

PREM 19/3382

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Probation Service Pay.
Reorganisation of the Probation Service

HOME
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June 1979

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PREM 19/3382

Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

CM 966
Home Office
Supervision & Punishment in the Community
A Framework for Action
Published by HMSO ISBN 0 10 109662 3

Signed



Date

01/03/2012

PREM Records Team

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Secretary of State

The Rt Hon David Mellor QC MP
Chief Secretary to the Treasury
HM Treasury
Parliament Street
LONDON
SW1P 3AG

11/6 June 1991

Dear David

RE-ORGANISATION OF THE PROBATION SERVICE: PROBATION SERVICE PAY

I have seen a copy of Kenneth Baker's letter of 28 May about the reform of pay machinery in the probation service.

As you know, I have raised this issue before both in my paper for the last meeting of EA(PSP) and in correspondence on last year's arbitration award. I welcome the opportunity for reforming the present unsatisfactory pay determination arrangements which, as Kenneth says, will need to go beyond arbitration and representational issues. Whilst I do not wish to pre-judge Kenneth's proposals or under-estimate the difficulties involved, because of the service's heavy dependence on central government funding, my strong preference is for arrangements which will strengthen our ability to influence the future course of pay developments in this area. It will also be important to keep in mind the need to develop a clear link between pay and performance standards with the objectives of both EA(PSP) and the Citizen's Charter in mind. I share Kenneth's view also on the need for regional pay flexibility

My officials will be happy to discuss these matters with Kenneth's and yours as appropriate and I look forward to seeing Kenneth's detailed proposals in due course.

I am copying this letter to the Prime Minister, members of HS and EA(PSP) and to Sir Robin Butler.

Love
Michael
MICHAEL HOWARD



Employment Department · Training Agency
Health and Safety Executive · ACAS

Home Against Probation
Service due 79





QUEEN ANNE'S GATE LONDON SW1H 9AT

28 May 1991

David Mellor

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Complete with*

RE-ORGANISATION OF THE PROBATION SERVICE:
PROBATION SERVICE PAY

Thank you for your letter of 3 April in response to my minute of 21 March on the re-organisation of the Probation Service. *Will request if required*

I have taken note of all the points you made on the re-organisation. You referred also to the pay negotiating machinery. The problems about the way that probation service pay is determined are complex. There are not only questions about access to arbitration and representation on the Employers' Side, but also about whether the pay of local authority grade staff in the Probation Service should be negotiated by the probation service employers instead of the local authorities; whether the different staff groups in the Service are represented properly; what the implications of cash limits are, and other issues. We must also be very careful not to jeopardise the Criminal Justice Bill through continuing industrial relations problems in the Probation Service. These complexities need to be properly considered before proposals for reform can be made.

When I have considered all the issues, I will come forward with proposals for dealing with the Probation Service pay negotiating machinery, including consideration of public handling. I am certainly attracted by the idea of increasing regional flexibility and incentives.

Reform of the pay negotiating machinery was not included in the decision document on the re-organisation because it was not an issue discussed in the Green Paper "Supervision and Punishment in the Community", about which decisions were being announced. Moreover, we had not yet thought through our position on the probation pay issues. To have included in the decision document out of the blue a mention of the need to reform pay would have caused a worsening in our industrial relations problems with NAPO. They are now, as of 1 May, instructing their members to

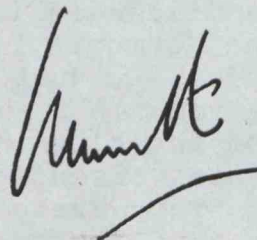
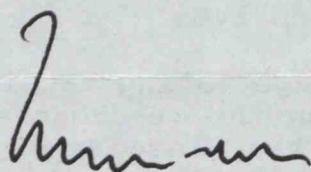
The Rt Hon David Mellor, QC, MP
Chief Secretary
Treasury Chambers
Parliament Street
London SW1

take industrial action short of a strike over the issue of unsocial hours, in the form of refusing to work outside normal office hours. My decision to overturn part of the arbitration award clearly made them more ready to take action. We are not yet sure how much support they are getting for action on the ground or how disruptive it will be, but clearly this is not a happy prelude to the implementation of the Criminal Justice Bill. My officials are keeping yours informed of developments.

A mention of pay reform in the decision document would also have caused anxiety and uncertainty on the Employers' Side whose co-operation we will need in order to reform the system. When we published the decision document we would not have been able to say what we intended to do, how or when.

We are now clearer about the way forward on re-organisation, but we have left the options open with regard to a crucial element in determining pay - whether or not we should move to 100% funding of the Probation Service. This is not a decision which we will be able to take in the near future. We clearly cannot wait until that issue is decided before we consider internally the problems and the options on pay, but it will be a factor in deciding what to say publicly and when to say it and in the timing of the implementation of reforms.

I am copying this letter to the Prime Minister and to members of HS and EA(PSP) Committees.





10 DOWNING STREET

CF

Can you M. copy

Andrew's letter to

the HO ^(Hague) of 25 April,

on police, goes on

the probation service

file too - because of

the last para

W. H. H.

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SUBJECT cc
MASTER

10 DOWNING STREET

LONDON SW1A 2AA

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From the Principal Private Secretary

25 April 1991

Dear Colin,

POLICE MANAGEMENT

The Prime Minister discussed this with the Home Secretary at their bilateral this morning. The Home Secretary said he would be replying to the points made in my letter to you of 11 March within the next few days. He would be proposing the establishment of a number of performance measures for the police such as clear up rates and speed of investigation. The Prime Minister emphasised the importance of acting on Audit Commission reports which provided a very useful quarry of ideas for securing greater value for money. The Prime Minister stressed the need not just for measures of current performance but also of targets for improvement.

The Home Secretary said he was proposing to bring in an outsider with business experience into HM Inspectorate of Constabulary. He wanted it to have more of a management role and to be more ready to challenge police forces on their efficiency. The introduction of an outsider into the Prisons Inspectorate had been a great success though, in the case of the police, he was not proposing that the outsider should be chairman.

The Home Secretary said he would be proposing a reorganisation within the police which gave greater emphasis to the role of Superintendent who would be clearly identified as the officer in charge of a specific area. Not only would this improve management but it would also heighten identification with the local community. He was proposing to make a speech in late May/early June to the Police College setting out the need for higher standards of police performance and ways in which this might be achieved. The Prime Minister said that such a speech would be entirely consistent with the Citizens Charter; it would be very helpful if the Home Secretary could explicitly set his speech in this context. This the Home Secretary agreed to do.

The Prime Minister also suggested that the Home Secretary might provide a presentation to him on what the Home Office was doing across all its responsibilities to give substance to the Citizens Charter. The Home Secretary agreed to put this work in hand with a view to a presentation in the next six weeks.

The Home Secretary noted that the restructuring of local government would have implications for the structure of the

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police. Where counties were abolished and replaced by smaller, single tier, authorities it would be possible, in effect, to recreate existing County Forces by the establishment of joint boards of the new authorities. He did not, however, believe that this was likely to provide a structure for effective management. He would be doing further work on this issue.

The Home Secretary commented that it would not make much sense to run the Probation Service through joint boards - 80 per cent of the money was already provided from central government funds.

*Yours sincerely
Andrew Turnbull*

ANDREW TURNBULL

Colin Walters Esq
Home Office



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cdw

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

8 April 1991

Dear Paul,

REORGANISATION OF THE PROBATION SERVICE

The Prime Minister was grateful for the Home Secretary's further advice, following Barry Potter's letter of 31 January raising two concerns.

The Prime Minister is content with the individual measures proposed for reform. The Prime Minister also now accepts that, given the new duties to be placed on the probation service under the Criminal Justice Bill, it is sensible not to impose the additional burden of moving to a national system simultaneously.

The Prime Minister was concerned that the statement and discussion document did not recognise that the local government review might have implications for the future structure of the probation service. However, the new drafts circulated under cover of your letter of 5 April now meet those concerns and the Prime Minister is content for the Home Secretary to proceed.

I am sending copies of this letter to the Private Secretaries to members of HS and LG Committees and to Sonia Phippard.

Yours sincerely,
William

WILLIAM E. CHAPMAN

Paul Pugh, Esq.,
Home Office.

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PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A2AT

5 April 1991

Kenneth

Wim WCC

REORGANISATION OF THE PROBATION SERVICE

Thank you for your letter of 25 March.

I was grateful for your early response to my concerns, and confirm that I am now content for the amendment on probation to be tabled, subject to the Prime Minister confirming that he is now content for it to go ahead.

I am copying this letter to the Prime Minister, members of HS Committee, and to Sir Robin Butler and First Parliamentary Counsel.

[Handwritten signature]

WADDINGTON

The Rt Hon Kenneth Baker, MP

HOME AFFAIRS Probation Service June 1979

From: THE PRIVATE SECRETARY

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HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

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no do?*

5 April 1991

Dear William

REORGANISATION OF THE PROBATION SERVICE

- with WEC?

The Home Secretary wrote to the Prime Minister on 14 March seeking approval to the publication of decisions on the reorganisation of the probation service. The Home Secretary understands that the Prime Minister is content with the proposals, so long as the announcement and decision document make clear that we will take into account the results of the consultation and proposed commission on the future of local government announced by the Secretary of State for the Environment on 21 March. The Home Secretary's letter of 26 March responded to the points made by the Lord Privy Seal in his of 21 March.

... I attach new versions of the announcement and decision document, with amendments sidelined, which seek to meet the Prime Minister's concern. These make clear that the consultations on local government may have a bearing on the future of the probation service but that for the present there will be no fundamental change in structure or funding. The Home Secretary wants to ensure that the probation service is not distracted from its primary task of making the Criminal Justice Bill effective. We will consult the Department of the Environment and the Treasury further on how the proposed consultation is likely to affect the service.

The Home Secretary hopes to make the announcement in the week beginning 8 April prior to tabling an amendment introducing a default power in the week beginning 15 April. The announcement will, therefore, be made by means of a press notice as Parliament is not sitting.

I am copying this letter and enclosures to the Private Secretaries to members of HS and LG Committees, and to Sonia Phippard.

yours.

Paul Pugh

PAUL PUGH

William Chapman Esq
Private Secretary
10 Downing Street
London SW1

Q To ask the Secretary of State for the Home Department if he will announce his decisions on the proposals in the Green Paper "Supervision and Punishment in the Community"?

A. I can now announce decisions on the organisation of the probation service in the light of the responses to the Green Paper "Supervision and Punishment in the Community" (Cm 966). Decisions on training for probation staff will be announced later. We are still considering the responses to and consultations on the discussion paper "Partnership in Dealing with Offenders in the Community" which looks at relations between the probation service and the independent sector.

2. The Criminal Justice Bill currently before Parliament incorporates the proposals set out in the White Paper "Crime, Justice and Protecting the Public" (Cm 965) for major changes in the punishment and supervision of offenders. These changes will make great demands on the probation service and the Green Paper made proposals for increasing the efficiency and effectiveness of the probation service to meet these demands.

3. I am publishing today a document setting out our decisions and proposing how they should be pursued, including, where appropriate, further consultation. I am placing a copy of this document entitled 'Organising Supervision and Punishment in the Community' in the Library of both Houses.

4. The probation service operates at the local level and must be responsive to local needs. The delivery of that local service must, however, take place within a centrally determined framework of objectives and accountability. The Government has decided that for the time being the service will remain locally structured and that the funding arrangements whereby local authorities contribute 20% of the expenditure of probation services should remain unchanged. In time we will need to assess the

implications for the probation service of the results of the consultation on local government which my rt. hon. Friend the SofS for the Environment announced on 21 March.

5. We have already announced our intention to cash limit the probation service specific grant for current expenditure from April 1992 and provision has been made for this in the Criminal Justice Bill.
6. In the responses to the Green Paper there was widespread acceptance of the need for reforms to probation committees to enable them to carry out their policy-making and budget-making functions more effectively. The Criminal Justice Bill already contains provision for probation committees to have power to grant-aid voluntary organisations. We have decided that the respective roles of probation committees and their chief officers should be clearly defined; that the size of probation committees should be reduced; and that the proportion of sentencer (ie. judge and magistrate) members in committees should be reduced.
7. We also propose that the arrangements for liaison between the probation service and magistrates and judges should be enhanced. We intend to discuss with the service, with judges and with magistrates how best judges may make an effective contribution to the work of probation committees, how the effectiveness of probation liaison committees at magistrates' courts may be enhanced, and how effective arrangements for liaison between the probation service and the judiciary might be created at each crown court. We will also consider how to ensure effective cooperation between the Prison and probation services.
8. We want probation areas to offer the full range of community sentences to the courts. To that end we will encourage regional collaboration between services to improve value for money, and in some cases where this is clearly justified the amalgamation of some smaller services that cannot effectively provide the full range of sentences on their

own or the necessary degree of managerial support or an adequate career structure for their staff.

9. The Criminal Justice Bill contains provision for putting HM Inspectorate of Probation on a statutory basis so as to enable it to carry out its inspectorial functions more effectively.

10. Finally, we intend to introduce an amendment to the Criminal Justice Bill to give the Secretary of State a power to initiate default procedures in respect of any probation committee which seriously or persistently fails to comply with any duty prescribed by a statute or rule. The Secretary of State needs to have available powers which will ensure that services follow national objectives and meet national standards in order to implement the Criminal Justice Bill. We will consider further whether a power of direction may also be needed.

11. Some of the other proposals set out in the discussion document may require primary legislation. We will consult further on:-

- (i) the proposals to create a national resource planning process, to draw up a national 'statement of purpose' and a three year plan for the probation service;
- (ii) restructuring of committees;
- (iii) the criteria for amalgamation of probation services;
- (iv) arrangements for regional collaboration;
- (v) arrangements for liaison with sentencers;
- (vi) a power of direction to accompany the proposed default power.

E.R.

Subject to what emerges from the consultation process, it would then be followed by legislation when an opportunity arose, or by guidance or other non-statutory processes.

12. Some of the proposals have resource implications for local authorities, who defray 20% of probation service expenditure. The document published today includes estimates of costs.

ORGANISING SUPERVISION AND PUNISHMENT IN THE COMMUNITY

Introduction

1. The Government values the work of the probation service, plans to increase the resources available to it and in this paper sets out its decisions on how the service can be best organised to meet the challenges of the 1990s following the Green Paper 'Supervision and Punishment in the Community' Cm 966 (pub 1990).

2. The Criminal Justice Bill which is currently before Parliament will increase the importance of the work of the probation service in a number of ways:
 - by giving a more central role to pre-sentence reports than social inquiry reports have had up to now;

 - by raising the profile of community sentences to be managed by the probation service, in particular the new combination order;

 - by providing through national standards for the major areas of probation service work that all services meet the standards of the best;

 - by providing for more structured supervision of prisoners on release from prison; and

 - by encouraging partnerships between probation services, voluntary organisations, the private sector and the local community in dealing with offenders.

Its implementation will require a coordinated and cooperative effort amongst criminal justice services and other agencies. On present plans the planned rise in central

Government support for the probation service in the four financial years from the beginning of April 1990 to the end of March 1994 will increase by 25% in real terms.

3. The Government recognises the importance of taking early decisions on the organisation of the probation service so that uncertainty can be removed and plans can be made. This document sets out a basic framework for change. The detailed implementation of the decisions set out in this document will be subject to further consultation. The Government will also need to assess the implications for the probation service of the results of the consultation on the structure, internal management and new tax for local government and of the proposed local government commission announced by the Secretary of State for the Environment on 21 March. This paper does not set out the Government's decisions on training for probation staff which will be announced later. Consultations on the discussion paper 'Partnership in Dealing with Offenders in the Community' about future involvement of the independent sector have only just been completed and the conclusion of those consultations will be announced in the Autumn.

Responses to the Green Paper

4. There were in total 160 responses to the Green Paper, from probation service organisations, probation committees, local authorities, voluntary organisations, judges, magistrates, clerks, barristers, academics and individuals falling into other groups. Responses varied and, with one or two exceptions, did not fall clearly in any one direction.

Framework for the decisions

5. The Government has noted the overwhelming view of respondents to the Green Paper that the probation service can operate most effectively as a local service, organised on a local basis and responsive to local concerns. The Government continues to believe, however, that delivery of the local service must take place within a centrally determined framework of objectives and accountability. So the objective of many of the proposals set out in this paper is to strengthen the local structure within a framework of

greater accountability to the centre. On the other side of the balance is the need for probation services to be responsive to central policy concerns. The Government provides 80% of the cost of the service and is therefore entitled to expect that probation services will respond to its views about how that money should be spent. The Government's intention is to ensure that the changes proposed:

- ensure responsiveness to national objectives and standards;
- clarify accountabilities and responsibilities;
- improve the effectiveness of management;
- increase the confidence of sentencers in the probation service;
- encourage high standards of practice;
- improve working relationships with other agencies and organisations;
- encourage and strengthen the links between the probation service, and the local community.

Summary of Government decisions

6. The Government has decided that for the time being the service will remain locally structured and that the funding arrangements whereby local authorities contribute 20% of the expenditure of probation services should remain unchanged. The implications for the probation service of the results of the consultation on local government referred to at paragraph 3 above will in due course need to be taken into account. The Government has already announced its intention to cash limit the probation service specific grant for current expenditure from April 1992 and provision has been made for this in the Criminal Justice Bill. With the discipline of cash limits in place, it should no longer be necessary for the Government to exercise some of the controls over probation

service staffing that it does at present. In order to ensure a more effective resource planning system for the probation service, a national resource planning structure will be set up involving regular meetings with the service. The development of a Resource Management Information System (RMIS) will enable areas to manage resources within their cash limited budgets more effectively.

7. Major reforms are proposed to probation committees to enable them to carry out their policy-making and budget management functions more effectively and accountability. The Criminal Justice Bill already contains provision for probation committees to have power to grant-aid voluntary organisations. There will be training for probation committee members.
8. The Government also proposes that there should be new arrangements for liaison between the probation service and magistrates and judges. The Government wishes to enhance the role of probation liaison committees at magistrates' courts and to provide better opportunities for productive liaison between the probation service and the judiciary at each Crown Court. The Government will consider how to ensure effective cooperation between the prison and probation services.
9. The Government intends that probation areas should be able to offer the full range of community sentences to the courts and to that end will encourage regional collaboration between services to improve value for money, and in some cases where this is clearly justified the amalgamation of smaller services.
10. The Criminal Justice Bill contains provision for putting HM Inspectorate of Probation on a statutory basis so as to clarify its role to enable it to carry out its inspectorial functions more effectively. HM Inspectorate will also continue to provide advice in the improved arrangements which have already been set in train for approving candidates for senior appointments in probation services.
11. Finally, the Government intends to seek a power to initiate default procedures in relation to probation committees in certain cases.

Implementation

12. The decisions set out above will be implemented in different ways and to different timetables, depending in part on whether primary legislation is required to give effect to them. The Criminal Justice Bill already contains provision for cash limiting the probation service specific grant, for giving probation committees grant-aiding powers, creating a statutory Inspectorate and amalgamating the City of London and Inner London Probation Services.

13. A Government amendment will be tabled during the passage of the Criminal Justice Bill to provide the power of default as set out in paragraphs 31-36 below. The Government has decided to seek powers in the Criminal Justice Bill to implement this proposal because the success of the Bill's provisions for dealing with more offenders in the community, rather than by custodial sentences, depends critically on the ability of the probation service in all parts of the country to deliver effective and consistent facilities and programmes. The Government needs to have available powers which will ensure that services follow national objectives and meet national standards.

14. Over the coming months the Government will consult the service on the other major areas of decision, some of which may require primary legislation to implement:

- the restructuring of committees;
- criteria for amalgamation of probation services;
- arrangements for regional collaboration;
- arrangements for liaison with sentencers;
- arrangements for cooperation between the prison and probation services.

Subject to what emerges from the consultation process, it would then be followed by legislation when parliamentary time was available, or by guidance or other non-statutory processes.

Resource implications

15. Although the precise costs of the proposals in this paper are not easy to identify, the Government considers that none of them should involve substantial initial or subsequent costs. It is envisaged that implementation would be phased over 3 years depending partly on whether and when legislation were introduced, where necessary. It is estimated that costs will arise mainly for the senior management of the probation service (that is chief, deputy chief and assistant chief probation officers - CPOs, DCPOs and ACPOs). These proposals are likely to add to the workload of officers at these levels and may entail the creation of some additional posts (we estimate a maximum of 34 posts) across the country over the implementation period. We expect at least some additional costs will be absorbed: it is not, for example, intended to increase the number of CPO posts. Nor are the proposals expected to result in additional costs for probation staff below ACPO level.

16. Costs have been calculated as follows. It is envisaged that regional collaboration, the restructuring of committees and liaison with sentencers and the Prison Service would, taken together, give rise to total additional staff costs at DCPO and ACPO level of around £1.4m at 1990-91 prices over the implementation period with cumulative annual ongoing costs of £0.8m by the end of the implementation period. The phasing of these proposals is such that the maximum cost likely to be incurred in any one year is estimated at £0.4m. In addition it is estimated that the transitional cost of an amalgamation is likely to add 10% to the expenditure of the services which are amalgamating for perhaps 2 years, but that thereafter annual efficiency savings of 5% of total expenditure might ultimately accrue (mainly through shared administration).

17. Against these costs must be set the benefits that strengthening the arrangements for delivering services in the ways proposed will enable probation services to demonstrate

even more effectively to the courts and others the value and range of community penalties.

THE GOVERNMENT'S DECISIONS

Cash limits

18. The Criminal Justice Bill contains at Clause [78] the statutory provision needed to give effect to the Government's decision to cash limit the probation service specific grant. Paragraphs 7.2 to 7.6 of the Green Paper set out the background to the decision to cash limit the specific grant and the options surrounding it. Since it was published there have been discussions with service interests and with the local authority associations and consultations continue on the method of distributing the grant and other arrangements necessary for the implementation of cash limits.

