

April 2019



**CLINKS
RESPONSE**

Clinks response to the HM Inspectorate of Probation's consultation on the inspection of probation providers

About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working in the criminal justice system (CJS). Our aim is to ensure the sector and those with whom it works are informed and engaged in order to transform the lives of people in the CJS and their communities. We do this by providing specialist information and support, with a particular focus on smaller voluntary sector organisations, to inform them about changes in policy and commissioning, to help them build effective partnerships and provide innovative services that respond directly to the needs of their users.

We are a membership organisation with over 500 members, including the voluntary sector's largest providers as well as its smallest. Our wider national network reaches 4,000 voluntary sector contacts. Overall, through our weekly e-bulletin Light Lunch and our social media activity, we have a network of over 15,000 contacts. These include individuals and agencies with an interest in the CJS and the role of the voluntary sector in rehabilitation and resettlement.

Clinks manages the National Criminal Justice Arts Alliance, a national network of over 800 artists, arts organisations and criminal justice practitioners using creative approaches to reduce reoffending. We also support a network of women's centres and specialist women's services working in the criminal justice system.

About this response

We welcome the opportunity to provide feedback on the proposed changes to HM Inspectorate of Probation's (HMI Probation) inspection approach.

This response builds on Clinks' earlier response to the 2018 consultation by HMI Probation into its new inspection framework. Our response relies on evidence from our ongoing work with the voluntary sector in criminal justice; our extensive engagement with the voluntary organisations for the probation review; our research into the impact of Transforming Rehabilitation (TR) reforms and our work to promote good practice for service user involvement. Unfortunately due to the short deadline we were unable to consult with our members specifically about HMI Probation's consultation.



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Our response provides key overarching priorities on:

1. The role of the voluntary sector in supporting probation services
2. Meeting the needs of people protected under the Equalities Act (2010).

We suggest that both these areas could be strengthened and better embedded in the inspection model. We also respond to specific questions from the consultation focussing on those where we have knowledge and evidence from the voluntary sector to contribute, including unpaid work; how to monitor progress when geographical boundaries and providers have changed; co-terminous inspections; and engaging service users.

Summary of recommendations

- Clinks recommends that HMI Probation include in its standards a clear focus on the role of the voluntary sector in helping to ensure the needs of those under probation supervision are met through a coordinated rehabilitation service. This should be underpinned by key principles that support relevant voluntary sector organisations to work with people under probation supervision. Those include good cooperation and communication between statutory agencies and voluntary organisations delivering rehabilitative work; sound arrangements for sharing information with the voluntary sector; and staff having a good working knowledge of the rehabilitation services provided by the voluntary sector and actively promoting them.
- Clinks recommends that HMI Probation proactively look at how probation providers are working to address disproportionality and unequal outcomes with a particular focus on BAME individuals, women and young adults.
- Question 4.1.3 of domain three asks 'Do arrangements for unpaid work maximise rehabilitative elements and support desistance?' Clinks recommend under this section including a question on whether the 20% education and training time has been used and the quality of that education.
- Clinks recommends, under domain three, standard 4.1.1. where it asks 'is the allocated work, suitable, taking account of service user's diversity and personal circumstances', that this be expanded to ask whether staff have specifically considered the gendered needs of service users. This should include asking whether child care responsibilities have been taken into account and past experiences of trauma.
- We also recommend that under 4.1.2 which asks if unpaid work is delivered safely, there be a specific standard for ensuring the safety and protection of women given an unpaid work order to ensure they are in appropriate and safe placements.
- Clinks recommends that HMI Probation ensuring its inspection standards are aligned with the new enhanced through the gate specification to provide scrutiny of new specification, the changes required of probation providers and its implementation.
- Clinks recommends that to monitor progress when geographical boundaries and providers have changed, when undertaking inspections HMI Probation engages with the voluntary sector and takes proactive steps to obtain the views of local, community-based organisations and the people they support.
- Clinks recommends that, under domain one, when inspecting co-terminously HMI Probation should inspect the extent to which NPS and contracted providers are effectively coordinated and communicate and engage with each other. This should include consideration of the effectiveness of the regional authority in supporting this.
- We recommend that to engage service users in a meaningful, valid and appropriate way in inspections that HMI Probation engage with the voluntary sector to facilitate this engagement.

