A UNISON response to:
Transforming Rehabilitation: A revolution in the way we manage offenders
Consultation Paper CP1/2013

1. Introduction

UNISON welcomes the opportunity to respond to the Ministry of Justice consultation paper Transforming Rehabilitation.

UNISON represents 5000 members working in a wide range of operational, support and managerial roles in the Probation Service in England and Wales. This gives us an excellent insight into the work of the Probation and adds real weight to our response.

2. Synopsis

This response is split into the following sections:

- Summary Response
- UNISON Overview
- Responses to specific consultation questions set out in CP1/2013
- Conclusion

3. Summary Response

3.1 What is the Government Proposing?

UNISON welcomes the big idea in ‘Transforming Rehabilitation’, which is to provide supervision and rehabilitation to those leaving prison after short sentences. But the Government is going about this plan in completely the wrong way. Our response to the consultation paper exposes the flaws in the plans and sets out an alternative way to deliver the rehabilitation revolution we all want to see.

The Government wants to:

- Provide supervision and rehabilitation to those offenders leaving prison following short term prison sentences (under 12 months)
- Privatise this new supervision, and up to 70% of the existing work of the Probation Service: including offender management for all but the most dangerous offenders, programmes and community payback
- Parcel up this work into big cross regional contracts and sell it off to whichever private sector company can do it most cheaply
• Pay for the work via an untested ‘payment by results’ model

• Force the 35 local Probation Trusts to merge to form 16 super-trusts

• Make these super-Trusts set up mutuals, or complicated arms-length bodies to bid against the private sector

• Reduce the ‘public probation service’ to a small ‘specialist’ organisation with much reduced responsibility for court reports, risk assessment and offender management of high risk offenders

It has been explained by Ministers that this vision will have to be delivered out of the same £1 billion ‘rehabilitation’ pot that currently funds the Probation Service, the private sector tagging contracts, probation IT and estates and some parts of the prison estate. There is no new funding proposed to start-up the supervision of offenders leaving prison following short sentences; it will have to be funded from cuts to the existing budget!

3.2 What Is Wrong With These Plans?

UNISON represents workers in the 35 Probation Trusts in England and Wales. Our members work with offenders day-in day-out; they know what works, and they see what's wrong with these proposals:

Privatisation's Not Working: The Secretary of State for Justice, in the foreword to the consultation paper talks about the ‘...need to increase efficiency and drive down costs to enable us to extend provision to those released from short term sentences.’ He then goes on to describe ‘...a process of competition to open up the market and bring in a more diverse mix of providers...’ What is being described here is a major privatisation initiative with probation work being packaged up in 16 regional contract areas that will appeal to the big public sector outsourcing companies.

The experience to date of privatisation in the Ministry of Justice has been mixed to say the least. Failing IT and facilities management contracts and criticism over the lack of value for money in its tagging contracts have called into question the Department’s ability to run complex procurement processes. Staffing on the recently privatised London community payback contract has been significantly reduced and although Ministers promised to review the performance of this contract before pressing ahead with further privatisation, they are now going ahead regardless. The fact is privatisation has a poor track record in Probation and the Ministry of Justice an even poorer record in contract management.

Payment By Results (PBR): Untried and Untested: The Government is touting PBR as key to driving the rehabilitation revolution, but it has no track record. The Secretary of State states that,'...providers will in future only be paid in full when they reduce reconviction rates in their area.' The reality is that the big private sector outsourcing companies, who want this work, will lobby for as small a percentage of PBR as possible in the eventual contracts and the public sector and the voluntary sector will not be able to bear the financial risk that PBR demands when putting a bid together. Payment by results is therefore deliberately designed to favour the private sector over the public sector. Indeed, the Ministry of Justice wants to place artificial barriers in the way of the public sector bidding for the PBR contracts, which could only be overcome by the creation of complex arms-length companies or mutual/co-operatives. The public sector will go into the competition with one arm tied behind its back

Mutuals Won’t Work: Ministers are being disingenuous when they suggest that employees could form mutual or co-operative ventures to bid against the private sector for the PBR contracts. No-one seriously believes that little mutual organizations could bid against the big multi-nationals. The Government’s promotion of a top-down mutual model misses the point that for mutualisation to succeed it must come from the workforce, not be forced upon it. The arms-length employer bodies which were proposed for the Wales and Staffordshire & West Midlands Probation Trust PBR
pilots, that were discontinued in 2011, had attracted major criticism for their legal complexity and doubt over their ability to shoulder the legal and duties in respect of staff pensions.