Controls on staffing levels

19. At present probation services are required to seek the approval of the Secretary of State for the creation of posts at senior probation officer, assistant chief probation officer, deputy chief probation officer and chief probation officer levels. The purpose of these controls is primarily to ensure that the Government is able to exercise some control over expenditure on senior grades and thus indirectly on more junior grades. In addition, the controls enable the Government to exert some influence on management structures in probation services. The Government has decided, however, that cash limiting the probation service specific grant will provide sufficient means of controlling probation service expenditure and it is therefore no longer necessary to exercise controls over the grades of senior probation officer and assistant chief probation officer. These controls will, accordingly, be dispensed with at the same time as the specific grant is cash limited. The Government intends to retain control over the creation of deputy and chief probation officer posts. These are posts for which the Secretary of State's approval is required before a person may be appointed to them and they are clearly central to the senior management structure of services.

20. The effect of these changes will be to free probation committees to deploy their staff as they see fit within the limitations of the budget to which they will be working.

National resource planning process

21. The introduction of cash limits for the probation service specific grant will not only act as a powerful incentive to ensure effective use of probation service expenditure, but will make it even more important to ensure that there is:

- accurate information about probation services' current workload;
- accurate information about how much different probation service activities cost;
- a process of bringing together this information to provide a sound basis for expenditure planning;
- a means for the service to participate in this process.

The Government accordingly proposes to move towards a more structured resource planning process with the service at the national level. This would involve regular twice-yearly meetings with the service organisations: one in September and one in December. The September meeting would discuss expenditure in the current year; look ahead to the outcome of the on-going public expenditure survey discussions targeted at the following financial year and would begin planning for the 3 following financial years. The meeting in December would again review the progress of expenditure in the current year; would look at the outcome of the public expenditure survey as published in the Chancellor's Autumn statement in November and translated through the cash limits mechanism into provision for individual services; and would consider the resources needed in the light of Government priorities for the following three financial years.

22. As this process takes shape, it will need a coherent policy framework within which to work. Probation services will need to be able to plan ahead with some confidence that policy changes will be signalled well in advance. The 1984 Statement of National Objectives and Priorities (SNOP) set out the Government's objectives and priorities for the service but in very broad terms, and some of it is now dated. What is now needed is a different document, perhaps in the form of a "statement of purpose" with a rolling 3-year plan annexed to it setting out the Government's plans for the service for the 3-year period and some broad indicators by which progress during that period might be judged. The plan would be reviewed and updated every year. A plan of this kind ought to enable probation committees to set local objectives more easily, help them to decide how to deploy their cash limited budgets and help the Government - through inspections - to assess progress towards the achievement of its priorities. Once established the Resource Management Information System will enable committees to manage their budgets more effectively and to monitor progress towards the achievement of their objectives. The proposals set out in this section will be discussed further with the service.

Committees

23. In the responses to the Green Paper, there was widespread acceptance of the need to reform the structure of probation committees, in particular of the need for smaller committees and for greater clarity in defining the respective responsibilities of committees and chief officers. In considering how to take this further forward, the Government has as its overall aim the need to ensure that committees have a clearly defined responsibilities for planning, objectives, and monitoring of performance, the ability to function effectively in that role by drawing on a wide range of talents and experience for membership and by strengthening links with the community (including the local authorities). To this end the Government has decided that the respective roles of probation committees and chief officers should be clearly defined; that the size of probation committees should be reduced to a figure within a range of approximately 15 members; that the sentencer members (ie. judges and magistrates) should be reduced to 50% of the total membership; that the other 50% of the membership should be coopted under guidelines laid down by the Home Office; that committees should be provided

grant-aiding powers to enable them to strengthen links with the community; and that committee members should be given training on how to perform their role more effectively. The proposals in this section will be discussed further with the service.

Liaison with sentencers

24. The Government's aim is to improve the links between the probation service and magistrates and judges so that the service can ensure that it is meeting the needs of courts and so that sentencers know about the work of the probation service. The Criminal Justice Bill will, as indicated in paragraph 2 above, increase the work of the probation service, particularly in the Crown Court. This reinforces the need for good links with the judiciary. Equally, reducing the number of magistrates on probation committees will necessarily place a greater burden on probation liaison committees as the main vehicle for retaining links with magistrates. Accordingly the Government proposes to discuss with the service, with judges and with magistrates:

- how the involvement of judges as members of probation committees can be enhanced;
- how probation liaison committees at magistrates' courts might be strengthened; and
- how effective arrangements for liaison between the probation service and the judiciary might be created at each Crown Court.

Liaison with the Prison Service

25. The publication of Lord Justice Woolf's Report and in particular his recommendation that the prison and probation services should work more closely together has put the spotlight on the important work which probation officers do with offenders in custody and after release. The Government supports the principle of close cooperation

between the two services and will consider with both services how best to ensure that it is effective.

Amalgamations and regional collaboration

26. The Green Paper identified 3 advantages which amalgamations of probation services might bring (paragraph 5.7):

- the creation of stronger management structures;
- the provision of specialist services to ensure the courts had available to them the fullest range of sentencing options;
- closer liaison with other agencies.

The effectiveness of the Criminal Justice Bill's provisions will depend in part on whether probation services are able to offer the courts the full range of community sentences: probation orders, orders with conditions (including attendance at a probation centre), community service orders, combination orders. But behind those community sentences, there will need to be managers with the capacity and support staff to manage a diverse service in a period of major expansion. Some areas are simply too small for it to be economic for them to provide the full range of probation facilities. Capital expenditure programmes in particular might benefit from the economies of scale which amalgamations might bring. Some areas with two or fewer assistant chief probation officers are also likely to face difficulty in coping with the diverse management demands of the probation service of the future, and very small services may face difficulties of recruitment and retention particularly at senior management level and of providing adequate career opportunities for their staff. Liaison with other criminal justice agencies might in some cases be made easier by amalgamations eg. if areas combined to become coterminous with a police force area.

27. The Government has accordingly decided to look further at the scope for amalgamations. This will not be done in any rigid or mechanistic way but with the full involvement of areas and the minimum of disruption. A discussion document will be issued drawing on the ideas set out in this paper. It will be sent to selected areas which will be asked to test themselves against the Government's analysis and criteria for amalgamation. Where the case for amalgamation appears overwhelming, the Government would hope that committees and probation staff would recognise the benefits. The Government readily acknowledges that amalgamations would raise a number of practical issues such as conditions of service for staff, pensions, leases, administration and others. All these issues would be the subject of detailed consultation with the services concerned and the representative bodies.

28. The responses of the Central Council of Probation Committees and the Association of Chief Officers of Probation pressed the Government to look at the possible benefits of greater regional collaboration between probation areas. The Government welcomes this suggestion which would complement the ideas being developed in other parts of the criminal justice system through the programme of regional conferences under the Home Office Special Criminal Justice Conferences Unit and which would facilitate partnership with the voluntary sector. In some cases it would also be an acceptable alternative to amalgamation. There are a number of activities which on the face of it could benefit from better collaborative arrangements perhaps with more explicit statutory backing: for example, servicing Crown Courts; specialist facilities such as hostels; prison-related work; training; information systems; aspects of central finance (especially capital expenditure) and administration and relationships with other criminal justice agencies and with voluntary organisations. The Government will pursue this suggestion further in discussion with the service.

Senior appointments

29. The probation service of the future will need to attract the highest quality candidates to its senior management posts. The Green Paper canvassed the possibility that the Home Secretary should be able to decide in each case which particular candidate

should be appointed as chief probation officer. At present the Home Secretary's approval is required before a committee may appoint a chief probation officer, but the power has not been used to require the selection of particular individuals; the usual procedure is to seek the Home Secretary's approval to a short list of candidates. The responses to the Green Paper were generally opposed to this suggestion and the Government has decided not to pursue it further as a matter of general practice but to rely, save in the most exceptional circumstances, on its existing power to approve short lists. However, the Government has already put in hand measures to get more thorough assessments of candidates for chief probation officer posts; to improve the management training available to the assistant chief probation grades and above; and an efficiency scrutiny of in-service training is also currently underway. Performance pay has been introduced for chief probation officers and deputy chief probation officers which should increase the attractiveness of top posts in the probation service. The Government also proposes to examine ways of increasing secondments as between probation services and other criminal justice services.

Statutory Inspectorate

30. The Criminal Justice Bill contains provisions to set HM Inspectorate of Probation on a statutory footing. The provisions will render explicit those duties which HM Inspectorate already discharges through its programme of efficiency and effectiveness inspections and through thematic inspections of selected aspects of probation service work. They will also establish its authority to look at how voluntary or private sector organisations are working with the probation service. There was overwhelming support amongst responses to the Green Paper for a statutory inspectorate. The Government is considering whether the Probation Rules will need amendment to strengthen H M Inspectorate's powers of access and examination.

Powers of Default

31. The Government will introduce a default power in the Criminal Justice Bill. The default power was canvassed at paragraphs 6.7 to 6.10 of the Green Paper. It was

envisaged as a power of last resort to enable the Secretary of State to intervene in a seriously or persistently under performing area. Although some respondents felt that such a power was unnecessary, the majority of those who responded to this proposal were in favour, so long as reasonable safeguards could be incorporated.

32. It is clear that a committee must know what type and level of service it is supposed to be providing before it can be considered to be in default. The duties of probation committees are set out in general terms mainly in Schedule 3 to the Powers of Criminal Courts Act 1973, as amended. The main duties are to appoint sufficient probation officers for their probation area (under Clause 78 of the Criminal Justice Bill local authorities will be able to object to the number of probation officers proposed, but the committee's primary responsibility to determine local needs will not be usurped); to pay their probation officers; to provide for the efficient carrying out of the work of probation officers; to make various payments in connection with the supervision of offenders; and to perform such other duties in connection with the work of probation officers as may be prescribed.

33. Paragraph 18 of Schedule 3 to the 1973 Act gives the Secretary of State power to make rules regulating the constitution, procedure, powers and duties of probation committees, as well as the duties of probation officers. Under this power the main functions of committees as set out in para 3(1) of Schedule 3 are further elaborated in the Probation Rules 1984, as amended. In addition para 3(1)(e) of the same Schedule gives the Secretary of State power to prescribe duties other than those general duties already specified in statute, provided they are in connection with the work of probation officers and paragraph 18 empowers him to make rules about those duties. There are also powers in the 1973 Act for the Secretary of State to make rules regulating community service work (S48), or for the regulation, management and inspection of approved bail hostels and probation hostels (S49), and rules have been made under those powers. The Criminal Justice Bill will provide further powers to make rules in respect of other areas of probation service work.

34. The default power would operate in relation to any serious or persistent failure of a committee to fulfil a statutory duty as defined in primary legislation or any requirement provided in rules. The starting point would be information which indicated a cause for concern. Such information/evidence could come from complaints, an inspection, statistical returns or other sources. The next step would be to seek a report from the committee under Rule 21 of the 1984 Probation Rules. If that report was unsatisfactory HM Inspectorate would be asked to undertake an inspection with a view to advising the Secretary of State as to whether to initiate default proceedings. Once the inspection had taken place the Secretary of State would need to consider whether there was evidence of a dereliction of duty and, if so, whether the exercise of default powers was the right way to deal with it.

35. A committee would of course, be informed straightaway if consideration was being given to declaring that it was in default. It would be given sufficient time to make representations and to put its house in order. The default power would be exercised by the Secretary of State making an order which would be enforceable by judicial review. It is unlikely that the default power would need to run its full course as it must be assumed that the committee would take action to rectify matters before any proceedings in court.

36. The Government intends to look further at the question of default and at the possibility of taking a power of direction in relation to the manner in which committees are to perform their functions. This will be done in discussion with the service when considering the future role and function of committees and their relation to the centre. (see paragraph 23 above). The power would be analogous to that provided in the 1990 National Health Service and Community Care Act in relation to local authorities' exercise of their social services functions.

Conclusion

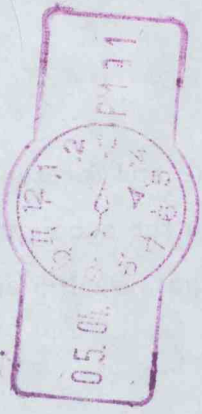
37. This paper sets out how the Government intends the organisation of the probation service to be strengthened to meet the challenges of the 1990s. The Government has decided that the service should remain locally based, but that its structure and

↑
for the time being

E.R.

organisation should be enhanced to enable it to meet its immediate and foreseeable challenges. In addition, the Government has decided to strengthen the accountability of the service to the centre to ensure that the objectives set out in paragraph 5 above are achieved.

wrk\orgps.rpt





QUEEN ANNE'S GATE LONDON SW1H 9AT

25 March 1991

In David,

*sim
wii?*

REORGANISATION OF THE PROBATION SERVICE

Thank you for your letter of 21 March. You are worried that my proposal to provide in the Criminal Justice Bill for a default power over probation committees will create management problems in the Lords. I can assure you that:

- (a) my proposed amendment will not be controversial in the way that your letter implies;
- (b) it is needed as part of a battery of weapons to ensure that the provisions of the Criminal Justice Bill are properly implemented;
- (c) the mischief is real, though I hope remote; and
- (d) the power will be effective.

The proposed default power is not relevant to the question of the relationship between central and local government. There would be a need for such a power whether or not probation committees became in the course of time completely detached from local authorities, in respect of both funding and structure. They are bodies corporate and so already separate from both central and local government. The idea of a default power was signalled in the Green Paper "Supervision and Punishment in the Community" (Cmd 966, Chapter 6). It was there linked with the proposal to place HM Inspectorate of Probation on a statutory footing, which is provided for by clause 58 of the Bill. Although a different, more intrusive (and thus on the face of it more controversial) default mechanism was then envisaged, the idea of a default power in itself did not attract opposition and most respondents were in favour, so long as sufficient safeguards could be built in. In moving the amendment we would offer reassurance about the safeguards as set out in paragraphs 31-37 of the decision document.

The Rt Hon Lord Waddington, QC
Lord Privy Seal
Privy Council Office
Whitehall
London SW1A 2AT

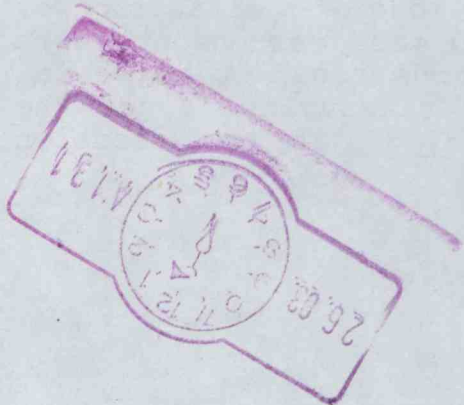
/2.

My officials have consulted the draughtsman about the proposal. I understand he now feels able to produce a clause which would provide an effective means of ensuring that an inefficient or recalcitrant committee would carry out its duties as set out in statute and in rules under statute.

As to the mischief, some of the rules already in force (eg the Community Service Order Rules 1989) impose detailed requirements on committees. The Criminal Justice Bill contains a number of rule-making powers which we will want to use to set out other detailed requirements. At present the only way I could tackle a 'defaulting' committee would be by a lengthy process of judicial review which would not give me the scope to say how the default was to be remedied. The clause which Parliamentary Counsel is working on would be swifter and more focused in its effect.

I am not, of course, suggesting that there are likely to be many defaulting committees. But the Criminal Justice Bill will bring a sea change to the service and the confidence of courts in its ability to produce demanding community sentences will be crucial to the legislation's success. We have to have a means of enforcing the requirements. I would of course hope that the default process would hardly ever have to run its full course to proceedings in court, because the threat would be sufficient to stir the committee into action. But where there was clear evidence of default I would not hesitate to issue an order requiring a committee to ensure the relevant duty was carried out properly.

I hope that you will now agree to the proposed amendment on default being tabled in Lords Committee. I am copying this letter to the recipients of yours.



Handwritten signature

Handwritten signature

RESTRICTED



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A2AT

21 March 1991

Kennell

REORGANISATION OF THE PROBATION SERVICE

I have seen a copy of your minute ^{with W.E.C.} of 14 March to the Prime Minister about your proposals for reorganisation of the probation service, and have one or two comments on the Lords business management aspects of your proposal to amend the Criminal Justice Bill to provide for a default power to act against probation committees that fail to fulfil their statutory duties.

As the annexes to your paper make clear, a default power of this nature would signal a significant change in the relationship between probation committees and the Government. I wonder whether at the present time, when we are making controversial changes in the relationship between central and local government in particular service areas, it would be prudent to open up the possibility of debates on this issue in the latter stages in the Criminal Justice Bill. It is not clear to me whether you have particular mischief in mind which the power is meant to deter. Moreover I am not sure what the practical effect of the amendment would be, what it would achieve which could not currently be dealt with through the courts, and, indeed, whether you could ever contemplate using it.

As you know, the pressures on the legislative programme continue to increase, and the business managers are anxious that the opportunity for extended debate is kept to a minimum in the latter stages of all the Government Bills particularly in the House of Lords. A number of amendments are outstanding from the Commons and on balance I would prefer not to add to the list with this probation amendment.

I am copying this letter to the Prime Minister, to members of HS Committee, and to Sir Robin Butler and First Parliamentary Counsel.

J. G. J.

WADDINGTON

The Rt Hon Kenneth Baker MP

PRIME MINISTER

REORGANISATION OF THE PROBATION SERVICE

I attach the Home Secretary's paper on the reorganisation of the Probation Service. Mr. Baker seeks your agreement to announce his decision to keep probation as a local service, and to take measures to strengthen the local structure within a framework of greater accountability to the centre. He wants to make the announcement before 15 April.

You first saw this proposal in January, when you had two concerns:

- (a) the proposal to retain the local system was surprising, given the strong arguments in the Green Paper for a national one;
- (b) it would be wrong to announce a firm decision on the future of the Service, when it needed to be looked at as part of the local government review.

Carolyn Sinclair has discussed the first point further with the Home Office and now thinks there is a better case for local control than the Home Office originally made out. The Home Office are concerned that the Probation Service should not have to cope with major structural change simultaneously with having to take on a radical new penal role under the Criminal Justice Bill.

On the second point, the Home Office has tried to answer your concerns in paragraphs 6 and 7 of Annex A. I think they fail to do so. The Home Office seems to imply that because probation committees are corporate bodies, independent from local government, the review is irrelevant. This is not the view of the Department of the Environment; the Probation Service is quite high up their list of services for possible transfer to the centre. There is some local funding and local representatives are involved in the committees. The statement at Annex B makes no mention of the need to consider the service in the context of

*Yes content
but don't lead them to believe we will
transfer to the Centre (only that, as of now,
we can't entirely rule
it out)*

the review, nor does the proposed discussion paper, at Annex C. Presentationally, this is bizarre.

As to the individual changes themselves, the main ones not already announced are:

- improved efficiency and accountability of local probation committees and better training for committee members;
- better arrangements for liaison between the Probation Service, judiciary and prison service;
- more regional collaboration between probation services;
- a default power, to enable the Home Office to take over a committee's functions should the latter fail to carry out its statutory duty.

These all seem desirable in themselves and would not preclude moving to a central service if the local government review indicates that it is desirable.

Do you agree:

- that I should ask the Home Office to make clear in the announcement and discussion paper that while the probation service remains locally based for the time being, ^{we cannot rule out the poss. of a} the local government review may have implications for it (I think the Home Office should re-clear the announcement with us);
- to give your consent to the individual reforms proposed?

Sarah Box

PP WILLIAM E CHAPMAN

21 March 1991

c:\wpdocs\home\probation (srw)



copy

HOUSE OF LORDS,
SW1A 0PW

21 March 1991

The Rt Hon Kenneth Baker MP
Home Secretary
Home Office
50 Queen Anne's Gate
LONDON SW1H 9AT

MSM

Dear Kenneth,

REORGANISATION OF THE PROBATION SERVICE

file with W.E.C.

I have seen a copy of your minute of 14 March to the Prime Minister about the reorganisation of the probation service and its role within the criminal justice system.

I am content with the proposals on the understanding that they will not of themselves affect the level or quality of service presently available in the civil courts in family proceedings or prejudice future decisions about the organisation of what have become known as "support services" in those proceedings (which are currently provided by a number of organisations including local authority social services departments and the Official Solicitor, as well as the probation service). As you know, the organisation of those services is one of the matters which we have publicly undertaken to look at in the course of the review of the family justice system. I hope we will be able to make headway on that task once the thematic study of the civil work of the probation service which you commissioned becomes available.

Copies of this letter go to the Prime Minister and members of H S Committee.

James

James

Home Affairs: Prostate

Service

June 79



CONFIDENTIAL

ceps

The Rt. Hon. Peter Lilley MP

MSM

The Rt Hon Kenneth Baker MP
Secretary of State for the Home Department
Home Office
Queen Anne's Gate
LONDON
SW1H 9AT

Department of
Trade and Industry

1-19 Victoria Street
London SW1H 0ET

Enquiries
071-215 5000

Telex 8811074/5 DTHQ G
Fax 071-222 2629

Direct line 071-215 5623
Our ref PE3151
Your ref
Date 18 March 1991

Dear Kenneth

I have seen a copy of your minute of 14 March to the Prime Minister about the reorganisation of the probation service.

I am writing to confirm that I am content with the proposals.

Copies of this minute go to the Prime Minister and members of the HS Committee.

Yours ever

Bill

CONFIDENTIAL

dti

the department for Enterprise



Recycled Paper

Home Affairs: Probation Service

Jun 791



10 DOWNING STREET

Note.