Response: Overarching priorities

Role of the voluntary sector in providing probation services

As it currently stands the role of the voluntary sector in providing probation services is not reflected in the standards. Likewise the aspects of the standards which require inspectors to consider diversity of service users can be strengthened.

The voluntary sector provides a wide range of services that support, but most often are distinct from, the probation supervision delivered by CRCs and the NPS. These services provide wrap around support to those who have been sentenced by the court that responds to a range of needs that might underlie offending and supports an individual to serve their sentence.

We welcome the recent annual report by the Chief Inspector of Probation and the recommendation it made for government in designing the future arrangements for probation services to ensure a good range of specialist services are available to meet need, and that the specialist service sector be nurtured and maintained.¹ Clinks were pleased to see a recommendation for a nationwide commissioning strategy for specialist services that provides straightforward guidance on how to commission services, and strikes a proper balance between central and locally commissioned services.²

In support of, and in addition to, these recommendations we believe that the HMI Probation Inspection framework can play a key role to ensure that probation providers in the new model better engage the voluntary sector for a coordinated rehabilitation service that meets the diverse needs of those on its caseload.

In the latest edition of its expectations of the male prison estate, HM Inspectorate of Prison included a clear focus on the role of the voluntary sector in helping to ensure prisoners' needs are met through a coordinated rehabilitation service³ that HMI Probation could mirror in its inspection framework.

Clinks recommends that HMI Probation include in its standards a clear focus on the role of the voluntary sector in helping to ensure the needs of those under probation supervision are met through a coordinated rehabilitation service. This should be underpinned by key principles that support relevant voluntary sector organisations to work with people under probation supervision. Those include good cooperation and communication between statutory agencies and voluntary organisations delivering rehabilitative work; sound arrangements for sharing information with the voluntary sector; and staff having a good working knowledge of the rehabilitation services provided by the voluntary sector and actively promoting them.

We suggest that this recommendation could be implemented by incorporating specific reference to the voluntary sector in a number of places in the current standards:

- **Standard 1.1 on leadership** – this standard measures the strategy in place for driving the delivery of high-quality service. The inspectorate should specifically ask in this section whether leadership has engaged the voluntary sector as a strategic partner in developing the local vision and strategy for probation services.

- **Standard 1.3 on services** – this standard measures whether probation providers have a comprehensive range of high-quality services in place but does not refer to the voluntary sector. In particular standard 1.3.2 measures the volume, range and quality of services available and should include a question about whether a diverse range of voluntary sector services are in place including whether the probation provider has identified local need and any service gaps. In addition, standard 1.3.3 asks whether there are effective relationships with other agencies. This should specifically make reference to voluntary sector services so it is clear that it does not just refer to other statutory agencies.
- **Standard 2.3 on implementation and delivery** – to ensure that services are coordinated, this standard should be used to inspect whether probation providers are sharing information and communicating with voluntary sector services in a way that supports them to deliver their work.
- **Standard 4.2.3 on through the gate** – similarly to above, for this standard which measures coordination of resettlement activity, the questions should specifically refer to the voluntary sector. Including effective coordination, communication and handover with voluntary sector services on release and ensuring appropriate referrals are in place to voluntary sector services.

Meeting the needs of people with protected characteristics under the Equalities Act (2010)

It is important to acknowledge and address the impact that the current model of probation has had on particular groups of service users and the organisations that provide tailored services to them. Given the persistence of unequal and negative outcomes for particular cohorts throughout the CJS, HMI probation should make tackling these disparities a priority in its inspections and embed equality monitoring into the inspection framework. In particular, there should be a distinct focus in the inspection standards on the following groups so that probation providers are required to demonstrate they are meeting their particular needs:

- **BAME individuals** – as *The Lammy Review*⁴ highlighted, BAME people are significantly overrepresented in the criminal justice system and consistently experience unfair treatment and unequal outcomes compared to their non-BAME counterparts. More than a year after the Lammy Review highlighted these disparities their persistence indicates the need for all parts of the criminal justice system, including probation, to prioritise the needs of BAME people.
- **Women** – women in the criminal justice system have often experienced significant trauma and abuse. They often have different needs and circumstances (including often primary or sole caring responsibilities) which requires a gender and trauma-informed approach from probation services. Evidence has shown that safe, women's-only environments provided by services that understand their needs and offer holistic support is more effective at reducing reoffending.⁵
- **Young adults** – Maturation is a process that goes on well into people's mid-twenties but as highlighted by the Justice Committee's inquiry on young adults "there is overwhelming evidence that the criminal justice system does not adequately address the distinct needs of young adults."⁶ There is a strong case for a distinct approach from probation with tailored interventions that promote young adult's strengths and supports their emotional maturation.