An End to Localism: Probation is a local service; it gains its strength from local partnerships. But the Government’s plans to parcel up probation work into 16 big regional contracts will destroy this. Probation is at its best in partnership with local authorities, police forces and local community and voluntary sector organizations. All this looks set to end, if Trusts are forced into merger to fit the 16 new probation contract areas proposed by the Ministry of Justice. At a time when the new police and crime commissioners are trying to make sense of the local delivery environment, at individual force level, the Ministry of Justice is rowing in entirely the opposite direction.

A Small Specialist Organisation, or an Unsustainable One? The Justice Secretary claims that there will still be a need for a public probation service in his new privatised world, but it will be a very different service from the one we have at the moment. Stripped of all of its interventions work and working mainly in courts, the Justice Secretary’s plans would see Probation shrink to a small courts service, employing perhaps 3,000 – 4,000 staff, mainly probation officers and senior probation officers. Such an organization would lose all of its valuable community links and would probably have to be run as a national service, like the Children and Family Courts Advisory and Support Service. It is clear that localism plays no part in the Ministry of Justice plans for Probation! Once this remnant of the Probation Service was set up, it would not have the necessary resources to flex its workforce to resume the supervisory responsibility for offenders re-categorised as high risk and passed back to the public probation service by the private sector. The proposals in ‘Transforming Rehabilitation’ lack any credibility in respect of this all-important consideration.

3.3 UNISON’s Alternative Vision

There is already a very successful organisation providing for the rehabilitation of offenders in England and Wales: it’s called the Probation Service.

Employing less than 18,000 staff, the Probation Service has been quietly getting on with transforming offenders’ lives and protecting communities from re-offending. In 2011/12, the Service met all of its targets and won the prestigious ‘British Quality Foundation Gold Award for Excellence’. Reoffending rates for those individuals who are supervised by the Probation Service on managed programmes show a reduction in reoffending rates of 35%.

Everyone agrees that we need a rehabilitation revolution in England and Wales. For too long we have relied on ineffective prisons to keep our communities safe, when we all knew that they failed to reform those locked up at great public expense. UNISON shares the Justice Secretary’s ambition that all offenders, including those released from short term prison sentences, should be helped to reform their lives. But the problem is – the Government’s proposals add up to the wrong sort of revolution!

Probation is a local service which gains its strength from local partnerships; the Government’s plans for regional delivery will destroy this. And if this was not bad enough, the plans for widespread privatisation of Probation is really all about a race to the bottom on quality, as Government cuts to justice funding begin to bite.

UNISON wants to see the Government build on this success, rather than tearing apart a successful Service and replacing it with an untried and untested experimental model. So with our years of experience in Probation to build on, we are calling for an alternative revolution, which would protect the best of the existing system and add capacity via sustainable, local, public-public partnerships. We want:

• The 35 Probation Trusts protected to retain their valuable local knowledge and existing partnerships with local authorities and the police
• Proper financial flexibility for Trusts to compete on a level playing field with the private sector
• Independence for Trusts from the dead hand of government regulation
• The introduction of genuine democratic accountability for Probation via a new model of governance
• The promotion of public-public partnerships to provide the additional capacity to supervise low risk offenders in the community, rather than the ideological push to privatise probation services
• The promotion of ‘Primary Justice’ – a model for localised probation services jointly developed by the Local Government Information Unit and UNISON

The Probation Service is the glue that sticks the criminal justice system together and keeps communities safe. If we allow the Government to break it apart, in its pursuit of a privatised regional model of probation, we will never get this cohesiveness back. Under this Government, the Probation Service which has been 105 years in the making, could be two years in the breaking. UNISON will not stand by to allow this to happen.

4. UNISON Overview

4.1 Keep Probation Public– Keep Probation Local

UNISON starts this consultation response in support of the ambition of the Justice Minister to transform rehabilitation. We agree with the Secretary of State that stand-alone short term prison sentences are ineffective in reforming offenders and protecting communities, and believe that alternative and effective community supervision should replace or accompany them. No one can argue against the central proposal in the consultation paper, which is to provide tailored support for offenders leaving prison after short term sentences. We want to work with the Government to achieve this goal.

However we do not believe that these aims will be best achieved by the wholesale destruction of the Probation Service. It is extremely misguided and dangerous to fragment the vital work of probation, especially the offender management role. Our members in the Probation Service have delivered community justice all their working lives. They believe in Probation and its ability to reform behaviour and keep communities safe. Probation is a local service and gains its strength from its links with local authorities, police forces and community and voluntary sector organisations that operate at a local neighbourhood level.