Cowdrey now acknowledges
that there are good
reasons for not
"nationalising" (subject to
the
Lorenis) — largely

organisational stress:

can't both re-organise

whole system and

ask them to start

new approach of

being more involved in

punishment.



WAZ

15/3.

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~~William,~~

We spoke. Best to

leave reply to middle of next week.

MISS SINCLAIR

MS: 1/14/91

cc Mr. Potter ✓

Paul Rugh HO 15

tell him Don't know to

B. 15/3

REORGANISATION OF THE PROBATION SERVICE

Comment until

next mid-week. WEC

When this proposal first came forward in January you minuted the Prime Minister with four objections to Mr. Baker's proposals. 15/3.

These were:

- the decision really needed to be looked at as part of the local government review;
- nothing was said about training;
- the Home Office were ^{not} ready to respond to consultation on the role of the independent sector;
- Lord Justice Woolf's report was still not yet out.

Although I have only had time to skim the papers before going to the House (they arrived at lunchtime) it seems to me that only the fourth of these objections is now out of the way.

On the first, even if broad terms of the way forward are now emerging, detailed matters still remain to be settled. So far as I can see, Mr. Baker's paper makes no mention of the voluntary sector and, although I have not read his paper word for word, I have seen nothing on training. This rather seems to me like the Home Office going doggedly on with what it intended all along.

I would be grateful to know your views and those of Mr. Potter if he wishes to comment, in time for me to get the paper from the Home Secretary into the weekend Box.

WILLIAM CHAPMAN

14 March 1991

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PRIME MINISTER

REORGANISATION OF THE PROBATION SERVICE

My officials have now discussed with officials from the No 10 Policy Unit and from the Department of the Environment the issues which were raised in your Private Secretary's letter of 31 January and in Michael Heseltine's letter of 30 January, and at Annex A to this minute I set out my current proposals in more detail. I also attach redrafted versions of the written answer and discussion document which I circulated with my letter of 15 January at Annexes B and C.

2. The main points I wish to make are:

- the decisions I propose to announce would not preclude other organisational changes over the medium term and would not cut across the local government review;
- nationalising the probation service now would be too disruptive and costly;
- my proposals will lead to closer Home Office control over probation services;
- a default power is needed in the Criminal Justice Bill to give us a sanction to use against committees that fail to deliver the service we want;
- some changes need legislation so I shall want a Bill in 1992/93 but I can get on with other changes meanwhile;
- I will return to the issue of costs in the Public Expenditure round.

3. We need to table an amendment on default on 15 April and publish our decisions either before or at the same time. It would therefore be helpful to receive agreement or comments by 18 March.

4. I am copying this minute to members of HS Committee.

MS

CONFIDENTIAL 14 March 1991

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ANNEX A

Reorganisation of the Probation Service

1. The present structure has serious deficiencies which were well analysed in Chapter 4 of the Green Paper "Supervision and Punishment in the Community". One option, trailed in that paper, is to replace the present decentralised system of the probation service with a national service which would be easier to direct. But it is clear that the risks - and costs - of that approach outweigh the benefits.

2. The chief risk is the great disruption, anxiety and opposition which it would create within the still quite small probation service at a time when the Government are consciously placing considerable new burdens on the service in the Criminal Justice bill. Major legislation would be required, and drastic reorganisation. Management is going to find it hard enough to deal with the changes proposed. They could not at the same time as driving through the changes following the Bill tackle setting up a National Service. The cost would be large and estimates might prove to have been understated. Implementing the Criminal Justice Bill effectively will require the energy and commitment of probation staff at all grades and we risk dissipating that if we opt for a national service now.

3. A second consideration is that a national service would alter the position of probation committees. We are proposing to restructure these, and this will doubtless ruffle some feathers. But an immediate move to a national service would be seen as a real threat to the influence of such bodies. Many members of probation committees are Justices of the Peace. It is questionable whether we want to upset this group more than we need to at present.

4. These considerations lead to the proposal to extend much greater central control over the probation service while retaining the present structure.

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5. The proposals set out in the consultation document enclosed with the Home Secretary's letter of 15 January would very significantly increase central control over area probation services and looking further ahead there is no reason why that trend should not evolve further. There is an urgent need to take a default power in the Criminal Justice Bill - the reasons are set out below. This would be supplemented in later legislation with a restructuring of probation committees and subject to consultation, a power of policy direction. The specific grant will be cash limited as from April 1992. There will also be amalgamations. All this will inevitably lead to a much closer involvement of the Home Office in the business of probation services. It is quite possible that the services themselves will begin to find the local authority link unnecessary and unhelpful, and may want a relationship with the Home Office alone. That might in time bring us either to a locally based service 100% funded by central government, or even to a fully fledged national service (although the difference between the two in practical terms may not by then seem as great as to justify further upheaval). None of these possibilities is foreclosed by the current proposals.

6. As regards the local government review, probation committees are bodies corporate, independent from local as well as central Government. The present links with local government arise from the fact that local authorities defray the expenditure of probation committees, and recoup 80% of this from specific grant. The treasurer and secretary of probation committees in shire areas at present must be officers of the County Council, and the County Council also provides some accommodation and central services. Probation services in the old metropolitan areas are not tied to local authority officers or services, but have to co-opt local authority representatives onto their committees because the authorities defray their expenditure.

7. It is proposed to make clear in the announcement and in the discussion document, which will be published at the same time, that while we have not at this stage decided to introduce 100% funding or to detach probation committees from local authority services these options are not precluded in future. Maintaining working links with local authorities would not be a problem - the NHS works with social services.

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8. Lord Justice Woolf's Report represents another area of potential change relevant to the probation service. It recommends that there should be greater co-operation between different parts of the criminal justice system and that for this purpose a national forum and local committees should be established. It also recommends that the Prison Service and the probation service should work together to achieve the common objective of helping offenders to lead law-abiding lives. The key to making the latter recommendation work is that the right lead is given by the Government and by senior managers in both services. It may be, for example, that we shall want to consider more formal structures to link the two services than exist at present. The proposals will allow Government to give a lead to the probation service and to ensure that it follows.

9. If we go down the route proposed it is important for a default power to be included in the Criminal Justice Bill. At present we effectively have no sanction to use against probation committees for failing to carry out any of their duties. Although the default power would be a weapon of last resort, it would signal a significant change in the relationship between probation committees and the Government. It is logically part of a package of measures to increase the control of and accountability to the centre which are either in the Bill or directly related to implementation of the Bill. This package includes cash limiting; putting HM Inspectorate of Probation on a statutory footing; introducing new powers to prescribe how the probation service should implement the provisions of the Bill; and introducing (non-statutory) national standards for probation work. The Cabinet have decided that there should not be a Probation Service Bill in 1991/92, so if we miss the opportunity of getting a default power in this session, we would have a period in which we were trying to exert greater control over the probation service but had no weapon of last resort.

10. Some of the changes proposed do not require legislation - for instance amalgamations and some aspects of regional collaboration and liaison with sentencers - and so can be implemented in advance of those which do. The restructuring of

CONFIDENTIAL

committees, any powers to enforce regional collaboration, and any new statutory structures for liaison with sentencers will, however, need legislation. A direction power and 100% funding would also need legislation if we later chose to take up those options, and thereby take further steps towards strengthening central government control of, and accountability for, the probation service. It seems best to proceed with Probation Service Bill when we are clearer which way we want to go on all these issues.

11. As regards the cost of the proposals, it would be sensible to return to this issue during the Public Expenditure round. While in principle the costs in terms of senior management time devoted to working up detailed implementation plans are absorbable, we need to bear in mind the coincidence with other major burdens on senior staff - the implementation of the Criminal Justice Bill and of cash limits. And, as Mr Mellor himself said, the proposals will need determined implementation to achieve the objectives sought, which means that senior managers must have the necessary resources. There is evidence that the existing thin management structure of the service is becoming heavily overloaded by recent government initiatives and if we insist that all these costs are absorbed this must lead to a general reduction in effectiveness. In addition, the start up costs of amalgamations will be significant for the areas concerned, although cashable savings should accrue after time. It would be imprudent not to bid for resources for amalgamations given that each area will from 1992-93 have its own individual cash limit. We would have to work out the costs and benefits of each proposed amalgamation before embarking on it. This points to the first amalgamations actually taking place in the financial year 1993-94, the costs and benefits having been examined in detail before making bids in PES 1992.

12. The Government's conclusions on the reorganisation of the probation service should be announced as soon as possible, to allow the service to settle down and focus on what it needs to do to implement the policy in the Criminal Justice Bill. If a default power is to be inserted in the Criminal Justice Bill, we need to table an amendment to the Bill by 15 April. The announcement should be made either before or at the same time as the amendment is tabled, if possible. Introducing an amendment on default without announcing our general conclusions on the Green Paper would provoke unhelpful speculation.

Q To ask the Secretary of State for the Home Department if he will announce his decisions on the proposals in the Green Paper "Supervision and Punishment in the Community"?

A. I can now announce decisions on the organisation of the probation service in the light of the responses to the Green Paper "Supervision and Punishment in the Community" (Cm 966). Decisions on training for probation staff will be announced later. We are still considering the responses to and consultations on the discussion paper "Partnership in Dealing with Offenders in the Community" which looks at relations between the probation service and the independent sector.

2. The Criminal Justice Bill currently before Parliament incorporates the proposals set out in the White Paper "Crime, Justice and Protecting the Public" (Cm 965) for major changes in the punishment and supervision of offenders. These changes will make great demands on the probation service and the Green Paper made proposals for increasing the efficiency and effectiveness of the probation service to meet these demands.

3. I accept the overwhelming view of respondents to the Green Paper that the probation service can operate most effectively as a local service, organised on a local basis and responsive to local needs. I continue to believe, however, that delivery of a local service must take place within a centrally determined framework of objectives and accountability.

4. I am publishing today a discussion document setting out our decisions and proposing how they should be pursued, including, where appropriate, further consultation. I am placing a copy of this document entitled 'Organising Supervision and Punishment in the Community' in the Library of both Houses.

5. The Government has decided not create a national probation service: the service will remain locally structured. At this stage we have not decided to provide 100% central funding for the probation service but this option is not ruled out in future. We have already announced our intention to cash limit the probation service specific grant for current expenditure from April 1992 and provision has been made for this in the Criminal Justice Bill.

6. In the responses to the Green Paper there was widespread acceptance of the need for reforms to probation committees to enable them to carry out their policy-making and budget-making functions more effectively. The Criminal Justice Bill already contains provision for probation committees to have power to grant-aid voluntary organisations. We have decided that the respective roles of probation committees and their chief officers should be clearly defined; that the size of probation committees should be reduced; and that the proportion of sentencer (ie. judge and magistrate) members in committees should be reduced.

7. We also propose that the arrangements for liaison between the probation service and magistrates and judges should be enhanced. We intend to discuss with the service, with judges and with magistrates how best judges may make an effective contribution to the work of probation committees, how the effectiveness of probation liaison committees at magistrates' courts may be enhanced, and how effective arrangements for liaison between the probation service and the judiciary might be created at each crown court. We will also consider how to ensure effective cooperation between the Prison and probation services.

8. We want probation areas to offer the full range of community sentences to the courts. To that end we will encourage regional collaboration between services to improve value for money, and in some cases where this is clearly justified the amalgamation of some smaller services that cannot effectively provide the full range of sentences on their

own or the necessary degree of managerial support or an adequate career structure for their staff.

9. The Criminal Justice Bill contains provision for putting HM Inspectorate of Probation on a statutory basis so as to enable it to carry out its inspectorial functions more effectively.

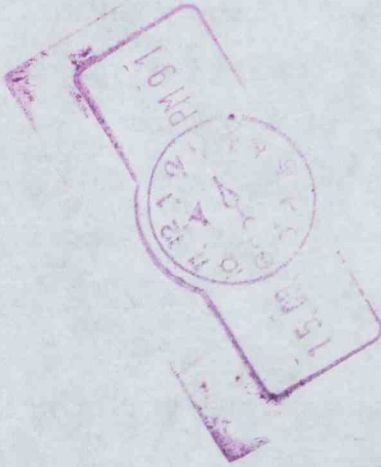
10. Finally, we intend to introduce an amendment to the Criminal Justice Bill to give the Secretary of State a power to initiate default procedures in respect of any probation committee which seriously or persistently fails to comply with any duty prescribed by a statute or rule. The Secretary of State needs to have available powers which will ensure that services follow national objectives and meet national standards in order to implement the Criminal Justice Bill. We will consider further whether a power of direction may also be needed.

11. Some of the other proposals set out in the discussion document may require primary legislation. We will consult further on:-

- (i) the proposals to create a national resource planning process, to draw up a national 'statement of purpose' and a three year plan for the probation service;
- (ii) restructuring of committees;
- (iii) the criteria for amalgamation of probation services;
- (iv) arrangements for regional collaboration;
- (v) arrangements for liaison with sentencers;
- (vi) a power of direction to accompany the proposed default power.

Subject to what emerges from the consultation process, it would then be followed by legislation when an opportunity arose, or by guidance or other non-statutory processes.

12. Some of the proposals have resource implications for local authorities, who defray 20% of probation service expenditure. The document published today includes estimates of costs.



HOME AFFAIRS

Probation Service 15 June 79

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ANNEX C

ORGANISING SUPERVISION AND PUNISHMENT IN THE COMMUNITY

Introduction

1. The Government values the work of the probation service, plans to increase the resources available to it and in this paper sets out its decisions on how the service can be best organised to meet the challenges of the 1990s following the Green Paper 'Supervision and Punishment in the Community' Cm 966 (pub 1990).

2. The Criminal Justice Bill which is currently before Parliament will increase the importance of the work of the probation service in a number of ways:

- by giving a more central role to pre-sentence reports than social inquiry reports have had up to now;
- by raising the profile of community sentences to be managed by the probation service, in particular the new combination order;
- by providing through national standards for the major areas of probation service work that all services meet the standards of the best;
- by providing for more structured supervision of prisoners on release from prison; and

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- by encouraging partnerships between probation services, voluntary organisations, the private sector and the local community in dealing with offenders.

Its implementation will require a coordinated and cooperative effort amongst criminal justice services and other agencies. On present plans the planned rise in central Government support for the probation service in the four financial years from the beginning of April 1990 to the end of March 1994 will increase by 25% in real terms.

3. The Government recognises the importance of taking early decisions on the organisation of the probation service so that uncertainty can be removed and plans can be made. This document sets out a basic framework for change. The detailed implementation of the decisions set out in this document will be subject to further consultation. This paper does not set out the Government's decisions on training for probation staff which will be announced later. Consultations on the discussion paper 'Partnership in Dealing with Offenders in the Community' about future involvement of the independent sector have only just been completed and the conclusion of those consultations will be announced in the Autumn.

Responses to the Green Paper

4. There were in total 160 responses to the Green Paper, from probation service organisations, probation committees, local authorities, voluntary organisations, judges, magistrates, clerks, barristers, academics and individuals falling into other groups. Responses varied and, with one or two exceptions, did not fall clearly in any one direction.

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Framework for the decisions

5. The Government has accepted the overwhelming view of respondents to the Green Paper that the probation service can operate most effectively as a local service, organised on a local basis and responsive to local concerns. The Government continues to believe, however, that delivery of the local service must take place within a centrally determined framework of objectives and accountability. So the objective of many of the proposals set out in this paper is to strengthen the local structure within a framework of greater accountability to the centre. On the other side of the balance is the need for probation services to be responsive to central policy concerns. The Government provides 80% of the cost of the service and is therefore entitled to expect that probation services will respond to its views about how that money should be spent. The Government's intention is to ensure that the changes proposed:

- ensure responsiveness to national objectives and standards;
- clarify accountabilities and responsibilities;
- improve the effectiveness of management;
- increase the confidence of sentencers in the probation service;
- encourage high standards of practice;
- improve working relationships with other agencies and organisations;
- encourage and strengthen the links between the probation service, and the local community.

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Summary of Government decisions

6. The Government has decided that it will not create a centrally organised and run probation service: the service will remain locally structured. At this stage the Government has not decided to provide 100% central funding for the probation service or to detach committees in shire areas from local authority services, but these options are not ruled out in future. The service will therefore remain partly locally funded for the present. The Government has already announced its intention to cash limit the probation service specific grant for current expenditure from April 1992 and provision has been made for this in the Criminal Justice Bill. With the discipline of cash limits in place, it should no longer be necessary for the Government to exercise some of the controls over probation service staffing that it does at present. In order to ensure a more effective resource planning system for the probation service, a national resource planning structure will be set up involving regular meetings with the service. The development of a Resource Management Information System (RMIS) will enable areas to manage resources within their cash limited budgets more effectively.

7. Major reforms are proposed to probation committees to enable them to carry out their policy-making and budget management functions more effectively and accountability. The Criminal Justice Bill already contains provision for probation committees to have power to grant-aid voluntary organisations. There will be training for probation committee members.

8. The Government also proposes that there should be new arrangements for liaison between the probation service and magistrates and judges. The Government wishes to enhance the role of probation liaison committees at magistrates' courts and to provide better opportunities for productive liaison between the probation service and the

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judiciary at each Crown Court. The Government will consider how to ensure effective cooperation between the prison and probation services.

9. The Government intends that probation areas should be able to offer the full range of community sentences to the courts and to that end will encourage regional collaboration between services to improve value for money, and in some cases where this is clearly justified the amalgamation of smaller services.

10. The Criminal Justice Bill contains provision for putting HM Inspectorate of Probation on a statutory basis so as to clarify its role to enable it to carry out its inspectorial functions more effectively. HM Inspectorate will also continue to provide advice in the improved arrangements which have already been set in train for approving candidates for senior appointments in probation services.

11. Finally, the Government intends to seek a power to initiate default procedures in relation to probation committees in certain cases.

Implementation

12. The decisions set out above will be implemented in different ways and to different timetables, depending in part on whether primary legislation is required to give effect to them. The Criminal Justice Bill already contains provision for cash limiting the probation service specific grant, for giving probation committees grant-aiding powers, creating a statutory Inspectorate and amalgamating the City of London and Inner London Probation Services.

13. Government amendments will be tabled during the passage of the Criminal Justice Bill to provide the power of default as set out in paragraphs 31-37 below. The

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Government has decided to seek powers in the Criminal Justice Bill to implement this proposal because the success of the Bill's provisions for dealing with more offenders in the community, rather than by custodial sentences, depends critically on the ability of the probation service in all parts of the country to deliver effective and consistent facilities and programmes. The Government needs to have available powers which will ensure that services follow national objectives and meet national standards.

14. Over the coming months the Government will consult the service on the other major areas of decision, some of which may require primary legislation to implement:

- the restructuring of committees;
- criteria for amalgamation of probation services;
- arrangements for regional collaboration;
- arrangements for liaison with sentencers;
- arrangements for cooperation between the prison and probation services.

Subject to what emerges from the consultation process, it would then be followed by legislation when parliamentary time was available, or by guidance or other non-statutory processes.

Resource implications

15. Although the precise costs of the proposals in this paper are not easy to identify, the Government considers that none of them should involve substantial initial or

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subsequent costs. It is envisaged that implementation would be phased over 3 years depending partly on whether and when legislation were introduced, where necessary. It is estimated that costs will arise mainly for the senior management of the probation service (that is chief, deputy chief and assistant chief probation officers - CPOs, DCPOs and ACPOs). These proposals are likely to add to the workload of officers at these levels and may entail the creation of some additional posts (we estimate a maximum of 34 posts) across the country over the implementation period. We expect at least some additional costs will be absorbed: it is not, for example, intended to increase the number of CPO posts. Nor are the proposals expected to result in additional costs for probation staff below ACPO level.

16. Costs have been calculated as follows. It is envisaged that regional collaboration, the restructuring of committees and liaison with sentencers and the Prison Service would, taken together, give rise to total additional staff costs at DCPO and ACPO level of around £1.4m at 1990-91 prices over the implementation period with cumulative annual ongoing costs of £0.8m by the end of the implementation period. The phasing of these proposals is such that the maximum cost likely to be incurred in any one year is estimated at £0.4m. In addition it is estimated that the transitional cost of an amalgamation is likely to add 10% to the expenditure of the services which are amalgamating for perhaps 2 years, but that thereafter annual efficiency savings of 5% of total expenditure might ultimately accrue (mainly through shared administration).

17. Against these costs must be set the benefits that strengthening the arrangements for delivering services in the ways proposed will enable probation services to demonstrate even more effectively to the courts and others the value and range of community penalties.

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THE GOVERNMENT'S DECISIONS

Cash limits

18. The Criminal Justice Bill contains at Clause [78] the statutory provision needed to give effect to the Government's decision to cash limit the probation service specific grant. Paragraphs 7.2 to 7.6 of the Green Paper set out the background to the decision to cash limit the specific grant and the options surrounding it. Since it was published there have been discussions with service interests and with the local authority associations and consultations continue on the method of distributing the grant and other arrangements necessary for the implementation of cash limits.

Controls on staffing levels

19. At present probation services are required to seek the approval of the Secretary of State for the creation of posts at senior probation officer, assistant chief probation officer, deputy chief probation officer and chief probation officer levels. The purpose of these controls is primarily to ensure that the Government is able to exercise some control over expenditure on senior grades and thus indirectly on more junior grades. In addition, the controls enable the Government to exert some influence on management structures in probation services. The Government has decided, however, that cash limiting the probation service specific grant will provide sufficient means of controlling probation service expenditure and it is therefore no longer necessary to exercise controls over the grades of senior probation officer and assistant chief probation officer. These controls will, accordingly, be dispensed with at the same time as the specific grant is cash limited. The Government intends to retain control over the creation of deputy and

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chief probation officer posts. These are posts for which the Secretary of State's approval is required before a person may be appointed to them and they are clearly central to the senior management structure of services.