Clinks recommends that HMI Probation proactively look at how probation providers are working to address disproportionality and unequal outcomes with a particular focus on BAME individuals, women and young adults.



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To do so we recommend that the focus on equalities be strengthened in the following areas of the inspection:

- **Standard 1.1 on leadership** – this standard measures whether there is an effective vision and strategy in place for driving the delivery of high-quality services. Leadership of the organisation should be required to demonstrate they have a specific strategy in place to address unequal outcomes of those with protected characteristics under the Equalities Act (2010).
- **Standard 1.2.4 on staff training** – this standard should have questions related to diversity training and training on protected characteristics for staff. This should include cultural competence, training on gendered approaches, and the needs of young adults. This is to ensure staff have a sufficient working knowledge of what diversity can mean, how it impacts service users' needs and experiences, and how it does and should effect service delivery
- **Standard 1.3 on services** – requires analysis of service user need and the range of services provided to consider diversity factors and issues of disproportionately. There needs to be a clear understanding of diversity and how that impacts need and service delivery including the needs of BAME individuals, women and young adults. It should be expanded to consider unequal outcomes – some groups may not be disproportionately represented but will experience unequal outcomes.
- **Standard 1.4 on information and services** – this standard should include a question about probation provider's data recording practices for equalities information.
- **Domains two and three** – throughout these domains where probation staff are asked at various stages whether they have taken account a person's diversity and personal circumstances in planning and delivering activity, this should be strengthened to specifically require staff to take account of a person's protected characteristics and unequal outcomes of particular groups in particular for BAME individuals, women and young adults.

CLINKS can support HMI Probation to engage with organisations delivering tailored services to particular cohorts and their service users. These organisations are often much smaller and have less resources and capacity so are often missed from engagement opportunities.

Proposed changes to standards and ratings

The following section responds to specific questions in HMI Probation's consultation. We have focused our response on the questions where we have an evidence base and are able to provide a helpful contribution from the perspective of the voluntary sector.

Unpaid work

Will our revised questions and prompts allow us to judge those elements of unpaid work that are important to desistance?

We warmly welcome HMI Probation's recognition of the importance of unpaid work having a rehabilitative element and a desistance focus and its commitment to finding the best way to judge those elements.

For unpaid work to genuinely provide a meaningful route to employment it is vital that the 20% of time designated for education and improving skills is properly utilised.



Question 4.1.3 of domain three asks 'Do arrangements for unpaid work maximise rehabilitative elements and support desistance?' Clinks recommends under this section including a question on whether the 20% education and training time has been used and the quality of that education.

The women's voluntary sector has raised a number of concerns about the lack of understanding from current contractors about the needs of women in relation to unpaid work and a lack of appropriate placements for women. Women can have distinct needs and circumstances and many in contact with the criminal justice system have experienced trauma including domestic and sexual abuse. As such it may not be appropriate for them to be in work placements with men.

We recognise that HMI probation considers whether planning of unpaid work is personalised and takes into account service user's diversity. However given the reoccurring issues with placing women in unpaid work placements, we believe this area of the standards should be strengthened.

Clinks recommends, under domain three, standard 4.1.1. where it asks 'is the allocated work, suitable, taking account of service user's diversity and personal circumstances', that this be expanded to ask whether staff have specifically considered the gendered needs of service users. This should include asking whether child care responsibilities have been taken into account and past experiences of trauma.

We also recommend that under 4.1.2 which asks if unpaid work is delivered safely, there be a specific standard for ensuring the safety and protection of women given an unpaid work order to ensure they are in appropriate and safe placements.

Through the gate

HMI Probation has not proposed any changes to its framework for inspecting through the gate work. It is worth noting however that an enhanced through the gate service specification came in to effect on 1 April 2019. It has also been proposed that the enhanced specification will be brought into the new probation contracts and continue until the third year when it will then be subject to review.

