, 2018), particularly emotional loneliness. This means that older people with disabilities are even more likely to experience loneliness than older people without disabilities.

Individuals who are subject to probation requirements go through a sentence planning process, which sets objectives to reduce the risk of reoffending or causing serious harm through the delivery of

appropriate activities and interventions. At their best sentence planning should be a way to identify and address individual needs. However, items included in OASys (the offender assessment system used by probation practitioners) may be less applicable to older probation clients. For example, older clients may be more likely to have had a successful employment history, but equally may be facing the double disadvantage that having a criminal record, and being older in the workforce may bring. If they are retired, how their time is filled will be an important consideration.

Older probation clients are possibly more likely to have more settled accommodation, but equally could be affected by restrictions on where they are able to live, particularly if they are a sex offender. This includes not only Approved Premises, but move-on accommodation (Bows and Westmarland 2018). Additionally, older offenders are less likely to have misused drugs, but could be more likely to have issues related to alcohol (Public Health England, 2019). Where substance misuse has continued into older age, this will bring particular risk factors, including those relating to physical and mental health (Beynon, McVeigh and Roe, 2007). Additional issues specifically relating to older people and health, includes mental health. The Association of Directors of Public Health (2019) cites research from the Mental Health Foundation that 22 per cent of men and 28 per cent of women aged over 65 have depression. Badawai (2019) cites that for older prisoners, the figure is between 40-50%. Additionally, physical health declines with age, which includes long term conditions (such as diabetes, asthma, heart disease); frailty; malnutrition and dementia (Age UK, 2018). The ten most common disabilities and health conditions among older male prisoners are: osteoarthritis, asthma hypertension, diabetes, hearing loss, high cholesterol, ischemic heart disease, prostate problems, hernia and COPD. (Hayes *et al*, 2012). Thus, the accelerated ageing processes of being in custody, caused by poor regimes, lack of access to exercise and diet coalesce with the onset of these long-term conditions and disabilities associated with ageing. Research conducted with staff working in women's prisons in the US also identified issues for older women, such as poor mattresses and bedding; lack of access to suitable footwear and access to gender-specific screening such as mammograms; colonoscopy etc (Barry *et al*, 2020). Such issues are not systematically addressed in custody, nor as part of release planning.

Although health is included as a measure in OASys, the health needs of probation clients *per se* is not embedded within probation practice (Brooker, 2015). This may result in further unmet needs of older clients, which may also have an impact on their ability to comply with their sentence plan or licence conditions. Indeed, the National Probation Service health and social care strategy (2019) states:

'Although NPS does not have a statutory responsibility to support the health and social care needs of individuals under their supervision in the community, NPS believe that

assisting individuals to access both health and social care is central to resettlement in the community and to overall rehabilitation’.

Thus, table 1 below, adapted and updated from an ‘academic insights paper’ written by the author on behalf of His Majesty’s Inspectorate of Probation (2022) highlights statistics from the Centre for Ageing Better’s *State of Ageing 2023* report, alongside how such issues are important for older people on probation, and broadly map onto reducing reoffending pathways. Additionally, each of these individual factors may inter-relate, leading to complex needs.

[Insert] Table 1: Identifying issues facing older people in society and how they may be exacerbated for older people on probation.

How can older people on probation be supported?

A systematic review of the social needs of older people found that interventions for older people should focus on ‘connectedness, participation, and independence’ (Bruggencate et al., 2018, p.1745). Importantly, exploring creative opportunities for social participation, which have been shown to increase social capital (Albertson 2021), quality of life outcomes, connectedness and lessen social exclusion (Poulsen et al., 2011; Goll et al., 2015) may form an important part of a probation officer’s toolkit when working with older people. Mapping community resources (Best and Laudet, 2010) also supports resource awareness and partnership development to enhance the capital of older people on probation.

In particular, developing positive relationships through the use of ‘thick’ supervision (Dominey, 2019) based on positive relationships that prioritise communication, help, joint working and community-based approaches are fundamental to meeting the needs of older people on probation. Additionally, professional curiosity (Phillips et al, 2022), identifies the importance of staff having the time and space to ask the right questions, analyse and act; time and space to develop relationships; and emotional support for staff. Finally, making use of probation frameworks for lived experience and service user involvement (engaging people on probation) would support meaningful engagement, understanding of issues, and commitment to changing practice. Of course, this is also against a backdrop of resource constraints for the organisation.

A specific area where probation staff may also need support is around deaths of people on probation caseloads. While this can happen to any client at any age, non-natural deaths account for 50% of probation caseload deaths, compared to 10% in the community (Slade et al, 2023). Official probation

statistics only provide data around sex, not other protected characteristics. However, research by Gelsthorpe et al (2012) found that over one in five deaths of people on supervision were in the population aged over 50 despite only representing 5% of the caseload at that time. The Prison and Probation Ombudsman (2023) have recently started investigating deaths following release from custody in addition to those they already investigate in Approved Premises (of which there have been six investigations since 2016). In a 12-month period, they investigated 61 post-release deaths and found that people were less likely to die from natural causes following release than people in prison. Of the cases they investigated of older people on licence, the causes were a mixture of natural, non-natural and self-inflicted. They also advocated for additional support for staff in the aftermath of a death.

Research in prisons has also highlighted a link between prisoners ability to fulfil activities of daily living (ADL), depressive symptoms and suicidal ideation, and the fact that these risk factors are modifiable (Barry et al, 2017). Given the increased risks of death following transition to the community, this could be an additional area of focus, particularly for people who may not meet the threshold for social care. Other research has also highlighted that every year in prison equates to a two year decrease in life expectancy. (Canada et al, 2020).

Finally, any attempts to meet the needs of older probation clients needs to take account of the generational shifts taking place whenever any research is undertaken based on chronological age. Although Crawley's (2005) work significantly identified coping mechanism for older prisoners, this was based on research from nearly twenty years ago. As Mann (2012) articulates, the next generation of older prisoners will not have experienced the same deprivations of post-second world war Britain nor had experience of National Service. This also applies to the probation context. The 'older' age group encompasses multiple generations from age 50-100. It is therefore vital that further research is undertaken with both older clients, and the staff supervising them to ensure that needs are not only identified, as they are increasingly in a prison context, but actually met.

Conclusion

The increasing number of older people on probation means that it is vital that probation services consider the specific needs of people as they age, and how their life experiences to date may differ from younger people (and from other older people too). Understanding more about their needs and how to meet these needs in a holistic way will provide benefits for people on probation and will also support communities through reductions in re-offending.

In particular, the increasing ageing of people in prison is impacting on the number of people on probation caseloads on licence following release. These individuals have experienced accelerated ageing while in prison, which leads to increasing prevalence of age-related long term conditions and disabilities. The lack of systematic support for health and social care needs of individuals in custody, and a lack of focus on release planning means that individual health and social care needs become more chronic upon release and can affect compliance with licence conditions.

An 'age first' approach could be developed to understand the needs of older people on probation through early screening. This should be supplemented by understanding need relating to intersectionality. From this, increased partnership working with health professionals, local, regional and national voluntary and community organisations working with older people could be instigated.

Celebrating the experiences, skills and strengths of older people on probation will support successful completions, support other people on probation, and challenge ageist stereotypes. This could also be achieved through developing specialist expertise in probation settings to support partnership development, training, policy and work with older people on probation. This can also only be achieved through recognising the ageing dynamics in probation practitioners, and should be underpinned by workforce development programmes and succession planning to meet the needs of older staff who may be balancing the health and care needs of themselves and family members, including their parents.

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