20. The effect of these changes will be to free probation committees to deploy their staff as they see fit within the limitations of the budget to which they will be working.

National resource planning process

21. The introduction of cash limits for the probation service specific grant will not only act as a powerful incentive to ensure effective use of probation service expenditure, but will make it even more important to ensure that there is:

- accurate information about probation services' current workload;
- accurate information about how much different probation service activities cost;
- a process of bringing together this information to provide a sound basis for expenditure planning;
- a means for the service to participate in this process.

The Government accordingly proposes to move towards a more structured resource planning process with the service at the national level. This would involve regular twice-yearly meetings with the service organisations: one in September and one in December. The September meeting would discuss expenditure in the current year; look ahead to the outcome of the on-going public expenditure survey discussions targeted at the following

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financial year and would begin planning for the 3 following financial years. The meeting in December would again review the progress of expenditure in the current year; would look at the outcome of the public expenditure survey as published in the Chancellor's Autumn statement in November and translated through the cash limits mechanism into provision for individual services; and would consider the resources needed in the light of Government priorities for the following three financial years.

22. As this process takes shape, it will need a coherent policy framework within which to work. Probation services will need to be able to plan ahead with some confidence that policy changes will be signalled well in advance. The 1984 Statement of National Objectives and Priorities (SNOP) set out the Government's objectives and priorities for the service but in very broad terms, and some of it is now dated. What is now needed is a different document, perhaps in the form of a "statement of purpose" with a rolling 3-year plan annexed to it setting out the Government's plans for the service for the 3-year period and some broad indicators by which progress during that period might be judged. The plan would be reviewed and updated every year. A plan of this kind ought to enable probation committees to set local objectives more easily, help them to decide how to deploy their cash limited budgets and help the Government - through inspections - to assess progress towards the achievement of its priorities. Once established the Resource Management Information System will enable committees to manage their budgets more effectively and to monitor progress towards the achievement of their objectives. The proposals set out in this section will be discussed further with the service.

Committees

23. In the responses to the Green Paper, there was widespread acceptance of the need reform the structure of probation committees, in particular of the need for smaller committees and for greater clarity in defining the respective responsibilities of

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committees and chief officers. In considering how to take this further forward, the Government has as its overall aim the need to ensure that committees have a clearly defined responsibilities for planning, objectives, and monitoring of performance, the ability to function effectively in that role by drawing on a wide range of talents and experience for membership and by strengthening links with the community (including the local authorities). To this end the Government has decided that the respective roles of probation committees and chief officers should be clearly defined; that the size of probation committees should be reduced to a figure within a range of approximately 15 members; that the sentencer members (ie. judges and magistrates) should be reduced to 50% of the total membership; that the other 50% of the membership should be coopted under guidelines laid down by the Home Office; that committees should be provided grant-aiding powers to enable them to strengthen links with the community; and that committee members should be given training on how to perform their role more effectively. The proposals in this section will be discussed further with the service.

Liaison with sentencers

24. The Government's aim is to improve the links between the probation service and magistrates and judges so that the service can ensure that it is meeting the needs of courts and so that sentencers know about the work of the probation service. The Criminal Justice Bill will, as indicated in paragraph 2 above, increase the work of the probation service, particularly in the Crown Court. This reinforces the need for good links with the judiciary. Equally, reducing the number of magistrates on probation committees will necessarily place a greater burden on probation liaison committees as the main vehicle for retaining links with magistrates. Accordingly the Government proposes to discuss with the service, with judges and with magistrates:

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- how the involvement of judges as members of probation committees can be enhanced;
- how probation liaison committees at magistrates' courts might be strengthened; and
- how effective arrangements for liaison between the probation service and the judiciary might be created at each Crown Court.

Liaison with the Prison Service

25. The publication of Lord Justice Woolf's Report and in particular his recommendation that the prison and probation services should work more closely together has put the spotlight on the important work which probation officers do with offenders in custody and after release. The Government supports the principle of close cooperation between the two services and will consider with both services how best to ensure that it is effective.

Amalgamations and regional collaboration

26. The Green Paper identified 3 advantages which amalgamations of probation services might bring (paragraph 5.7):

- the creation of stronger management structures;
- the provision of specialist services to ensure the courts had available to them the fullest range of sentencing options;

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- closer liaison with other agencies.

The effectiveness of the Criminal Justice Bill's provisions will depend in part on whether probation services are able to offer the courts the full range of community sentences: probation orders, orders with conditions (including attendance at a probation centre), community service orders, combination orders. But behind those community sentences, there will need to be managers with the capacity and support staff to manage a diverse service in a period of major expansion. Some areas are simply too small for it to be economic for them to provide the full range of probation facilities. Capital expenditure programmes in particular might benefit from the economies of scale which amalgamations might bring. Some areas with two or fewer assistant chief probation officers are also likely to face difficulty in coping with the diverse management demands of the probation service of the future, and very small services may face difficulties of recruitment and retention particularly at senior management level and of providing adequate career opportunities for their staff. Liaison with other criminal justice agencies might in some cases be made easier by amalgamations eg. if areas combined to become coterminous with a police force area.

27. The Government has accordingly decided to look further at the scope for amalgamations. This will not be done in any rigid or mechanistic way but with the full involvement of areas and the minimum of disruption. A discussion document will be issued drawing on the ideas set out in this paper. It will be sent to selected areas which will be asked to test themselves against the Government's analysis and criteria for amalgamation. Where the case for amalgamation appears overwhelming, the Government would hope that committees and probation staff would recognise the benefits. The Government readily acknowledges that amalgamations would raise a number of practical issues such as conditions of service for staff, pensions, leases, administration and others.

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All these issues would be the subject of detailed consultation with the services concerned and the representative bodies.

28. The responses of the Central Council of Probation Committees and the Association of Chief Officers of Probation pressed the Government to look at the possible benefits of greater regional collaboration between probation areas. The Government welcomes this suggestion which would complement the ideas being developed in other parts of the criminal justice system through the programme of regional conferences under the Home Office Special Criminal Justice Conferences Unit and which would facilitate partnership with the voluntary sector. In some cases it would also be an acceptable alternative to amalgamation. There are a number of activities which on the face of it could benefit from better collaborative arrangements perhaps with more explicit statutory backing: for example, servicing Crown Courts; specialist facilities such as hostels; prison-related work; training; information systems; aspects of central finance (especially capital expenditure) and administration and relationships with other criminal justice agencies and with voluntary organisations. The Government will pursue this suggestion further in discussion with the service.

Senior appointments

29. The probation service of the future will need to attract the highest quality candidates to its senior management posts. The Green Paper canvassed the possibility that the Home Secretary should be able to decide in each case which particular candidate should be appointed as chief probation officer. At present the Home Secretary's approval is required before a committee may appoint a chief probation officer, but the power has not been used to require the selection of particular individuals; the usual procedure is to seek the Home Secretary's approval to a short list of candidates. The responses to the Green Paper were generally opposed to this suggestion and the Government has decided

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not to pursue it further as a matter of general practice but to rely, save in the most exceptional circumstances, on its existing power to approve short lists. However, the Government has already put in hand measures to get more thorough assessments of candidates for chief probation officer posts; to improve the management training available to the assistant chief probation grades and above; and an efficiency scrutiny of in-service training is also currently underway. Performance pay has been introduced for chief probation officers and deputy chief probation officers which should increase the attractiveness of top posts in the probation service. The Government also proposes to examine ways of increasing secondments as between probation services and other criminal justice services.

Statutory Inspectorate

30. The Criminal Justice Bill contains provisions to set HM Inspectorate of Probation on a statutory footing. The provisions will render explicit those duties which HM Inspectorate already discharges through its programme of efficiency and effectiveness inspections and through thematic inspections of selected aspects of probation service work. They will also establish its authority to look at how voluntary or private sector organisations are working with the probation service. There was overwhelming support amongst responses to the Green Paper for a statutory inspectorate. The Government is considering whether the Probation Rules will need amendment to strengthen H M Inspectorate's powers of access and examination.

Powers of Default

31. The Government [will/has introduce/d] a default power in the Criminal Justice Bill. The default power was canvassed at paragraphs 6.7 to 6.10 of the Green Paper. It was envisaged as a power of last resort to enable the Secretary of State to intervene in a

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seriously or persistently under performing area. Although some respondents felt that such a power was unnecessary, the majority of those who responded to this proposal were in favour, so long as reasonable safeguards could be incorporated.

32. It is clear that a committee must know what type and level of service it is supposed to be providing before it can be considered to be in default. The duties of probation committees are set out in general terms mainly in Schedule 3 to the Powers of Criminal Courts Act 1973, as amended. The main duties are to appoint sufficient probation officers for their probation area (under Clause 76 of the Criminal Justice Bill local authorities will be able to object to the number of probation officers proposed, but the committee's primary responsibility to determine local needs will not be usurped); to pay their probation officers; to provide for the efficient carrying out of the work of probation officers; to make various payments in connection with the supervision of offenders; and to perform such other duties in connection with the work of probation officers as may be prescribed.

33. Paragraph 18 of Schedule 3 to the 1973 Act gives the Secretary of State power to make rules regulating the constitution, procedure, powers and duties of probation committees, as well as the duties of probation officers. Under this power the main functions of committees as set out in para 3(1) of Schedule 3 are further elaborated in the Probation Rules 1984, as amended. In addition para 3(1)(e) of the same Schedule gives the Secretary of State power to prescribe duties other than those general duties already specified in statute, provided they are in connection with the work of probation officers and paragraph 18 empowers him to make rules about those duties. There are also powers in the 1973 Act for the Secretary of State to make rules regulating community service work (S48), or for the regulation, management and inspection of approved bail hostels and probation hostels (S49), and rules have been made under those

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powers. The Criminal Justice Bill will provide further powers to make rules in respect of other areas of probation service work.

34. The default power would operate in relation to any serious or persistent failure of a committee to fulfil a statutory duty as defined in primary legislation or any requirement provided in rules. The starting point would be information which indicated a cause for concern. Such information/evidence could come from complaints, an inspection, statistical returns or other sources. The next step would be to seek a report from the committee under Rule 21 of the 1984 Probation Rules. If that report was unsatisfactory HM Inspectorate would be asked to undertake an inspection with a view to advising the Secretary of State as to whether to initiate default proceedings. Once the inspection had taken place the Secretary of State would need to consider whether there was evidence of a dereliction of duty and, if so, whether the exercise of default powers was the right way to deal with it.

35. A committee would of course, be informed straightaway if consideration was being given to declaring that it was in default. It would be given sufficient time to make representations and to put its house in order. It is unlikely that the default power would need to run its full course as it must be assumed that the committee would take action to rectify matters before any proceedings in court.

36. The default power would be exercised by the Secretary of State making an order which would be enforceable by mandamus. This order would set out what the committee was supposed to do within a timescale or for a period of time set by the Secretary of State. If it were then necessary to obtain an order of mandamus failure to comply with it would render the committee members in contempt of court.

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37. The Government intends to look further at the question of default and at the possibility of taking a power of direction in relation to the manner in which committees are to perform their functions. This will be done in discussion with the service when considering the future role and function of committees and their relation to the centre. (see paragraph 23 above). The power would be analogous to that provided in the 1990 National Health Service and Community Care Act in relation to local authorities' exercise of their social services functions.

Conclusion

38. This paper sets out how the Government intends the organisation of the probation service to be strengthened to meet the challenges of the 1990s. The Government has decided that the service should remain locally based, but that its structure and organisation should be enhanced to enable it to meet its immediate and foreseeable challenges. In addition, the Government has decided to strengthen the accountability of the service to the centre to ensure that the objectives set out in paragraph 5 above are achieved.

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cc AU
n.b. P.M.
BTP
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Treasury Chambers, Parliament Street SW1P 3AG

071-270 3000

Fax 071-270 5456

The Rt Hon Kenneth Baker MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

18 February 1991

Duke

PROBATION OFFICER PAY 1990

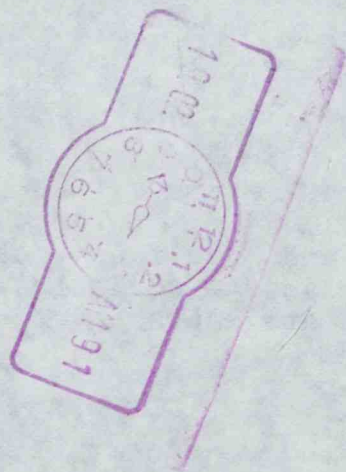
Thank you for your letter of 8 February.

will request if possible

2. I am sorry that you feel unable to limit the pay award or CPOs in the manner I would have preferred. However I recognise that your latest arguments have force, particularly in regard to the need to ensure the smooth passage of the Criminal Justice Bill and the Green Paper.
3. In view of the small amounts involved, your assurance that you will be able to absorb the extra costs, and your assessment that the settlement would be unlikely to attract publicity I am prepared exceptionally to agree that CPO pay should be increased in the way you propose.
4. I note your remarks about the review of the probation officers pay negotiating machinery and that you intend to return to this when we have a clearer idea of the direction the review of the organisation and structure of the Service will take.
5. I am copying this letter to the Prime Minister, members of EA(PSP) and Sir Robin Butler.

A handwritten signature in dark ink, appearing to be 'David Mellor', written in a cursive style.

DAVID MELLOR



MISS SLOCOCK

cc Mr Potter

14 February 1991

→ cf. ~~Mannick~~.

REORGANISATION OF THE PROBATION SERVICE

I attended a meeting at the Home Office today, together with an official from DOE.

The Home Office made a better case than in their recent letter for not moving immediately to the creation of a national Probation Service.

They believe that 100% central funding is only a matter of time. They want to exert greater control over the way the Probation Service operate - hence their desire for powers of default and direction to enforce national standards. They believe that something very close to a national service could evolve in the future. This could look very similar to the NHS, with nominated probation committees, like regional and district health authorities, providing local input.

But they do not want to move immediately to a national service because of the fuss it would cause within the Probation Service at a time when they are being asked to take on a radical new role in order to implement the provisions of the Criminal Justice Bill.

I said that I had some sympathy for all this. But the case for not moving immediately to a national structure needed to be explained properly. The original letter made it look like a conclusion reached in the face of opposition during consultation on the Green Paper.

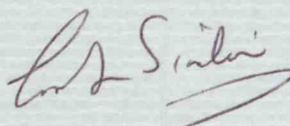
I then probed the case for legislating in the Criminal Justice Bill for the default power - although the power of direction, to

which it is logically linked, would come in a later Bill. The Home Office answer was not wholly convincing. Their real fear is that they will not get their legislation in the next session. They would rather catch a legislative bus which is certain on the default power than risk ending up with neither a default power nor a power of direction because they have failed to get a legislative slot for 1991-92.

We agreed that the way forward was this. The Home Office will prepare another letter from the Home Secretary which they will clear with me and the DOE in draft. (There were some rather technical points on local authority finance which they agreed needed to be taken account of in any announcement.) I said that while I could not be sure how the Prime Minister would react, we would look at the case for not moving immediately to a national Probation Service with an open mind, provided the possibility of evolution was left open.

I am sure that we were right to hold up the initial announcement, not least because DOE and the Home Office clearly need to tie up some loose ends. But I would be prepared to modify my advice on the merits of moving immediately to a national Probation Service if the Home Office can present better arguments.

I will keep you posted on developments. The very latest date by which the Home Office need a decision on whether or not they can include the default power in the Criminal Justice Bill is the end of March.



CAROLYN SINCLAIR

188.CS

CONFIDENTIAL



FILE PM
cc PU

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

6 February 1991

Dear Paul,

REORGANISATION OF THE PROBATION SERVICE

Thank you for your letter of 4 February to Barry Potter. The Prime Minister notes that the implications of the community charge review for the reorganisation of the Probation Service will be discussed by officials, including Carolyn Sinclair of the No.10 Policy Unit, as the next step. The Prime Minister notes that this discussion will also cover the possibility of going ahead with relevant amendments to the Criminal Justice Bill and also the emerging proposals on the Magistrates' Courts Scrutiny. He would be very grateful if he could be kept informed of the outcome of this discussion.

I am copying this letter to the Private Secretaries to members of H Committee, Tim Sutton (Lord President's Office), the Private Secretaries to members of LG Committee and to P.J. Moore (Office of the First Parliamentary Counsel).

*Yours sincerely,
Caroline*

CAROLINE SLOCOCK

Paul Pugh, Esq.,
Home Office.

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X

From: THE PRIVATE SECRETARY

ccp

Prime Minister



Content to note that this will be discussed by officials (including Carolyn Sinclair) as the next step and to ask to be kept informed?

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT
4 February 1991

Dear Barry

Content / 5.2 CAS 5/2

REORGANISATION OF THE PROBATION SERVICE

The Home Secretary has seen your letter of 31 January to Colin Walters conveying the Prime Minister's view on his letter of 15 January to the Chief Secretary about the reorganisation of the probation service.

The Home Secretary would be concerned about any lengthy delay in announcing Government's proposals for reorganising the probation service. An announcement is keenly awaited and to postpone it further would be difficult to justify publicly. He recognises, however, the need to clarify the implications of the community charge review for these proposals. He thinks that, as a first step, it would be highly desirable for officials here to meet with their counterparts in DOE to explore this issue, in particular the likely scope of the review and its proposed timescale. It would be helpful, at the same time, to extend the discussion to our emerging proposals on the Magistrates' Courts Scrutiny. The Home Secretary would like to consider the matter further following that meeting. The Grade 3 responsible here for these matters (Michael Head) has already been in touch with Caroline Sinclair at No 10 Policy Unit to suggest that she might like to attend also.

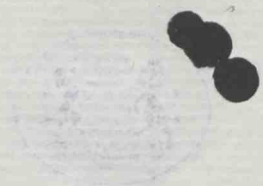
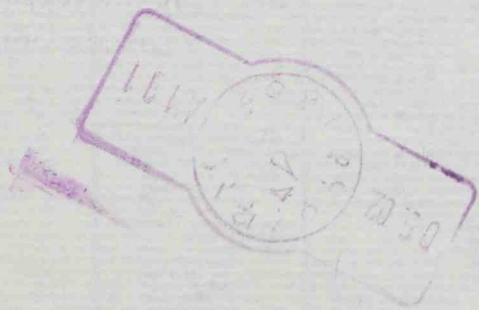
The Home Secretary hopes, however, that it may still be possible to proceed with the proposed amendment to the Criminal Justice Bill concerning the exercise of default powers in relation to Probation Committees. It seems possible to consider presenting this proposal as something that is valuable its own right within the constraints of the present system. It would be particularly valuable to have this back-up power in order to improve accountability and bring about change within the service even if it was eventually decided that more radical reforms were necessary in the wake of the community charge review - which, in the event, might take some little time to implement. This is a matter which can perhaps be discussed in the first instance at the meeting of officials. The progress of the Bill is such, however, that it is important that the meeting be held as soon as possible.

I am copying this letter to the recipients of yours.

yours sincerely
Paul Pugh

PAUL PUGH

Barry H Potter Esq
10 Downing Street
London SW1



COMMISSION

CONFIDENTIAL



CCPO.
n.b. P.M.

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Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Kenneth Baker MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

4 February 1991

Dear Secretary of State,

PROBATION OFFICER PAY 1990

Thank you for your letter of 15 January containing your proposals on the pay of main grade and chief probation officers following the awards of the ACAS arbitration panel and the Joint Negotiating Committee.

2. I have to say that I found considerable difficulty with your proposals and remain concerned at the scale of the recommended increases which reflect the entirely unsatisfactory nature of the current arrangements for determining probation officers' pay.

3. However I am mindful that the probation officer settlements have been delayed since last summer and that any attempt to overturn the arbitrators' findings in respect of the main grade officers may have unfortunate implications for the implementation of the Criminal Justice Bill. With these factors in mind I am very reluctantly prepared to agree with your proposals for main grade officers, including the minor one-off structural change. I would however emphasise that any future proposals for settlements at this level, either in the probation service or the public sector generally, would be highly unlikely to be acceptable.

4. I understand your reasons for wishing to increase CPO pay in the way you propose, but I have to say that the JNC seem to have arrived at their recommendation primarily on the grounds of comparability with increases for local authority Chief Officers. Awards based on or featuring such comparability run counter to our policy for public sector pay. In addition I am aware of the new performance related pay scheme shortly to be introduced for these staff which will allow generous increases for better performers. For these reasons I would prefer you to limit the CPO award to 9.25 per cent.

5. I note that you would like to announce the awards as soon as possible and would ask you to think very carefully about their presentation. Although probation officers are a relatively small group it is obviously important that settlements of this order should attract as little publicity as possible, particularly in the present difficult pay climate

6. I note what you say about affordability and must ask you to agree to find offsets on you cash limited Votes to fund any overspend that does occur on probation grant.

7. Your intention to reject two parts of the arbitration award for main grade officers is a welcome indication of the Home Office's forthcoming approach to these negotiations. But your proposal to address the problems inherent in the present pay system is a far more significant development. I hope that this can be looked at in the context of the wider review of the future organisation and structure of the probation service about which we have both recently written to David Waddington. I hope we will have the opportunity of considering preliminary proposals in the spring.