Among the changes is a new three-tiered system based on level of service user need. Depending on which level someone is assessed to be, a service will then be delivered at the right intensity to meet that need. This in theory should allow a more responsive and tailored service that can better meet the needs of those with additional complexities and vulnerabilities. A new probation instruction, has been developed which sets out what is expected under each pathway and level.⁷

Clinks recommends that HMI Probation ensuring its inspection standards are aligned with the new enhanced through the gate specification to provide scrutiny of new specification, the changes required of probation providers and its implementation.



Changing geographical boundaries and providers

How can we best measure progress in areas where geographical boundaries or providers have changed?

To monitor probation over the transition period from the current contracts to the new ones and measure progress where geographical boundaries or providers have changed, engaging with the sector and people with lived experience to understand the differences in their experience will be key. In many areas it will be voluntary sector providers in supply chains that provide the only continuity and therefore talking to them about how things have changed and the impact of those changes is vital. The impact of changes may be felt differently within localities that make up the new larger contract package areas and will be important to capture this variation. HMI Probation should in particular consider how it will engage with small, local organisations who in much larger CPAs will understand the impact of changes to probation at the local level.

Clinks recommends that to monitor progress when geographical boundaries and providers have changed, when undertaking inspections HMI Probation engages with the voluntary sector and takes proactive steps to obtain the views of local, community-based organisations and the people they support.

Are there any disadvantages to inspecting co-terminously?

We welcome the HMI Probation's proposed approach of inspect NPS regions and CRCs co-terminously. In doing so, HMI Probation need to consider:

1. NPS and future contracted providers are becoming co-terminous in part to improve communication and the interface between them. NPS and current CRCs have been criticised in the current model for poor communication and information sharing and failing to achieve a smooth interface thus far. Any continuation of a split probation model carries with it similar risks. HMI Probation may therefore wish to observe whether NPS and the new contracted providers are effectively learning from and addressing these issues and managing future risks.
2. As part of the new model, HMPPS have also proposed creating a regional authority in each contract package area with responsibility for overseeing and joining up probation services in that region. This should include joint strategies and ensuring use of the supply chain services by the NPS via the 'rate card'.

Clinks recommends that, under domain one, when inspecting co-terminously HMI Probation should inspect the extent to which NPS and contracted providers are effectively coordinated and communicate and engage with each other. This should include consideration of the effectiveness of the regional authority in supporting this.

Engaging service users

How can we best access the views of service users in a meaningful and valid way?

We are pleased to see that HMI Probation is considering ways to access the views of service users in a meaningful way. Clinks is wholly committed to promoting and supporting effective service user involvement to inform criminal justice policy and practice. Involving service users not only provides a unique and vital insight into the work and effectiveness of probation services but it can also enable positive involvement for someone engaged in a desistance journey to be able to contribute their experiences and perspectives and to feel that their concerns are listened to.



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Many service users will be in vulnerable positions facing multiple disadvantage and sometimes leading chaotic lives. Engagement can be an empowering experience but sustaining engagement can be difficult and if not approached carefully can be re-traumatising. The voluntary sector have built up considerable expertise of embedding service user engagement into their work.

Some groups are considered 'hard to reach' and can be particularly hard for statutory bodies to engage. For example BAME people who are often less trusting of agencies associated with the CJS, people living in rural areas where national organisations might not have the necessary local expertise, and those with no fixed address. Voluntary sector organisations can be the gateway to engaging with these groups – they have a strong understanding of their needs and the challenges they face and have built trusting, positive relationships with service users so engagement is more likely to be successful.

For further information we suggest referring to our publications on service user involvement, for more guidance on service user involvement and co-production⁸ and for examples of the voluntary sector's good practice in this area.⁹

We recommend that to engage service users in a meaningful, valid and appropriate way in inspections that HMI Probation engage with the voluntary sector to facilitate this engagement.



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End notes

1. HM Inspector of Probation (2019) *Report of the Chief Inspector of Probation March 2019*. Available at: www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/03/HMI-Probation-Chief-Inspectors-Report.pdf (last accessed: 29 March 2019).
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CLINKS

Clinks supports, represents and advocates for the voluntary sector in criminal justice, enabling it to provide the best possible opportunities for individuals and their families.

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