8. I am copying this letter to the Prime Minister, members of EA(PSP) and Sir Robin Butler.

Yours sincerely

Steph Bowk

DAVID MELLOR

[Approved by the Chief Secretary
and signed in his absence]



CONFIDENTIAL



Department of Employment
Caxton House, Tothill Street, London SW1H 9NF

Telephone 071-273 5802
Telex 915564 Fax 071-273 5821

Secretary of State

The Rt Hon David Mellor QC MP
Chief Secretary
HM Treasury
Treasury Chambers
Parliament Street
LONDON
SW1A 3AG

ccp
n.b. P.M.
BHP
4/2
1/11 February 1991

Dear David

PROBATION OFFICER PAY

I have seen Kenneth Baker's letter of 15 January in which he proposes accepting both the 9.25% arbitration award for main grade probation staff and the 9.38% negotiated settlement for chief probation officers. *at flap.*

Both increases are very disappointing in that they read across directly from last year's settlements for local authority staff and exceed the 9.2% remit agreed by Ministers in July.

I appreciate however the difficulties of seeking to set aside the arbitration award especially at a time when we are looking to the probation service to play a significant part in the implementation of the proposals in the Criminal Justice Bill. I agree therefore that we should accept Kenneth's proposals for the main grade staff. However I do not agree that we should accept an increase of more than 9.25% for the chief probation officers for whom, I understand, a performance related cash bonus scheme will be introduced shortly. It seems to me that the way to improve managerial quality should be through incentives to better performance rather than relative increases in differentials.

The negotiations illustrate again the shortcomings of the present pay machinery, particularly the unilateral right of access to arbitration, to which I drew attention in my recent paper to EA(PSP). I welcome Kenneth's undertaking to return to this issue once the conclusions on the future organisation and structure of



Employment Department · Training Agency
Health and Safety Executive · ACAS

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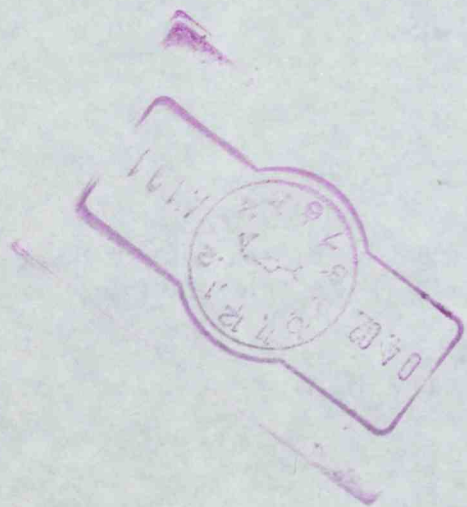
Secretary of State
for Employment

the service have been announced. No doubt we shall have an opportunity to discuss this in EA(PSP) in the autumn, if necessary.

I am copying this letter to the Prime Minister, members of EA(PSP) and Sir Robin Butler.

Yours ever
Michael

MICHAEL HOWARD



Home Affairs: Probation
Svee log.
June 79

NBPM



The Rt Hon The Lord Waddington QC
Lord Privy Seal Office
House of Lords
London
SW1A 0PW

Richmond House
79 Whitehall
London SW1A 2NS
Telephone 071 210 3000
From the Secretary of

State for Health

31 JAN 1991

L. Dunt,

REORGANISATION OF THE PROBATION SERVICE

with CAS

I have seen a copy of Kenneth Baker's letter of 15 January about his proposals for the reorganisation of the probation service. I fully support the objectives of his proposals.

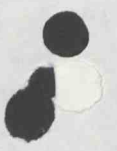
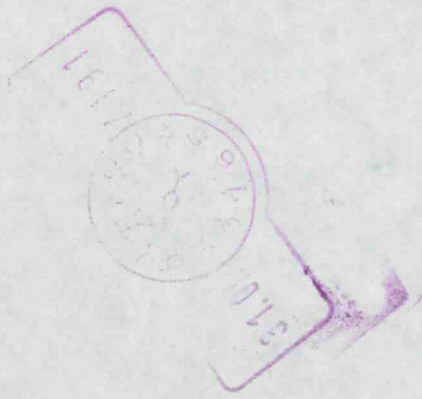
While not specifically mentioned in his letter, the probation service and social services departments do of course have very close interests in work with juvenile offenders and family welfare work. I hope that our respective officials will be able to continue to keep in close touch on these issues as the proposals for reorganising the probation service develop.

You can, therefore, take it that I have no objection in principle to the proposals for reorganising the probation service; to the terms of the proposed announcement, nor to the proposal that a formal proposal should be worked up, in consultation with the probation service, for an amendment to the Criminal Justice Bill to introduce a statutory default power over probation committees.

I am copying this to the Prime Minister, other members of HS committee, the Lord President and members of LG committee and to First Parliamentary Counsel.

W. Waldegrave

WILLIAM WALDEGRAVE





HOUSE OF LORDS,
SW1A 0PW

31 January 1991

Dear Kenneth,

Reorganisation of the Probation Service

Thank you for sending me a copy of your letter of 15th January to David Waddington which outlines your proposals for the reorganisation of the Probation Service.

I agree with your view that the Probation Service should continue as a local service and support your proposals for the introduction of a Default Power and, if it is found to be necessary, a Statutory Direction power. As to your proposal that the arrangements for liaison between the Probation Service and the Judiciary should be enhanced I accept that the way forward should be by consultation. That will demonstrate what further steps may need to be taken, whether by legislation or otherwise, bearing in mind the already stretched resources available at the Crown Court.

I am copying this letter to the recipients of yours.

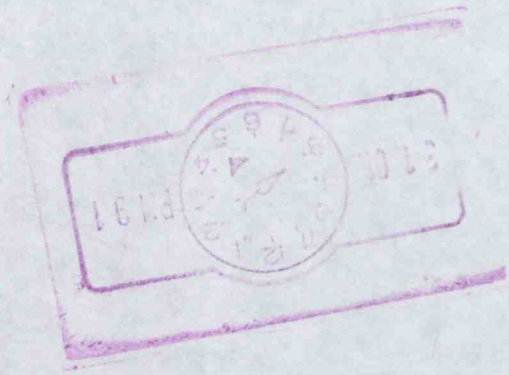
Yours ever,

James

The Right Honourable Kenneth Baker
Secretary of State for the Home Department
Queen Anne's Gate
London SW1H 9AT

CCP4

will CAS?



CONFIDENTIAL



file

AT

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

31 January 1991

Dear Colin,

REORGANISATION OF THE PROBATION SERVICE

The Prime Minister has seen a copy of the Home Secretary's letter of 15 January to the Chief Secretary about the reorganisation of the Probation Service. He has also seen copies of comments from colleagues - the Environment Secretary's letter of 30 January, the Chief Secretary's letter of 29 January, the Attorney General's letter of 28 January and the Scottish Secretary's letter of 30 January.

The Prime Minister is not persuaded it would be right to announce a decision along the lines proposed by the Home Secretary at this stage. First, such an announcement would entrench the present structure - under local authority control, yet largely funded by central government. Arguably, that arrangement ought to be looked at as part of the wider review of the community charge and local government already under way. Second, the proposal to leave the service under local authority control seems a little surprising, given the strength of the arguments in the Green Paper in favour of a national Probation Service.

Accordingly, the Prime Minister wonders whether the Home Secretary should hold back his announcement until the implications of the community charge review for his decision can be clarified with the Environment Secretary and the Chief Secretary. Clearly delaying the announcement until the result of the review is known could mean postponing any legislation until 1991-92.

I am copying this letter to the Private Secretaries to members of H Committee, Tim Sutton (Lord President's Office), the Private Secretaries to members of LG Committee and to P.J. Moore (Office of the First Parliamentary Counsel).

Yours,

Barry

BARRY H. POTTER

Colin Walters, Esq.,
Home Office.

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an

CONFIDENTIAL

PRIME MINISTER ①

*M. Ainslie H.S. to draw out
point in Carolyn S.'s report + propose
conclusion via Carolyn S.'s covering note.*

REORGANISATION OF THE PROBATION SERVICE

*Mr Baker will protest + no
doubt I'll have to see him.*

The Home Secretary (Flag A) is seeking approval to keep the Probation Service in the hands of local probation committees but to take limited powers in the Criminal Justice Bill to influence their work. He also proposes a number of reforms to the present structure to increase its efficiency and effectiveness.

30/11

The decision to keep a local service goes against the recommendation of the Government's Green Paper on the Probation Service which had suggested that it should be "nationalised." Mr Baker points out that the overwhelming view of respondents was that the probation service would operate best as a local service. It would be expensive to create a national service and the short-term disruption which it would cause would endanger the success of the Criminal Justice Bill, he says. Mr Baker adds that he is committed to an early announcement and is keen to make one to end a prolonged period of uncertainty. He also wants to consult on the powers he wants to take on (as he needs to do).

Carolyn Sinclair in the Policy Unit (Flag B) suggests that any announcement should wait until the results of the community charge review are known. The Probation Service is currently a county council function and as such might be a prime candidate for change in the light of the review. She also has doubts about the Home Secretary's decision, feeling that the Home Office has simply bowed to pressure.

Certainly it is hard to see the point in the Home Secretary making an announcement now to end uncertainty if it is going to have to be overturned by a subsequent decision on the structure of local Government. But the Home Secretary is likely to be unhappy at any

delay in that he will miss his opportunity to take on the new powers in the Criminal Justice Bill. He argues he needs these powers to make a local Probation Service work but Carolyn says this does not matter too much, since Mr Baker wants another Bill in 1991-92 to tie up loose ends on the probation service. Dominic thinks that there should be no problem with this Bill: even if there is no fifth session, there should be an opportunity to slot it in in the first session of a new Parliament while manifesto proposals are being prepared.

Mr Heseltine, Mr Mellor, Mr Lang and Sir Patrick Mayhew have now all commented on this proposal (letters are at Flag C). None of them quarrel with the fundamental decision. DOE appear not to have considered the underlying implications of the community charge review for this decision. Mr Heseltine's concern is apparently the rather narrower one of whether local authorities would have proper control over the 20% of the Probation Service's budget which they provide. Mr Mellor does raise the broader point but does not actually suggest that the announcement should be delayed.

But Carolyn advises that you should ask Mr Baker to hold up his announcement until the results of the local government review are known in a few months time. Perhaps the most tactful approach might be:

- to ask the Home Secretary to consider the implications of of the community charge review for his decision, with Mr Heseltine and Mr Mellor;
- and, if necessary, to delay any announcement until the result is known and - if need be - any legislation to 1991/92.

Content to do so?

ABS

Caroline Slocock
30 January 1991



SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon The Lord Waddington QC
Lord Privy Seal
Privy Council Office
Whitehall
LONDON

30 January 1991

Dear David,

I am writing in response to Kenneth Baker's letter of 15 January about his proposals for the reorganisation of the probation service following responses to the Green Paper "Supervision and Punishment in the Community".

The situation here in Scotland is different, in that local authorities are responsible for the services which in England and Wales are provided by probation authorities. From 1 April we shall be providing 100 per cent of the cost of the main group of services and before then we shall be issuing our National Objectives and Standards for Social Work Services in the Criminal Justice System. The default power under the NHS and Community Care Act 1990 is available to me if required.

I am therefore content with the proposals set out by the Home Secretary.

I am copying this letter to the Prime Minister, Kenneth Baker, the Lord President, other members of HS and LG Committees and to First Parliamentary Counsel.

Yours ever,

IAN LANG

WVME AFFIDAVIT PROBATION June 79





2 MARSHAM STREET
LONDON SW1P 3EB
071-276 3000

My ref:

Your ref:

The Rt Hon Kenneth Baker MP
Home Office
Queen Anne's Gate
LONDON
SW1

30 January 1991

Dear Home Secretary

Thank you for sending me a copy of your letter of 15 January to the Lord Privy Seal, seeking agreement to announcing changes in the administration of the probation service.

I can see little real alternative to your proposals: we clearly need a probation service delivering a national standard of support to the criminal courts, and your measures are aimed at this.

I remain concerned, however, about the relationship with local government. Local authorities will continue to have to provide 20% of the running costs of the service from their revenues, but will have even less say than at present in how much that shall be spent (since you are taking powers to tell probation committees to spend, rather than simply, as at present, to encourage them to do so), and will continue to have no say in the priorities for that expenditure.

Although the sums are not large, I think that we should note in your statement that questions of principle do arise over the relationship between the probation service and local government and say that we will return to these in the light of our conclusions on the review of local government.

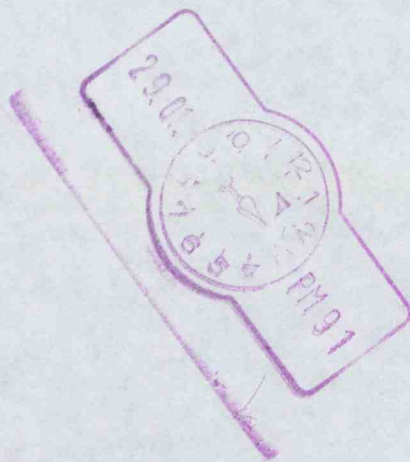
Michael Heseltine

MICHAEL HESELTINE

(approved by the Secretary of State
and signed in his absence)



HOME AFFAIRS: Probation Service June 79



RESTRICTED

cc PA



Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon The Lord Waddington QC
Lord Privy Seal
Lord Privy Seal's Office
House of Lords
London
SW1A 0PW

29 January 1991

Dear Lord Privy Seal,

PROBATION SERVICE

I have seen Kenneth Baker's letter of 15 January outlining his proposals for the re-organisation of the probation service and his wish to introduce a default power in the Criminal Justice Bill to ensure Government policy on supervision in the community is implemented effectively.

2. I do not wish to take issue with the broad brush of Kenneth's proposals as they stand. If they were implemented effectively they should, in principle, go a long way towards dealing with the recognised deficiencies of the current system.

3. We cannot look at this question in isolation from the current review of the community charge. We are, inevitably, considering a wide range of issues, including the question of the appropriate allocations of functions between the centre and the local level. That issue is also central to proposals to reform the probation service. I do not wish to question Kenneth's judgement on this issue, but I do wish to register this point.

4. While I do not intend to comment further on the detailed proposals at this stage, there are two general points I should emphasise. The first is that the locally based solution proposed would, if appropriate following the community charge review, require determined implementation to achieve the objectives sought. Anything less runs the danger of failing to get to grips with the practical changes necessary to alter relationships and attitudes.

RESTRICTED

5. The second is costs, where I must of course reserve my position. The current proposals do not suggest these should be significant either initially or subsequently. Should we go down that route, I would look to Kenneth to take whatever steps were necessary to ensure they were absorbed within existing provision for the probation services, where the estimates are at most, 1 per cent of provision for 1992-93.

6. I am copying this letter to the Prime Minister, other members of HS Committee, the Lord President and members of LG Committee and to First Parliamentary Counsel.

yours sincerely

Step L Boud

DAVID MELLOR

*[approved by the Chief Secretary
and signed in his absence]*



071-828 1884

The Rt Hon Kenneth Baker
Secretary of State for the Home Department
Queen Anne's Gate
London
SW1

clp

9 BUCKINGHAM GATE
LONDON SW1E 6JP

28 January 1991

Dear Kenneth:

REORGANISATION OF THE PROBATION SERVICE

Thank you for your letter of 15th January. *Prof*

I am content with your proposal to publish a consultation paper.

The existing arrangements for liaison with ACOP, the Home Office and the Crown Prosecution Service work well and the nationalisation option would not assist CPS efficiency to any significant extent.

I agree that it is desirable to introduce ultimate accountability to the Government through a default power and a statutory direction power, but I hope that the default power will be used sparingly.

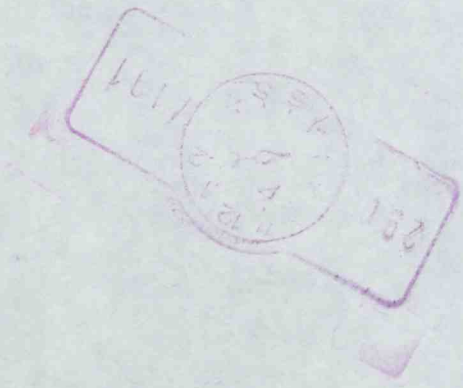
Clearly there will be advantages to the CPS in amalgamating areas if these are combined to become coterminous with police force or CPS areas.

I am copying this letter to the recipients of yours

I am, was,

A. L. ...

HOME : PROBATION SERVICE PAY, June 1979.
AFFAIRS.



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PRIME MINISTER

25 January 1991

REORGANISATION OF THE PROBATION SERVICE

Kenneth Baker has written to colleagues on HS seeking agreement to announce his decisions on the future organisation of the probation service as soon as possible.

His key decision is to leave the function in the hands of local probation committees. These are local authority funded, with 80% specific grant from the Home Office. The total cost of the service in 1990-91 is around £300m. From April 1992 the specific grant will be cash-limited.

It would be wrong to announce a decision on these lines now because:

- A decision which entrenches a local structure largely funded by central government needs to be looked at as part of the current local government review. The probation service is a county council function and is thus a prime candidate for change if there is a move towards unitary local authorities.
- The decision to leave the service in local control goes against the grain of what the Home Office think is the most effective way of organising the probation service;

Both factors point to holding up the announcement until decisions have been taken on the future of local government. Indeed it may have to be part of these decisions. This is quite practicable, though the Home Office will be unhappy.

BACKGROUND

A more effective probation service is crucial to the success of

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the Government's policy of discouraging judges from sending people to prison for minor offences. Judges will only reduce the number of prison sentences if they believe that punishment in the community (supervised by the probation service) is a credible alternative, not a soft option run by social science graduates.

The Government published a Green Paper on the probation service last February. This revealed the Home Office's penchant for a national service wholly funded by central government. The background to this was:

- their frustration at not being able to steer the probation service to behave consistently in a way calculated to win the confidence of judges;
- criticism by the National Audit Office and the Audit Commission (diversity of practice and lack of financial accountability).

The present proposal shows the Home Office backing down in the face of predictable hostility from some quarters to the idea of a national service.

Kenneth Baker's proposals

Kenneth Baker wants to move now to end uncertainty about the future of the probation service (bad for morale), and because he wants to take a default power in the current Criminal Justice Bill which would allow him to bring errant probation committees to heel.

The case for a default power is closely bound up with his decision to leave control of the probation service in local hands. If that decision is held up pending wider thought about the future structure and funding of local government, there is no point in rushing ahead with a default power. In any case,

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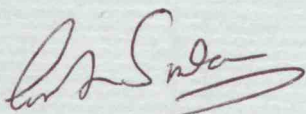
Kenneth Baker wants another bill in 1991-92 to tie up loose ends on the probation service.

There are three other reasons why delay would be helpful.

- The Home Office are not yet in a position to say what they are going to do about training for probation officers. This could have the biggest effect of all in the longer term. Officers need more training in law and the courts, less in social sciences.
- They are also not ready to respond to consultation on the role of the independent sector. This could be considerable. NACRO do some excellent work on training offenders.
- The Home Office are proposing closer contact between judges and the probation service. This is fine. But Lord Justice Woolf, reporting next month on Strangeways et al, will call for closer contacts between judges, probation officers and prison governors generally. This is potentially very important. Unfortunately the present Lord Chief Justice makes contact between judges and the rest of the world very difficult. He is likely to react badly to two sets of proposals for greater dialogue. It would be better to get the more important Woolf proposals underway first.

Conclusion

Kenneth Baker should be asked to hold up his announcement, and keep in touch with the local government review as it affects this subject.



CAROLYN SINCLAIR

(157.CS)



n.b.p.m.
JHP
18/1
CCFO.

QUEEN ANNE'S GATE LONDON SW1H 9AT

IN CONFIDENCE

15 January 1991

Mr. Drury

PROBATION OFFICER PAY 1990

Norman Lamont wrote to David Waddington on 8 October 1990 about probation officers' pay. David subsequently received the ACAS arbitration award on 6 November 1990 and therefore held up his reply in order to consider that award. My officials have been keeping yours informed in the meantime. I have now considered the award and I have also received (on 30 November 1990) the recommendation of the Joint Negotiating Committee for chief probation officers' pay. This letter sets out how I propose to react to both of these. My officials are writing to yours with more details of the issues involved.

MAIN GRADE PROBATION OFFICERS' PAY

The arbitration award

The unanimous award of the arbitration panel was as follows:-

- (a) the increase in salaries for main grade, senior and assistant chief probation officers with effect from 1 July 1990 should be 9.25%;
- (b) the minimum point on the main grade salary scale should be deleted but the two entry points should be retained with a one increment advantage for those aged 30 and over;
- (c) the second career grade allowance should be paid after an officer has served four rather than five years at the maximum of the main grade salary scale; and
- (d) all officers with more than 14 years service at 1 July 1990 should receive the second career grade allowance.

The Rt Hon David Mellor QC MP
Chief Secretary
Treasury Chambers
Parliament Street
London SW1

/2.

NAPO's claim was for a 16% increase. The Employers' Side offered 9.25% so the arbitration award was a clear victory for the Employers' Side. I intend to capitalise on that by accepting the 9.25% award, but not all the structural changes. I propose to reject the first two, but to accept the third which has a one-off cost of 0.16% of the current pay bill.

My legal advice is that both sides of the JNC are bound by the award but that I may determine a level of pay inconsistent with the arbitrator's decision. I must, however, take into account the arbitrator's decision, or risk judicial review. There is always the possibility of challenge on the grounds that the decision is so unreasonable as to be ultra vires.

Home Office role in negotiations

In Norman Lamont's letter of 8 October he expressed disappointment at the 9.25% offer made by the Employers' Side of the JNC. When David Waddington wrote on 10 July requesting Norman's agreement to a pay offer to probation officers of 9.2%, he said that as a matter of tactics this offer would be made only if the Staff Side had indicated informally that they would accept it. If it became clear that we could not reach a negotiated settlement at 9.2%, we would encourage the employers' side to leave an offer on the table of about 8.75%.

This was done, but as the Home Office is in a minority on the JNC the Home Office representative was not in a position to control the offer the Employers' Side made. In the event, the Staff Side indicated informally that they would recommend only a package which included a 9.25% basic increase; the structural changes included in their claim; and a reduction in working hours.

The Employers decided to make a straight offer of 9.25% considering it to be the lowest offer that had a hope of being accepted by NAPO's membership. The Home Office representative made it clear that we could not support an offer at this level, but was over-ruled.

Consideration of the arbitration award

The basic pay increase in the arbitration award is 0.05% more than the maximum negotiating remit given to my officials if they could achieve a negotiated settlement, and is in line with the increase given to equivalent social services staff. The worries about recruitment and retention which David Waddington exposed in his letter of 10 July are real and social services departments are now able to offer more attractive starting salaries than probation areas. To impose a basic award lower than that given to social workers would worsen the situation.

If I did not accept the award, I would be seen as substituting my judgement for that of both the JNC and the ACAS arbitrator. The Home Secretary has modified a JNC recommendation only once in the last 10 years to enforce some minimal "staging" in 1980. NAPO may seek a judicial review of a decision to amend the award, particularly of any settlement less than the basic award of 9.25%, as they argue that the Home Secretary is bound by it. Although such an application is not likely to be successful unless my decision can be shown to be unreasonable, any legal challenge would in itself be disruptive. On top of this, I have to have regard to the political cost of setting aside the award at a time when we are looking to the probation service to make a major contribution to the implementation of our proposals in the Criminal Justice Bill for dealing with a greater number of offenders in the community.

I also have to take account of a separate dispute over a claim for a reduction in working hours and premium payments for working unsocial hours, on which NAPO threatened industrial action. They have backed down from this dispute at present on the basis that both sides will review the existing national agreement on working time without commitment to change, but a rejection of the increase recommended by the arbitrator could push them into taking some industrial action. This could be very disruptive, especially when we are introducing national standards in probation service work and making preparations for the implementation of the Criminal Justice Bill. The consequences of imposing an offer below 9.25% for industrial relations and for our criminal justice strategy might well outweigh the cash savings.

As regards the structural awards however, I take a different view. If all the structural awards were accepted, they would add a further 0.40% to the settlement. I do not believe that the first two structural awards (b and c) can be justified in principle, even leaving aside the cost and I intend to reject them. This is the first time that a Home Secretary has rejected part of an arbitration award and it is therefore an important indication of our whole approach to the negotiations involving the position of the Home Secretary. I am, however, minded to accept the third, which has a one-off cost of 0.16%. I believe such a concession is needed in the interest of fairness in order to remove an anomaly: a minority of staff with more than 14 years of service are not yet on the second career grade point, unlike their contemporaries, as a result of two previous changes to the scale. I would not, however, want to offer this change if to do so meant that I had to lower the basic increase for the whole bargaining group to contain it within the 9.25% increase.

On the question of affordability, our Winter Supplementary Estimate assumed a pay settlement of 9.25%. The cost of the 0.16% structural award would be £106,000 in grant terms, which I can absorb, in the current financial year. The settlement which I am proposing is higher than the 9% assumed in the recent PES round and will give rise to additional grant requirements in 1991-92 of £278,000 including £35,000 for the effect of the proposed structural change in the final part of the pay year. I shall do my best to absorb these extra costs in 1991-92.

CHIEF PROBATION OFFICERS' PAY

The main claim of the Society of Chief Officers of Probation was for an increase of 9.38% to salary scales. The Employers' Side of the JNC offered 9.38% and agreed to consider other aspects of the claim, but these considerations will have no effect on the 1990-91 settlement. On that basis the JNC reached agreement. My representative made it clear, in response to advice from your officials, that the Home Office could not support an offer above 9.2% and formally reserved my position. I propose, however, to accept the JNC recommendation for the following reasons:-

- (a) last year's settlement was intended to improve the competitiveness of CPOs' salaries vis-à-vis local authority Chief Officers. It was part of our overall strategy to improve the quality of probation management by encouraging able individuals within the service to apply for CPO posts, to reward good performance, and to provide salary levels sufficient to attract applicants from outside the service;
- (b) my predecessors have amended a JNC recommendation on CPOs' pay only once (to disallow a proposal to change the structure of CPOs scales in 1986). It would be very bad timing to do so now, when we are expecting much more out of probation service management in implementing the objectives of our criminal justice strategy, and when we are about to announce decisions on the reorganisation of the service (in the light of the 1990 Green Paper "Supervision and Punishment in the Community") which will require commitment from management to implement.

The basic award for CPOs should at least be as high as that for main grade officers which I am arguing should be 9.25%. The top of the main grade scale overlaps with the bottom of the lowest CPO pay range. If the settlement for CPOs is below that for main grade officers this will further erode the progress made last year in terms of overall strategy.

CPOs are a very small group and their pay settlements have no effect on other groups in the public sector. Within the probation service, it would accord with our management policy to award a higher basic increase to CPOs than to main grades. The cost of CPOs' salaries amount to 1.2% of the probation service pay bill. The cost in grant terms of a 9.38% settlement above existing provision would only be £1,800 in 1990-91 and £7,400 in 1991-92. I shall certainly be able to absorb these extra costs.

REFORM OF THE NEGOTIATING MACHINERY

Turning to the general points Norman Lamont made in his letter of 8 October, I agree that this year's pay negotiations on main grade pay have brought into relief the problems inherent in the present system: the fact that representation on the JNC is not proportionate to financial responsibility and more importantly that NAPO still have unilateral access to arbitration. I certainly want to look at this, but timing is important. A unilateral attempt to change the system while the present disputes remain unresolved would exacerbate the situation, which we might otherwise be able to contain. We are still considering the future organisation and structure of the probation service and are due to make an announcement early this year. I therefore propose to return to this issue in the spring or early summer.

CONCLUSION

I am therefore proposing:-

- (a) to accept the arbitration award for probation officers' pay of 9.25%;
- (b) to reject the first two structural changes included in that award, but to accept the third, which has a one-off cost of 0.16%, in the interest of fairness;
- (c) to accept the JNC recommendation for CPOs' pay of 9.38%;
- (d) to consider reform to the existing negotiating structure in the Spring or early summer of this year.

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6.

As my officials have been keeping yours closely in touch with developments I hope I may have quick agreement to what I propose. The awards take effect from 1 July 1990 and I would like to make an announcement as soon as possible in order to end uncertainty.

I am copying this letter to the Prime Minister, members of EA(PSP) and Sir Robin Butler. I should be grateful for responses by 30 January.

[Handwritten signature]
[Handwritten signature]





QUEEN ANNE'S GATE LONDON SW1H 9AT

15 January 1991

Jim Donald

REORGANISATION OF THE PROBATION SERVICE

I am writing to seek agreement from HS Colleagues to my proposals for the reorganisation of the probation service in the light of responses to the Green Paper "Supervision and Punishment in the Community" (Cm 966) published February 1990. I am also seeking agreement in this letter from LG colleagues to the introduction of a new clause to the Criminal Justice Bill in order to give effect to my key proposal for change in the relationship between central Government and the probation service intended to ensure that the other parts of the Bill relating to supervision of offenders in the community are implemented effectively. I want to announce my decisions on the Green Paper as soon as possible and this letter seeks agreement to the terms of that announcement.

The Criminal Justice Bill currently before Parliament will make great demands on the probation service. The Green Paper made proposals for enabling the service to meet those demands efficiently and effectively. These were discussed by H Committee on 16 January 1990. We received a total of 160 responses, including responses from the main representative organisations, from the judiciary and from individual probation committees. I am committed to making an early announcement of the main decisions on the reorganisation of the probation service. I intend to take decisions on training for probation staff later. Consultations are still underway on the discussion paper published in April 1990 which elaborated on the Green Paper's suggestions about future involvement of the independent sector, "Partnership in Dealing with Offenders in the Community."

The objectives of my proposals for reorganisation of the probation service are to:

- ensure responsiveness to national objectives and standards;
- clarify accountabilities and responsibilities;

The Rt Hon Hon The Lord Waddington QC
Lord Privy Seal Office
House of Lords
London SW1A 0PW

- improve the effectiveness of management;
- increase the confidence of sentencers in the probation service;
- encourage high standards of practice;
- improve working relationships with other agencies and organisations;
- encourage and strengthen the links between the probation service, and the local community.

Nationalisation Option

The main option canvassed in the Green Paper was between nationalising the probation service and reforming the existing local structure of 55 probation committees, each responsible for providing their own area service. The overwhelming view of respondents to the Green Paper was that the probation service can operate most effectively as a local service, organised on a local basis and responsive to local needs. Although "nationalisation" would enable Ministers to exercise more direct authority over the probation service, this might well be at the expense of inhibiting creative local management and local enthusiasm. Nationalisation would require major legislation and implementation would probably take some 2-3 years after that. The financial costs would be significant and finding sufficient offsetting savings problematical - at least in cashable terms. More importantly, I do not think I would be pitching it too strongly to say that the short term disruption which would be caused would put at risk the success of the Criminal Justice Bill.

Instead, I propose a package of reforms to the present structure (outlined below) in order to increase the efficiency and effectiveness of the probation service, and to ensure that the delivery of the local services takes place within a centrally determined framework of objectives and accountability. I think that my proposals offer much better value for money than nationalising the probation service. Most of the proposals require further consultation with the service and legislation. I propose to issue a document outlining my decisions either at the same time as or shortly after my announcement. I enclose a draft.

Default Power

My key proposal is to introduce a default power. This is set out in paragraph 31-37 of the draft enclosed. Under the existing statute (the Powers of the Criminal Courts Act 1973) committees have wide discretion in the exercise of their duties in keeping with their status as quasi-autonomous bodies operating independently of either local or central Government, although there are rule-making powers in the 1973 Act to enable me to regulate the manner in which they are to carry out some of these duties. Committees are not ultimately accountable to the Government and through it to Parliament for discharging their duties. A default power would enable me to declare a probation committee to be in default if I was satisfied that it had failed, without reasonable excuse, to carry out any of its duties as prescribed in Statute or in the Probation Rules. I envisage that the power would be exercised by making an order which would be enforceable by mandamus and that the order would contain such directions to the committee for discharging the duty in question within such a period of time as I considered necessary. In the Criminal Justice Bill I am seeking a number of rule making powers to enable me to prescribe how probation committees should carry out their duties in relation to the provisions in the Bill. A default power would enable me to enforce such rules through the courts by mandamus. Although I envisage that default proceedings would hardly ever have to run their full course, the existence of this power would ensure the ultimate accountability of the service to Government, while maintaining its present local management structure.

The idea of a default power was canvassed at paragraphs 6.7 to 6.9 of the Green Paper, but further consultation would be necessary with the service on the details of the proposal. Because I see it as very important to the successful implementation of the provisions in the Criminal Justice Bill for the supervision of offenders in the community, if colleagues agree, I will return to them with a formal proposal for a Government amendment to the Bill in its Lords stages in the light of responses to the consultation document.

I am very conscious of the fact that this would add to the burden on Parliamentary Counsel and to the length of the Bill at a late stage in its progress through parliament. My legal advisers envisage, however, that lengthy provisions would not be needed and that they could begin instructing Counsel in parallel to the consultation with the service. The proposal in the Green Paper was not controversial, though it will obviously attract more attention as a late amendment to the Criminal Justice Bill. Any opposition would only be likely to come from probation committees. We would emphasise in debate that the power would be

used only when absolutely necessary; that there would have to be satisfactory evidence of the default; and that a committee would have the opportunity to make representations and to put its own house in order before any proceedings in court. There would be no fundamental change in the function or role of probation committees, but they would become ultimately accountable to the Secretary of State.

Direction Power

The proposed default power draws on the precedent in the National Health and Community Care Act 1990 in respect of local authority services committees, where it is linked to a power to make statutory directions. As I understand it this latter power enables the Secretary of State for Health to give more detailed instructions to local authorities as to the exercise of their social services functions than would be possible in subordinate legislation, backed up by a default power to enable him in the last resort to enforce these instructions through the courts by order of mandamus. I am attracted by the idea of having a statutory direction power in relation to probation committees. Generally probation committees comply with Home Office Circulars and guidance, but there are occasions when a committee either does not wish to do so (because it objects to the policy) or does not have the determination to follow certain policies through in the teeth of opposition from its employees. There is some opposition in the service to the dissemination of national standards in probation service work (probation officers tend to see themselves as independent practitioners). A statutory direction power would enable me to give legal force to such national guidelines if I felt it was necessary to ensure full implementation.

The relationship of probation committees to the Secretary of State enshrined in the 1973 Act is, however, very different from that between the Secretary of State and local authorities in respect of their social services functions. As I have said above, probation committees have wide discretion as to the exercise of their powers. They are not required, as local authorities social services departments are, to exercise their main functions under the guidance of the Secretary of State. To introduce a statutory direction power would therefore require a much more fundamental change in the relationship between the Secretary of State and the probation committees than the introduction of a default power on its own, and a major overhaul of the 1973 Act. It was not canvassed in the Green Paper.

I have therefore decided that I cannot announce, as a firm decision, a statutory direction power at this stage. I do, however, want to explore this possibility further while pursuing the other proposals in my package of reforms. The document attached indicates that we will look at the whole issue of accountability during further consultation on the restructuring of committees.

Other Proposals

The other main elements of the package of reforms which are set out in detail in the document attached are as follows:-

- a national resource planning structure;
- a major restructuring of probation committees to enable them to carry out their policy making and budget management functions more effectively;
- an enhancement of role of probation liaison committees at magistrates courts;
- an enhancement of liaison between the probation service and judges;
- regional collaboration between services to improve value for money;
- where clearly justified, the amalgamation of smaller services which cannot provide the full range of community sentences on their own.

Implementation

The restructuring of committees; the enhancement of probation liaison committees; the enhancement of liaison between the probation service and judges; and regional collaboration between services would probably require legislation for full implementation. I envisage that implementation would be phased in over about three years, depending partly on when legislation could be introduced. I have made a provisional bid for legislation in the next (1991/92) Session.

Although the precise costs of the proposals are not easy to identify, none of them should involve substantial initial or subsequent costs. The average additional cost to the probation

service during the implementation period is estimated at £1m per year and the maximum additional cost in any one year at £2m, of which 20% would fall on the local authorities (who are obliged to defray probation service expenditure but receive an 80% specific grant towards this from Central Government). Amalgamating areas might eventually offset the ongoing costs of the rest of the package (estimated at £0.7m per year) entirely through efficiency savings, but these would only accrue to central Government and to the local authorities directly affected by the amalgamations. We intend to circulate the enclosed document to the local authority associations, under cover of a letter drawing their attention to the resource aspects in order to discharge the "new burdens" requirement. The cost to the Home Office of implementation is estimated at £0.28m. I shall be seeking the necessary financial provision for both HO running costs and local authority specific grant in this year's Public Expenditure Survey. Strengthening the arrangements for delivering services in the ways proposed will enable probation services to demonstrate more effectively to the courts the value and range of community penalties, thus ensuring that demands on the prison service are kept to the minimum necessary.

The proposals have no implications for the European Community.

Conclusion

I hope that HS colleagues will agree that my proposals for reorganising the probation service in order to cope efficiently and effectively with the demands arising from the Criminal Justice Bill offer good value for money. I lay considerable importance on being able to bring into force the proposed default power at the same time as the provisions for supervision in the community in the Criminal Justice Bill. The Bill represents one of the most significant reforms of criminal justice and penal policy for many years. This reform will depend critically on the probation service being prepared to change. Only with the introduction of a default power would the service be ultimately accountable to me for discharging its new duties under the Bill. I therefore hope that LG colleagues can agree to my working up in consultation with the probation service a formal proposal for an amendment to the Criminal Justice Bill to introduce a statutory default power over probation committees.

I would propose to announce my decisions on the reorganisation of the probation service and my intention to amend the Criminal Justice Bill to include a power of default by way of a written parliamentary question. I attach a draft question and answer. In order to end a prolonged period of uncertainty in the probation service and to begin consultation on the details of the

proposal for a default power in time to have it ready for inclusion in the Bill in its Lords stages, I should like to make the announcement as soon as possible. I should therefore be most grateful for responses to this letter by 29 January.

I am copying this to the Prime Minister, other members of HS committee, the Lord President and members of LG committee and to First Parliamentary Counsel.

Yours sincerely
Herbert

[D R A F T]

ANNEX A

4 January 1991

THE ORGANISATION OF THE PROBATION SERVICE

Introduction

1. The Government values the work of the probation service, plans to increase the resources available to it and in this paper sets out its decisions on how the service can be best organised to meet the challenges of the 1990s and the early years of the next century following the Green Paper 'Supervision and Punishment in the Community' Cm 966 (pub 1990).

2. The Criminal Justice Bill which is currently before Parliament will increase the importance of the work of the probation service in a number of ways:

- by giving a more central role to pre-sentence reports than social inquiry reports have had up to now;
- by raising the profile of community sentences to be managed by the probation service, in particular the new combination order;
- by providing through national standards for the major areas of probation service work that all services meet the standards of the best;
- by providing for more structured supervision of prisoners on release from prison; and

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- by encouraging partnerships between probation services, voluntary organisations, the private sector and the local community in dealing with offenders.

Its implementation will require a coordinated and cooperative effort amongst criminal justice services and other agencies. On present plans in central Government support for the probation service in the four financial years from 1989-90 to 1993-94 will increase by 25% in real terms.

3. The Government recognises the importance of taking early decisions on the organisation of the probation service so that uncertainty can be removed and plans can be made. The decisions set out in this document will lay the basis for the probation service for many years to come. Their detailed implementation will be subject to further consultation. This paper does not set out the Government's decisions on training for probation staff which will be announced later. Consultations are still underway on the discussion paper about future involvement of the independent sector 'Partnership in Dealing with Offenders in the Community'. The conclusion of those consultations will be announced in 1991.

Responses to the Green Paper

4. There were in total 160 responses to the Green Paper, from probation service organisations, probation committees, local authorities, voluntary organisations, judges, magistrates, clerks, barristers, academics and individuals falling into other groups. Responses varied and, with one or two exceptions, did not fall clearly in any one direction.

Framework for the decisions

5. The Government has accepted the overwhelming view of respondents to the Green Paper that the probation service can operate most effectively as a local service, organised on a local basis and responsive to local concerns. The Government continues to believe, however, that delivery of the local service must take place within a centrally determined framework of objectives and accountability. So the objective of many of the proposals set out in this paper is to strengthen the local structure within a framework of greater accountability to the centre. On the other side of the balance is the need for probation services to be responsive to central policy concerns. The Government provides 80% of the cost of the service and is therefore entitled to expect that probation services will respond to its views about how that money should be spent. The Government's intention is to ensure that the changes proposed:

- ensure responsiveness to national objectives and standards;
- clarify accountabilities and responsibilities;
- improve the effectiveness of management;
- increase the confidence of sentencers in the probation service;
- encourage high standards of practice;
- improve working relationships with other agencies and organisations;
- encourage and strengthen the links between the probation service, and the local community.

Summary of Government decisions

6. The Government has decided that it will not create a centrally organised and run probation service, nor, at this stage does the Government intend to provide 100% central funding for the probation service: the service will remain locally structured and partly locally funded. The Government has already announced its intention to cash limit the probation service specific grant for current expenditure from April 1992 and provision has been made for this in the Criminal Justice Bill. With the discipline of cash limits in place, it should no longer be necessary for the Government to exercise some of the controls over probation service staffing that it does at present. In order to ensure a more effective resource planning system for the probation service, a national resource planning structure will be set up involving regular meetings with the service. The development of a Resource Management Information System (RMIS) will enable areas to manage resources within their cash limited budgets more effectively.

7. Major reforms are proposed to probation committees to enable them to carry out their policy-making and budget management functions more effectively and with improved accountability. The Criminal Justice Bill already contains provision for probation committees to have power to grant-aid voluntary organisations. There will be training for probation committee members.

8. The Government also proposes that there should be new arrangements for liaison between the probation service and magistrates and judges. The Government wishes to enhance the role of probation liaison committees at magistrates' courts and to provide better opportunities for productive liaison between the probation service and the judiciary at each Crown Court.

9. The Government intends that probation areas should be able to offer the full range of community sentences to the courts and to that end will encourage regional

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collaboration between services to improve value for money, and in some cases where this is clearly justified the amalgamation of smaller services.

10. The Criminal Justice Bill contains provision for putting HM Inspectorate of Probation on a statutory basis so as to clarify its role to enable it to carry out its inspectorial functions more effectively. HM Inspectorate will continue to provide advice in the improved arrangements which have already been set in train for approving candidates for senior appointments in probation services.

11. Finally, the Government intends to seek a power to initiate default procedures in relation to probation committees in certain cases.

Implementation

12. The decisions set out above will be implemented in different ways and to different timetables, depending in part on whether primary legislation is required to give effect to them. The Criminal Justice Bill already contains provision for cash limiting the probation service specific grant, for giving probation committees grant-aiding powers, creating a statutory Inspectorate and amalgamating the City of London and Inner London Probation Services.

13. Government amendments will be tabled during the passage of the Criminal Justice Bill to provide the power of default. But those amendments will be preceded by consultation on the proposals set out in paragraphs 31 to 37 below. The Government has decided to seek powers in the Criminal Justice Bill to implement these proposals because the success of the proposals which the Bill contains for dealing with more offenders in the community, rather than by custodial sentences, depends critically on the ability of the probation service in all parts of the country to deliver effectively and consistently the facilities and programmes which will be required for this purpose. The Government

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needs to have available powers which will ensure that services follow national objectives and meet national standards.

14. Over the coming months the Government will consult the service on the other major areas of decision; some of which may require primary legislation to implement:

- the restructuring of committees;
- criteria for amalgamation of probation services;
- arrangements for regional collaboration;
- arrangements for liaison with sentencers.

Subject to what emerges from the consultation process, it would then be followed by legislation when parliamentary time was available, or by guidance or other non-statutory processes.

Resource implications

15. Although the precise costs of the proposals in this paper are not easy to identify, the Government considers that none of them should involve substantial initial or subsequent costs. It is envisaged that implementation would be phased over 3 years depending partly on whether and when legislation were introduced, where necessary. It is estimated that costs will arise mainly for the senior management of the probation service (that is CPOs, DCPOs and ACPOs). These proposals are likely to add to the workload of officers at these levels and may entail the creation of some additional posts (we estimate a maximum of 34 posts) across the country over the implementation period. We expect some additional costs will be absorbed: it is not, for example, intended to increase the

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number of CPO posts. Nor are the proposals expected to result in additional costs for probation staff below ACPO level.

16. Costs have been calculated as follows. It is envisaged that regional collaboration, the restructuring of committees and liaison with sentencers would, taken together, give rise to total additional staff costs of around £1.2m over the implementation period with cumulative annual ongoing costs of £0.7m by the end of the implementation period. The phasing of these proposals is such that the maximum additional costs likely to be incurred in any one year in respect of DCPOs and ACPOs is estimated at £0.4m. In addition it is estimated that the transitional cost of an amalgamation is likely to add 10% to the expenditure of the services which are amalgamating for perhaps 2 years, but that thereafter annual efficiency savings of 5% of total expenditure might ultimately accrue (mainly through shared administration).

17. In addition to these costs are the costs to the Home Office in extra staff resources needed to implement change. This is estimated at around £0.125million. In addition, to enable HM Inspectorate to take on new duties of inspecting the work of independent organisations with offenders and to disseminate good practice, it is estimated that there would be further costs to the Home Office of £0.16million.

18. Against these costs must be set the benefits that strengthening the arrangements for delivering services in the ways proposed will enable probation services to demonstrate even more effectively to the courts and others the value and range of community penalties.

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THE GOVERNMENT'S DECISIONS

Cash limits

19. The Criminal Justice Bill contains at Clause 74 the statutory provision needed to give effect to the Government's decision to cash limit the probation service specific grant. Paragraphs 7.2 to 7.6 of the Green Paper set out the background to the decision to cash limit the specific grant and the options surrounding it. Since it was published there have been discussions with service interests and with the local authority associations and consultations continue on the method of distributing the grant and other arrangements necessary for the implementation of cash limits.

Controls on staffing levels

20. At present probation services are required to seek the approval of the Secretary of State for the creation of posts at senior probation officer, assistant chief probation officer, deputy chief probation officer and chief probation officer levels. The purpose of these controls is primarily to ensure that the Government is able to exercise some control over expenditure on senior grades and thus indirectly exercise that on more junior grades. In addition, the controls enable the Government to exert some influence on management structures in probation services. The Government has decided, however, that cash limiting the probation service specific grant will provide sufficient means of controlling probation service expenditure and it is therefore no longer necessary to exercise controls over the grades of senior probation officer and assistant chief probation officer. These controls will, accordingly, be dispensed with at the same time as the specific grant is cash limited. The Government intends to retain control over the creation of deputy and chief probation officer posts. These are posts for which the Secretary of State's approval is required before a person may be appointed to them and they are clearly central to the senior management structure of services.

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21. The effect of these changes will be to free probation committees to deploy their staff as they see fit within the limitations of the budget to which they will be working.

National resource planning process

22. The introduction of cash limits for the probation service specific grant will not only act as a powerful incentive to ensure effective use of probation service expenditure, but will make it even more important to ensure that there is:

- accurate information about probation services' current workload;
- accurate information about how much different probation service activities cost;
- a process of bringing together this information to provide a sound basis for expenditure planning;
- a means for the service to participate in this process.

The Government accordingly proposes to move towards a more structured resource planning process with the service at the national level. This would involve regular twice-yearly meetings with the service organisations: one in September and one in December. The September meeting would discuss expenditure in the current year; look ahead to the outcome of the on-going public expenditure survey discussions targeted at the following financial year and would begin planning for the 3 following financial years. The meeting in December would again review the progress of expenditure in the current year; would look at the outcome of the public expenditure survey as published in the Chancellor's

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Autumn statement in November and translated through the cash limits mechanism into provision for individual services; and would consider the resources needed in the light of Government priorities for the following three financial years.

23. As this process takes shape, it will need a coherent policy framework within which to work. Probation services will need to be able to plan ahead with some confidence that policy changes will be signalled well in advance. The 1984 Statement of National Objectives and Priorities (SNOP) set out the Government's objectives and priorities for the service but in very broad terms, and some of it is now dated. What is now needed is a different document, perhaps in the form of a "statement of purpose" with a rolling 3-year plan annexed to it setting out the Government's plans for the service for the 3-year period and some broad indicators by which progress during that period might be judged. The plan would be reviewed and updated every year. A plan of this kind ought to enable probation committees to set local objectives more easily, help them to decide how to deploy their cash limited budgets and help the Government - through inspections - to assess progress towards the achievement of its priorities. Once established the Resource Management Information System will enable committees to manage their budgets more effectively and to monitor progress towards the achievement of their objectives. The proposals set out in this section will be discussed further with the service.

Committees

24. In the responses to the Green Paper, there was widespread acceptance of the need for reforming the structure of probation committees, in particular of the need for smaller committees and for greater clarity in defining the respective responsibilities of committees and chief officers. In considering how to take this further forward, the Government has as its overall aim the need to ensure that committees have clearly defined responsibilities for planning, objectives, and monitoring of performance, the ability to function effectively in that role by drawing on a wide range of talents and

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experience for membership and by strengthening links with the community (including the local authorities). To this end the Government has decided that the respective roles of probation committees and chief officers should be clearly defined; that the size of probation committees should be reduced to a figure within a range of approximately 15 to 25 members; that the sentencer members (ie. judges and magistrates) should be reduced to 50% of the total membership; that the other 50% of the membership should be coopted under guidelines laid down by the Home Office; that committees should be provided grant-aiding powers to enable them to strengthen links with the community; and that committee members should be given training on how to perform their role more effectively. The Government will issue a further discussion document on these issues for consultation with the service.

Liaison with sentencers

25. The Government's aim is to improve the links between the probation service and magistrates and judges so that the service can ensure that it is meeting the needs of courts and so that sentencers know about the work of the probation service. The Criminal Justice Bill will, as indicated in paragraph 2 above, increase the work of the probation service, particularly in the Crown Court. This reinforces the need for good links with the judiciary. Equally, reducing the number of magistrates on probation committees will necessarily place a greater burden on probation liaison committees as the main vehicle for retaining links with magistrates. Accordingly the Government proposes to discuss with the service, with judges and with magistrates:

- how the involvement of judges as members of probation committees can be enhanced;
- how probation liaison committees at magistrates' courts might be strengthened; and

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- how effective arrangements for liaison between the probation service and the judiciary might be created at each Crown Court.

Amalgamations and regional collaboration

26. The Green Paper identified 3 advantages which amalgamations of probation services might bring (paragraph 5.7):

- the creation of stronger management structures;
- the provision of specialist services to ensure the courts had available to them the fullest range of sentencing options;
- closer liaison with other agencies.

The effectiveness of the Criminal Justice Bill's provisions will depend in part on whether probation services are able to offer the courts the full range of community sentences probation orders, orders with conditions (including attendance at a probation centre), community service orders, combination orders. But behind those community sentences, there will need to be managers with the capacity and support staff to manage a diverse service in a period of major expansion. Some areas are simply too small for it to be economic for them to provide the full range of probation facilities. Capital expenditure programmes in particular might benefit from the economies of scale which amalgamations might bring. Some areas with two or fewer assistant chief probation officers are also likely to face difficulty in coping with the diverse management demands of the probation service of the future and very small services may face difficulties of recruitment and retention particularly at senior management level and of providing

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adequate career opportunities for their staff. Liaison with other criminal justice agencies might in some cases be made easier by amalgamations eg. if areas combined to become coterminous with a police force area.

27. The Government has accordingly decided to look further at the scope for amalgamations. This will not be done in any rigid or mechanistic way but with the full involvement of areas and the minimum of disruption. A discussion document will be issued drawing on the ideas set out in this paper. It will be sent to selected areas which will be asked to test themselves against the Government's analysis and criteria for amalgamation. Where the case for amalgamation appears overwhelming, the Government would hope that committees and probation staff would recognise the benefits. The Government readily acknowledges that amalgamations would raise a number of practical issues such as conditions of service for staff, pensions, leases, administration and others. All these issues would be the subject of detailed consultation with the services concerned and the representative bodies.

28. The responses of the Central Council of Probation Committees and the Association of Chief Officers of Probation pressed the Government to look at the possible benefits of greater regional collaboration between probation areas. The Government welcomes this suggestion which would complement the ideas being developed in other parts of the criminal justice system through the programme of regional conferences under the Home Office Special Criminal Justice Conferences Unit and which would facilitate partnership with the voluntary sector. In some cases it would also be an acceptable alternative to amalgamation. There are a number of activities which on the face of it could benefit from better collaborative arrangements perhaps with more explicit statutory backing: for example, servicing Crown Courts; specialist facilities such as hostels; prison-related work; training; information systems; aspects of central finance (especially capital expenditure) and administration and relationships with other criminal justice agencies and

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with voluntary organisations. The Government will pursue this suggestion further in discussion with the service.

Senior appointments

29. The probation service of the future will need to attract the highest quality candidates to its senior management posts. The Green Paper canvassed the possibility that the Home Secretary should be able to decide in each case which particular candidate should be appointed as chief probation officer. At present the Home Secretary's approval is required before a committee may appoint a chief probation officer, but the power has not been used to require the selection of particular individuals; the usual procedure is to seek the Home Secretary's approval to a short list of candidates. The responses to the Green Paper were generally opposed to this suggestion and the Government has decided not to pursue it further as a matter of general practice but to rely, save in the most exceptional circumstances, on its existing power to approve short lists. However, the Government has already put in hand measures to get more thorough assessments of candidates for chief probation officer posts; to improve the management training available to the assistant chief probation grades and above; and an efficiency scrutiny of in-service training is also currently underway. Performance pay has been introduced for chief probation officers and deputy chief probation officers which should increase the attractiveness of top posts in the probation service. The Government also proposes to examine ways of increasing secondments as between probation services and other criminal justice services.

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Statutory Inspectorate

30. The Criminal Justice Bill contains provisions to set HM Inspectorate of Probation on a statutory footing. The provisions will render explicit those duties which HM Inspectorate already discharges through its programme of efficiency and effectiveness inspections and through thematic inspections of selected aspects of probation service work. They will also establish its authority to look at how voluntary or private sector organisations are working with the probation service. There was overwhelming support amongst responses to the Green Paper for a statutory inspectorate. The Government is considering whether the Probation Rules will need amendment to strengthen H M Inspectorate's powers of access and examination.

Powers of Default

31. The default power was canvassed at paragraphs 6.7 to 6.10 of the Green Paper. It was envisaged as a power of last resort to enable the Secretary of State to intervene in a seriously or persistently under performing area. Although some respondents felt that such a power was unnecessary, the majority of those who responded to this proposal were in favour, so long as reasonable safeguards could be incorporated.

32. It is clear that a committee must know what type and level of service it is supposed to be providing before it can be considered to be in default. The duties of probation committees are set out in general terms mainly in Schedule 3 to the Powers of Criminal Courts Act 1973, as amended. The main duties are to appoint sufficient probation officers for their probation area; to pay their probation officers; to provide for the efficient carrying out of the work of probation officers; to make various payments in connection with the supervision of offenders; and to perform such other duties in connection with the work of probation officers as may be prescribed.

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33. Paragraph 18 of Schedule 3 to the 1973 Act gives the Secretary of State power to make rules regulating the constitution, procedure, powers and duties of probation committees, as well as the duties of probation officers. Under this power the main functions of committees as set out in para 3(1) of Schedule 3 are further elaborated in the Probation Rules 1984, as amended. In addition para 3(1)(e) of the same Schedule gives the Secretary of State power to prescribe duties other than those general duties already specified in statute, provided they are in connection with the work of probation officers and paragraph 18 empowers him to make rules about those duties. There are also powers in the 1973 Act for the Secretary of State to make rules regulating community service work (S48), or for the regulation, management and inspection of approved bail hostels and probation hostels (S49), and rules have been made under those powers. And the Criminal Justice Bill will provide further powers to make rules in respect of other areas of probation service work.

34. The default power would operate in relation to any serious or persistent failure of a committee to fulfil a statutory duty as defined in primary legislation or any requirement provided in rules. The starting point would be information which indicated a cause for concern. Such information/evidence could come from complaints, an inspection, statistical returns or other sources. The next step would be to seek a report from the committee under Rule 21 of the 1984 Probation Rules. If that report was unsatisfactory HM Inspectorate would be asked to undertake an inspection with a view to advising the Secretary of State as to whether to initiate default proceedings. Once the inspection had taken place the Secretary of State would need to consider whether there was evidence of a dereliction of duty and, if so, whether the exercise of default powers was the right way to deal with it.

35. A committee would of course, be informed straightaway if consideration was being given to declaring that it was in default. It would be given sufficient time to make

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[D R A F T]

representations and to put its house in order. It is unlikely that the default power would need to run its full course as it must be assumed that the committee would take action to rectify matters before any proceedings in court.

36. The default power would be exercised by the Secretary of State making an order which would be enforceable by mandamus. This order would set out what the committee was supposed to do within a timescale or for a period of time set by the Secretary of State. If it were then necessary to obtain an order of mandamus failure to comply with it would render the committee members in contempt of court and thus liable to fines or imprisonment.

37. The Government intends to look further at the question of default and at the possibility of taking a power of direction in relation to the manner in which committees are to perform their functions. This will be done when considering the future role and function of committees and their relation to the centre (see paragraph 24 above). A discussion document will be issued. The power would be analogous to that provided in the 1990 National Health Service and Community Care Act in relation to local authorities' exercise of their social services functions.

Conclusion

38. This paper sets out the direction in which the probation service will go into the next century. The Government has decided that the service should remain locally based, but that its structure and organisation should be strengthened to enable it to meet its immediate and foreseeable challenges. In addition, the Government has decided to strengthen the accountability of the service to the centre to ensure that the objectives set out in paragraph 5 above are achieved.

[D R A F T]

[D R A F T]

39. Comments on paragraphs 31 to 37 should be sent to Mrs C Jenkins, Room 434A, Home Office, Queen Anne's Gate, London, SW1A 9AT by [_____]

wrk\orgps.rpt

[D R A F T]

DRAFT

- Q To ask the Secretary of State for the Home Department if he will announce his decisions on the proposals in the Green Paper "Supervision and Punishment in the Community"?
- A. I can now announce decisions on the organisation of the probation service in the light of the responses to the Green Paper "Supervision and Punishment in the Community" (Cm 966). Decisions on training for probation staff will be announced later. Consultations are still underway on the discussion paper about future involvement of the independent sector, "Partnership in Dealing with Offenders in the Community"
2. The Criminal Justice Bill currently before Parliament incorporates the proposals set out in the White Paper "Crime, Justice and Protecting the Public" (Cm 965) for major changes in the punishment and supervision of offenders. These changes will make great demands on the probation service and the Green Paper made proposals for increasing the efficiency and effectiveness of the probation service to meet these demands.
 3. I accept the overwhelming view of respondents to the Green Paper that the probation service can operate most effectively as a local service, organised on a local basis and responsive to local needs. I continue to believe, however, that delivery of a local service must take place within a centrally determined framework of objectives and accountability.
 4. I am publishing at the same time as] [intend to publish shortly after] this reply a discussion document setting out our decisions and proposing how they should be pursued, including, where appropriate, further consultation. I [am placing] [intend to place] a copy of this document entitled 'Supervision and Punishment in the Community - the Way Forward' in the Library of both Houses.

5. The Government has decided not create a national probation service, nor, at this stage is it intended to provide 100% central funding for the probation service: the service will remain locally structured and partly locally funded. We have already announced our intention to cash limit the probation service specific grant for current expenditure from April 1992 and provision has been made for this in the Criminal Justice Bill.

6. In the responses to the Green Paper there was widespread acceptance of the need for reforms to probation committees to enable them to carry out their policy-making and budget-making functions more effectively. The Criminal Justice Bill already contains provision for probation committees to have power to grant-aid voluntary organisations. We have decided that the respective roles of probation committees and their chief officers should be clearly defined; that the size of probation committees should be reduced; and that the proportion of sentencer (ie. judge and magistrate) members in committees should be reduced.

7. We also propose that the arrangements for liaison between the probation service and magistrates and judges should be enhanced. We intend to discuss with the service, with judges and with magistrates how best judges may make an effective contribution to the work of probation committees, how the effectiveness of probation liaison committees at magistrates' courts may be enhanced, and how effective arrangements for liaison between the probation service and the judiciary might be created at each crown court.

8. We want probation areas to offer the full range of community sentences to the courts. To that end we will encourage regional collaboration between services to improve value for money, and in some cases where this is clearly justified the amalgamation of some smaller services that cannot effectively provide the full range of sentences on their own or the necessary degree of managerial support or an adequate career structure for their staff.

9. The Criminal Justice Bill contains provision for putting HM Inspectorate of Probation on a statutory basis so as to enable it to carry out its inspectorial functions more effectively.

10. Finally, we intend to introduce, following consultation, an amendment to the Criminal Justice Bill to give the Secretary of State a power to initiate default procedures in respect of any probation committee which seriously or persistently fails to comply with an duty prescribed by a statute or rule. The Secretary of State needs to have available powers which will ensure that services follow national objectives and meet national standards in order to implement the Criminal Justice Bill. We will consider further whether a power of direction may also be needed.

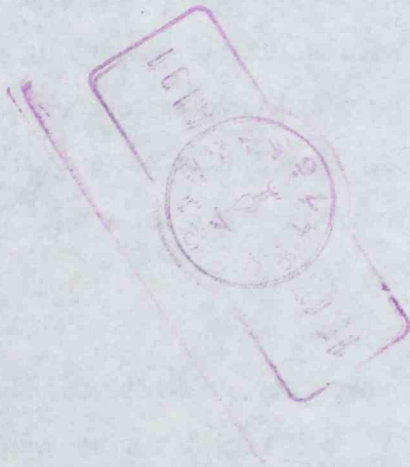
11. Some of the other proposals set out in the decision document may require primary legislation. We will consult further on:-

- (i) the proposals to create a national resource planning process, to draw up a national 'statement of purpose' and a three year plan for the probation service;
- (ii) restructuring of committees
- (iii) the criteria for amalgamation of probation services;
- (iv) arrangements for regional collaboration;
- (v) arrangements for liaison with sentencers.
- (vi) a power of direction to accompany the proposed default power.

Subject to what emerges from the consultation process, it would then be followed by legislation when an opportunity arose, or by guidance or other

non-statutory processes.

12. Some of the proposals have resource implications for central Government and for local authorities, who defray 20% of probation service expenditure. The document [published today] [which we intend to publish shortly] [includes] [will include] estimates of costs.



wrk/orgprob2.not

CONFIDENTIAL

Prime Minister

2

To note. A case of badly

negotiating machinery badly

handled.

BHP

8/10



Treasury Chambers, Parliament Street SW1P 3AG

The Rt Hon David Waddington QC MP
Home Secretary
Home Office
50 Queen Anne's Gate
London
SW1H 9AT

8 October 1990

David Waddington

PROBATION OFFICER PAY

with request for

I wrote to you on 17 July to agree a remit for probation officers' pay. In the event I understand that an offer in excess of the remit was made by the Employers Side of the JNC and that the Staff Side put it to their membership with a recommendation for rejection. I also understand that the offer was rejected and that the matter has been referred to arbitration by the Staff Side.

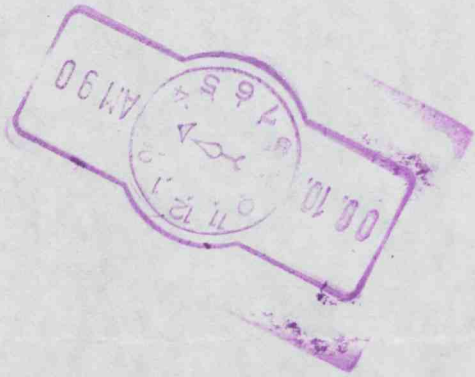
2. This is a disappointing turn of events, not merely because the remit agreed between us was exceeded, but also in view of your earlier assurance that a formal offer of 9.2 per cent would only be made if it was clear in informal negotiation that it would be accepted.

3. My principal reason for writing at this juncture is to ask you to ensure that E(PSP) colleagues are allowed an opportunity to consider the arbitration recommendations in terms of their implications both for the probation service and for public sector pay more generally. I am of course aware that you are able to set aside the arbitration award and impose your own settlement and this is an option which we may wish to consider.

4. The conduct of this year's negotiations, and in particular the Staff Side's unjustified arbitration reference in the face of a pay offer of this scale, have served to emphasise the unsatisfactory nature of probation officer pay determination procedures and the need for early reforms.

5. I am copying this letter to the Prime Minister, members of E(PSP) and to Sir Robin Butler.

Norman Lamont
NORMAN LAMONT



cc per



NBPM

Prca 2/12

Treasury Chambers, Parliament Street, SW1P 3AG

John Patten Esq MP
Minister of State
Home Office
Queen Anne's Gate
London
SW1H 9AT

2nd December 1988

Dear John,

PAY OF CHIEF PROBATION OFFICERS

will request of reqd.

Thank you for your letter of 24 November.

I appreciate why you want to award a higher pay rise to Chief Probation Officers than to the rank and file of the probation service. But I would be grateful if you could reduce the full-year cost of the proposed deal from 6.7 per cent to 6.4 per cent. If the staff side are unable to agree to this, we will need to consider whether a settlement should be imposed. It is of course essential that the cost of any settlement is met from within the existing provision for probation grants, on Vote XI.I

I would find it helpful if we could break with previous practice in discussions on probation service pay and move to the usual procedure of considering the negotiating remit before negotiations start.

I am copying this letter to the Prime Minister, other members of E(PSP), and to Sir Robin Butler.

Yours Ever,
John

JOHN MAJOR





Top Copy
Home Affairs, Ptd.
Magistrates Court Staff
Ptd.

Home Affairs

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon William Whitelaw CH MC MP
Secretary of State
Home Office
St Anne's Gate
London SW1H 9AT

27 July 1981

PAY OF MAGISTRATES' COURTS STAFF AND PROBATION SERVICE 1981

Thank you for your letters of 13 and 18 July about pay settlements for the justices' clerks' assistants and for probation officers.

While I recognise that in neither case is the proposed level of settlement of itself perhaps unreasonable, I am naturally concerned about the shortfall in provision for them which arises in part at least because both groups did rather better than some other public sector workers last year, and in the case of courts' staff, with staging being used as a way of getting round the standard pay allowance. If our policy on staging and on pay in the current round is to be sustained, it is important that we adhere firmly to the principle that pay settlements must be funded from within the provision made. The exceptional reasons, which have led to very generous treatment of police pay (and for different reasons for servicemen) do not apply in other cases.

I would be prepared to accept both settlements provided that they can be accommodated within your programme provision in the current year. I understand that your officials have agreed that savings can be found to offset the £1.6m required for the courts' staff. Naturally I am pleased at this and grateful for your efforts. But I must ask you to look again at the possibility of absorbing the £1.8m for probation staff also.

In this letter I have dealt with the Vote consequences for 1981-82. Nothing I have said affects the position for the later years on which I note that you have lodged additional bids.

I am sending copies of this letter to the recipients of yours.

LEON BRITAN



16

S. J. V. J. V. J. V.
Home Affairs

QUEEN ANNE'S GATE LONDON SW1H 9AT

18 July 1981

Dear Sir

PROBATION SERVICE PAY 1981

I wrote to you on 13 July about the likely level of a settlement for probation officers. I am now able to bring up to date the information given in that letter in the light of the meeting of the JNC on 14 July (at which officials reserved my position for any settlement exceeding 6%).

Negotiations were difficult but an agreement was reached on Tuesday evening. The Employers' Side had tried to hold the position at an overall increase of 7.5%. However the Staff Side clearly saw an increase at this level as impossible to defend to their members in view of the 2% advantage which the 1980 settlements gave to social workers and of a recent salary survey which shows that, for 1980/81, probation officers' salaries increased by 15% against 18½% for social workers. The Employers, rather than run the risk of arbitration, made some modest concessions, and a settlement was achieved at a figure fractionally lower than that suggested in my letter, ie 7.5% in the current financial year and 7.9% in a full year. The figures for the supplementary provision needed to cover this proposed settlement will therefore be very slightly lower than those quoted in my letter: £1.8m for probation grants in the current year and for the following years additional PES provision of £2.4m, £2.9m and £3.3m (revised calculations have not been prepared since the difference is clearly minimal). There are no off-setting savings that can be achieved. As I mentioned, the commensurate increase for probation officers seconded to prisons would be met from the existing cash limit for 1981-82.

As I also indicated in my letter of 13 July, there are strong reasons for not delaying my approval of this settlement; recent events have made those still more cogent. It is clearly highly desirable to demonstrate publicly our support for the law and order services. All things considered, I believe the proposed settlement is a moderate and reasonable one which I would like to approve as soon as possible, so as to avoid a repetition of the damage to probation service morale which resulted last year from the delay in implementing the JNC settlement. I hope you will be able to agree and that it will not be necessary to delay our approval.

/I am copying

The Rt Hon Leon Brittan QC MP

I am copying this letter to the Prime Minister, members of
E and Sir Robert Armstrong.

*Yours
L. L. L.*

20 JUL 1961



Subject copy
Home Affairs, Ptd
c. Mr. Duguid Magistrates
Court Staff.

MR. LANKESTER

MBPM

R 11/17

PAY OF MAGISTRATES COURTS STAFF, AND OF THE PROBATION SERVICE

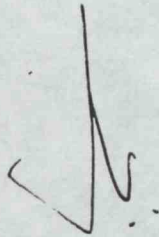
You asked for advice, in case the Home Secretary raises this with the Prime Minister on Friday, about his two letters of 13 July, attached. I have had a word with the Treasury.

one letter
- on
Magistrates
Court
Staff.

These are not large groups; and the pay rise proposed by the Home Secretary is not of a scale that creates significant difficulties for our pay policy. The problem, at least in the case of the magistrates staff, is a cash limits one.

I think therefore our line should be:

- i. this really ought to be sorted out between the Home Office and the Treasury, without bothering the Prime Minister;
- ii. if the Home Secretary goes out of his way to raise it, the Prime Minister could say that she accepts the principle of maintaining the link between these two groups and the local authority white collar workers, since the latter settled for a reasonable amount; but that his proposals do raise difficulties over the cash limit, and his office ought to discuss with the Treasury ways of making offsetting savings.



15 July 1981

010

cc J. Varden



QUEEN ANNE'S GATE LONDON SW1H 9AT

Dear Sir

13 July 1981

PROBATION SERVICE PAY 1981

2 MBM
11/1

Probation officers have a pay settlement date effective from 1st July. Negotiations started on 12th May with an opening bid from the Staff Side of a 15% increase and an offer from the Employers' Side of 6%. At the second meeting on 12th June, the Employers' Side felt unable to increase their offer and, despite the required show of anger on the Staff Side, all recognised the necessity of awaiting the imminent A.P.T. & C. negotiations before there could be further movement.

Traditionally, probation officers have seen social workers on the A.P.T. & C. scale as providing the closest comparison, but the two scales are not formally linked and a discrepancy arose last year. Because the two sides were not able to agree, the probation staff side went to arbitration: they were awarded 13%. Social workers also went to arbitration and were awarded a 15% increase subsequently, 13% from 1st July 1980 and a further 2% from 1st April. One further point from last year's negotiations should be mentioned. Because of protracted discussions between our Departments, I was unable to give my approval to the arbitration award until 16th December.

As you know, the A.P.T. & C. grades have now been offered and have accepted a settlement of 7.5%, of which 7.3% represents an across-the-board increase with 0.2% for restructuring. This means that the Probation Employers will feel bound to increase their 6% offer and they will also wish to include a small element of desirable restructuring. Since the 1980 arbitration awards resulted in social workers receiving, from April 1981, 2% more than probation officers, the Employer's Side may well consider an offer of slightly more than the A.P.T. & C. basic increase of 7.3% desirable. If at the minimum they looked to 7.4% this together with 0.58% for restructuring would amount to an increase of 7.98%.

Financial Implications

The effects of the A.P.T. & C. award, and an award to the probation service as postulated above, would mean a supplementary provision this year of £1.8 million for probation grants; and for the following years, additional P.E.S. provision of £2.4 million, £2.9 million and £3.3 million. There would also need to be a commensurate increase for probation officers seconded to prisons, the additional cost of which would have to be met from the existing cash limit for 1981-82. There are no offsetting savings that can be achieved.

/As you

The Rt. Hon. Leon Brittan, Q.C., M.P.

As you are aware, our policy to avert a crisis on prisons rests to a very large extent on diverting offenders and on substituting for part of sentences a period of supervision in the community. I am relying to a great extent on the ability and co-operation of the probation service, who have hitherto responded to my appeals in a very positive manner. I am anxious to avoid, therefore, a situation in which either I procrastinate - to no effect at the end of the day; or in which I am forced to reject an arbitration award. It is not practicable to think of a settlement of less than 7.5% in view of the A.P.T. & C. settlement; but because of what is seen as a 2% lag from last year, 7.5% may not be seen as a basis for a quick settlement, and subsequent attempts at negotiations could lead to loss of goodwill and resort to arbitration which could go against us, at least on minor issues. On balance, therefore, I consider a speedy settlement above 7.5% but below 8% to be in our best interests; and I think this can be achieved. I hope you will find yourself able to agree with this.

I am copying this letter to the Prime Minister, members of E, and Sir Robert Armstrong.

*John
W. H. H.*



1981 JUL 24

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2



Home Affairs

a h h
Treasury Chambers, Parliament Street, SW1P 3AG *R*
14/12

Rt Hon William Whitelaw CH MC MP
Secretary of State
Home Office
50 Queen Anne's Gate
London SW1H 9AT

12 December 1980

Dear Secretary of State,

PAY OF THE PROBATION SERVICE

I am replying to your letter of 24 November to Geoffrey Howe setting out the proposed pay increases for the probation service. I have also seen, from the No 10 letter of 2 December, that the Prime Minister is content, subject to Treasury Ministers' views.

I am content on pay grounds for the pay increases to be announced. I am sure you are right to seek to present the increases as belonging to the last pay round, and I hope you will do what you can to ensure that, at these levels, expectations about the current round are not heightened.

I note that the Vote which carries the specific grant for probation should be able to accommodate the cost falling on it in 1980-81, without any further Supplementary Estimates. I must ask you to manage on that basis. I understand that the wage costs can be contained from within your prospective 1981-82 Vote. You will appreciate, moreover, that I am also concerned that there should be no misunderstanding about the elements of the cost which fall on cash limited blocks of expenditure. 1980-81 cash limits will not be increased to accommodate the increases, and this applies equally to the RSG for local authorities and to your own Prisons Vote.

I am copying this letter to the members of 'E' Committee and Sir Robert Armstrong.

Yours sincerely
T. Matthews

for JOHN BIFFEN

[Approved by the Chief Secretary
and signed in his absence]



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17 DEC 1980

*Copied to: Home Affairs
Pay & Magistrates Court*

cc: John Vereker

BK



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D/En

10 DOWNING STREET

Ch. Sec. HMT

2 December 1980

From the Private Secretary

Home Affairs



The Prime Minister has read the Home Secretary's two letters of 24 November on pay in the Probation Service and the pay of Justices' Clerks and their Assistants. She is content with the Home Secretary's proposals in both these cases provided that the Chancellor is also content.

I am sending copies of this letter to Private Secretaries to members of E, the Lord Chancellor and Sir Robert Armstrong.

T P LANKESTER

John Halliday, Esq.,
Home Office

BK



Prime Minister

Copied to: Home Affairs
Pay of Magistrates Courts Staff.
cc:- Mr Duguid

MR LANKESTER

Agree with x below?

Yes no

R. 26/11

PAY OF THE PROBATION SERVICES AND OF JUSTICES' CLERKS

Class A and B

The Home Secretary has written two letters, dated 24 November, to the Chancellor, copied to E, on the pay of the Probation Service and of Justices' Clerks and their Assistants respectively. Neither of these cases raises a significant public sector pay issue.

In the case of the Probation Service, the Home Secretary proposes not to use his power of veto over the arbitration award of 13.85%. This award is reasonable, and relates to the last pay round, and the group involved is small; I would not expect there to be significant knock-on effects. The only difficulty is the accommodation of the award within a 13% cash limit (the Probation Service is paid for out of the Rate Support Grant) and we can safely leave it to the Treasury to worry about that.

In the case of the Justices' Clerks and their Assistants, the Home Secretary proposes an arrangement whereby they would receive a similar increase to that recently proposed by the arbitrator for local authority white collar workers. Again this is a small group and a hang-over from the last pay round, with no expected knock-on effects; and again the principal difficulty is the accommodation of a 2% increase as from 1 April, 1981 (the staged element of the 1 July, 1980 settlement) within the cash limit.

X | If the Prime Minister agrees, I think it would be appropriate for you to write to the Chancellor's Private Secretary indicating that she is content with the Home Secretary's proposals provided that the Treasury are content with the arrangements for paying for them.

J.V.

JOHN VEREKER

26 November, 1980

060

cc A. Dwyer
J. Herbert



QUEEN ANNE'S GATE LONDON SW1H 9AT

24 November 1980
Dear Chancellor of the Exchequer, MSM 24

PAY OF THE PROBATION SERVICE

The pay of all grades of the probation service is statutorily determined by me (Powers of Criminal Courts Act 1973). There are approximately 5,000 maingrade, senior and assistant chief probation officers whose pay is negotiated in the main Joint Negotiating Committee (J.N.C.) for the Probation Service on which I am represented on the Employers' Side; the pay of the 80 or so chief and deputy chief probation officers is negotiated in a sub-committee. Now that we know the outcome of the arbitration awards on the 1980 pay claims both for the Service itself and for the local authority A.P.T. & C. grades, a decision needs to be made as to whether I should give the necessary statutory approval to the arbitration award for the Probation Service.

This is for a 13% increase from the due date of 1st July 1980 on all points of the scales of pay of maingrade, senior and assistant chief probation officers, in addition a new point would be added at the top of the maingrade scale, and senior and assistant chief probation officers would be eligible for "excess rates" in those probation areas where these rates are now paid to maingrade officers. These detailed improvements for long-service and middle grade officers are estimated to cost a further 0.85%, thus bringing the total cost of the arbitration award in a full year to 13.85%. I am not committed to implement the award but it would be without precedent for me not to do so.

In addition to this consideration the arguments in favour of implementation are:

- (a) the arbitration award for the A.P.T. & C. grades is estimated to cost close to 14%; this group includes the social workers with whom probation officers are traditionally aligned and the link with whom was confirmed by us in the 1979 settlement;
- (b) this 1980 award is clearly part of last year's "pay round" and it would appear to accord with our intentions that it should not be interfered with;
- (c) provision has already been made in the "base-line" of the 1981-82 Rate Support Grant settlement for an increase of 13% for the probation service with effect from 1st July 1980; local authorities will therefore be in a position to make provision for an increase at this level in individual probation area estimates;

/(d) the extra

The Rt. Hon. Sir Geoffrey Howe, Q.C., M.P.

- (d) the extra 0.85% will cost only about £430,000 and its omission from the R.S.G. base-line is therefore not of great consequence; it is my view that the detailed improvements for the middle grades involved have been put by the arbitrators exactly where they can do most good and they have my strong support;
- (e) the Probation and After-Care Service is an integral part of the criminal justice system and an essential contributor to keeping the prison population down; the co-operation of the Service is an important factor during the current dispute with the Prison Officers' Association.

Also awaiting my statutory determination is the J.N.C. settlement of 13% effective from 1st July 1980 for chief probation officers, which was made automatically following an identical award for local authority chief officers with whom there is an established link.

The total pay bill for probation officers in the current financial year is about £52 million. The 13.85% award for the bulk of the Service will cost about £7 million in a full year and the 13% for chief probation officers about £150,000. The probation service is financed by an 80% Home Office specific grant which is not subject to a cash limit and the local authorities have to find the remaining 20% from their other sources of income. The cost of the service is included in total relevant expenditure for the purposes of the R.S.G.

The final phase of the increase awarded to the Service in the 1978-79 pay round could not be included in the 1980-81 Supply Estimates, because it followed equivalent increases for the A.P.T. & C. grades made long after the Estimates had been prepared. We have therefore had to seek a Supplementary Estimate in the current financial year to meet the increase in the specific grant necessary to cover these proposed increases relating to the 1979-80 pay round.

I should be grateful for your early agreement to my exercising my statutory power to implement these awards. We would of course stress in response to any press enquiries that they are left over from the fag-end of the 1979-80 pay round, being due from 1st July this year.

Copies of this letter go to other members of 'E' Committee and to Sir Robert Armstrong.

Tom review,
S. W. Byrnes
(Approved by the Hon
Secretary and agreed
in his absence)

RESTRICTED



Copied to : Home Affairs :
Magistrates Courts staff pay

Home
Affairs

QUEEN ANNE'S GATE LONDON SW1H 9AT

13 July 1979

Dear Keith

R 1317

PROBATION SERVICE PAY
JUSTICES' CLERKS ASSISTANTS PAY

I need to raise both these issues with you urgently. Although they have some common features, it will be simplest if I deal with them separately.

Probation Service Pay

At the meeting of E(EA) on 7th June, it was decided that I should agree to a settlement of the probation officers' pay claim on the basis of two components:

- (a) a "catching-up" element of under 20% to bring probation officers' pay into line with what social workers have been receiving since the second quarter of this year: this part of the award to be staged in two phases
- and (b) a "current" element based on the settlement effective from 1st July for the local authorities administrative, professional, technical and clerical group (APT & C), of which the social workers are part.

Agreement on (a) is now near though, understandably, there has been substantial resistance to staging on which I am receiving a staff side deputation on 16th July. On (b) I had assumed that the matter would be fairly straightforward.

It is now clear that the essential terms of the provisional APT & C settlement are for an immediate 9.4% increase and an in-house comparability study, the results to be available by Christmas and payment made from 1st January 1980. As you know, Government advice had been that for the APT & C group, reference to Clegg was to be preferred to an in-house study but our view has been disregarded by the Employers' Side negotiators.

/At

RESTRICTED

The Rt. Hon. Sir Keith Joseph, Bt., M.P.

At the Official Committee meeting on 12th July, it was suggested that in view of the in-house comparability study provision, we should reconsider our decision to allow the probation service to have the full APT & C increase which will be enjoyed by social workers. This seems to me to be tantamount to suggesting that we should reverse the decisions already taken by Ministers. Whether the APT & C settlement is to be based on a Clegg study or an in-house study is beside the point, so far as the probation service is concerned: what we decided was that the probation officers must catch up with the local authority social workers and stay caught up. I am sure that that is right, and we must stick to it.

I am absolutely clear that failure to grant the probation service the full amount of the APT & C increase would immediately destroy the improvements in probation service wastage, recruitment and morale which are in the process of being effected by the provisional settlement on the "catching up" increase. It would be ludicrous to redress the present imbalance between the pay of probation officers and social workers and then set this important front-line law and order service at a disadvantage again from 1st January 1980. I therefore propose to go ahead on the basis of our decision that we must give the probation service from 1st January 1980 any increase that results for the local authority social workers from the APT & C comparability study as well as the 1st July 1979 9.4% increase.

This is a matter of urgency because, as I have said, I am due to see the Staff Side about probation service pay on Monday 16th July, and what is expected to be the final meeting of the Joint Negotiating Committee has been arranged for Wednesday 18th July. In view of the doubts which the Official Committee on Pay Negotiations has raised, I must therefore ask for the earliest possible response.

Justices' Clerks' Assistants Pay

You will remember that E(EA) agreed on 4th July that we could authorise the Management Side to make an offer comprising

(i) Nine per cent

- (i) Nine per cent from 1st July;
- (ii) topping up to the initial interim APT & C settlement if that was over nine per cent;
- (iii) limited restructuring costing 2.4 per cent in the first year;
- (iv) reference to the Clegg Commission.

This was conveyed to the Management Side but, in the event, they found that the APT & C front had overtaken them in some respects. First (and I am sure we cannot cavil at this) they decided that (i) and (ii) above could now be taken together as meaning the 9.4 per cent on which APT & C appear to have settled. Second, and this is the major issue, they thought that, in order to keep reasonably in step with APT & C, anything coming from Clegg should run from 1st January 1980 (i.e. the implementation date for the outcome of the APT & C "in-house" comparability study).

The Management Side also decided that the proposed new scale for court clerks and principal administrators should be extended by four points from £8,034 to approximately £8,700. The purpose of this adjustment was to give a little more room at the top of the scale since otherwise the proposed new minimum salary for court clerks would result in unacceptable squeezing of differentials. The initial cost of this adjustment depends on regradings of particular posts. But it could immediately affect only some 40 people and is estimated at about 0.14% of the present salary bill. I do not think that we should strain at this gnat.

The present position is that the Officers' Side have been informally told by the Management Side of what they have in mind, save for the minor point described in the previous paragraph. Press

/reports -

RESTRICTED

reports - presumably flowing from some leak in the Officers' Side - say that the offer will not be accepted and that there will be selective one-day strikes from the beginning of August. But the two sides have agreed to meet formally in the Joint Negotiating Committee on 20th July.

It is clearly essential that we should do all that we reasonably can to ensure that a settlement is reached on 20th July. I, for my part, cannot see that the Management Side could, in the light of APT & C, have taken any other attitude towards the dating of a Clegg award. The logic of their position is that (subject to the restructuring that is justified on its merits) they are proposing to preserve the linkage with APT & C in the interim, and to synchronise the implementation of the comparability exercises that are envisaged for the two groups. Although we agreed that the justices' clerks' assistants could go to Clegg at a time when we thought APT & C might be treated in the same way, I do not think that there can now be any going back on that simply because of what has happened in the N.J.C.

I do not regard it as a foregone conclusion that the Officers' Side will accept the offer that the Management Side want to make, and call off their threatened action. But I do believe that the offer is a reasonable one and that anything less will guarantee disruption.

I therefore seek agreement to my officials informing the Management Side that we can underwrite an offer in the terms the Management Side have in mind. That is; the offer previously authorised but with the minor adjustment to the top of the scale and with anything due from Clegg to be dated from 1st January 1980.

I am afraid that in the circumstances I must again ask for a very prompt response.

I am sending copies of this letter to the Prime Minister, members of E(EA) and Sir John Hunt.

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13 JUL 1979

11 12 1
10 9 8
7 6 5
4 3 2

Grey Scale #13



A

1

2

3

4

5

6

M

8

9

10

11

12

13

14

15

B

17

18

19