Our response to this consultation recognises that Probation is a small part of the overall criminal justice system; less than 20,000 staff now work for the Service across England and Wales. The proposals in “Transforming Rehabilitation”, as set out above, will actually see the demise of an independent Probation Service. The plans in the consultation paper are not well thought out and look like a sledgehammer to crack a nut. If these proposals are realised, and all low and medium risk offender management and supervision are put out to the private sector, what will be left of the Probation Service in ten years time will be a small cadre of maybe 3,000 – 4,000 staff, probably working for a national agency of the Ministry of Justice, delivering offender management to high risk individuals only. Probation as we know it will have disappeared. Our members, and UNISON as their trade union, are not prepared to let this happen.

The Government is misinformed if it believes that offenders’ risk profiles can be divided up into the neat categories that would allow the contracting out of ‘low to medium risk’ offenders to the private sector. The Probation Service only manages risk effectively because of the active interventions it puts in place, interventions that seek to keep offenders out of processes such as MAPPA, yet the Government intentions are to fragment this incredibly important cohesive piece of work. Instead this
work will be scattered amongst competing private sector employers whose “contractual” obligations to share information will be over-ridden by the principle of profit. It is imperative that a public sector Probation Service keeps the offender management role for all offenders in order that it can maintain full and proper responsibility and accountability for public safety.

The Government appears to have written off the potential for Probation and its public sector partners to step up to the challenge of expanded community supervision and rehabilitation. The central argument of this UNISON response is that the Probation Service is uniquely placed to be able to deliver this capacity in association with other public sector providers rather than the private sector. The track record of Probation in delivering rehabilitation, community safety and enhancing the public realm through work such as Community Payback is second to none. The Government should seek to build on this expertise instead of trying to break up Probation through privatisation, or removing it from its local focus by forcing Probation Trusts to merge into smaller and more remote entities.

4.2 Primary Justice: An Alternative Vision

In opposition to the Government's plans to regionalise and privatise probation, UNISON proposes an alternative model for localised public-public partnerships to deliver probation services. Our model, which arises from work which we have undertaken with the Local Government Information Unit (LGIU), proposes that probation is delivered via public-public partnerships between Probation Trusts, local authorities and local community and voluntary sector organisations rather than by competition with the private sector.

Local authorities already deliver a huge range of services focused on community safety, including housing and employment, training, drugs and alcohol work and other health and well-being strategies. UNISON believes that probation delivery should continue to be consistent with local authority and police force areas. It is a small step from this delivery model to visualising Probation Trusts and local authorities co-commissioning and co-providing key offender interventions and community safety services on a co-operative rather than competitive basis.

The model of Primary Justice relies on central government investing greater trust and responsibility in local public sector delivery agencies, and devolving significant central government budgets to local democratic control. Primary Justice is:

- Local, community-based and focused on prevention
- Funded by moving money from national services to a pot in each upper tier local government area/police force area to commission local services
- Focused on the right services to address the spectrum of problems faced by individuals and families, including:
  - Housing
  - Mental health
  - Employment, education and skills
  - Family and relationships
- Based on principles of restorative justice
- Rooted in openness and transparency of information on justice
- Accountable and democratic

The Government’s consultation paper makes no reference at all to improving the democratic accountability of probation services. This is perhaps not surprising given the privatised model which it wants to bring in. However, when compared with local authorities, existing Probation Trusts currently carry a huge democratic deficit at the heart of their governance structures. All vestiges of local authority representation have long since been purged from Trust Boards. This makes Trusts vulnerable to accusations that they cannot command public support for their vital work. We would
support the inclusion of local councillors or members of the judiciary on to Trust boards, working closely with the recently elected Police and Crime Commissioners. If local people felt that they had a democratic stake in probation, it would enhance the reputation of probation and the willingness of citizens to buy into the work of the service. This cannot be achieved by passing probation work over to a poor performing private sector running large unwieldy regional contracts, interested only in profit and having no accountability to the communities in which they operate.

The Government’s thinking on the relationship between Police and Crime Commissioners, local authorities and Probation Trusts is confused and unlikely to settle for some time. In the meantime, UNISON believes very strongly that closer working relationships between Probation Trusts and local authorities can deliver the increased capacity in community justice that the Government and communities want to see. Probation’s relationship with local government will need to be strengthened to deliver this model and Trusts will have to acknowledge the need to admit local authority representation onto their Boards.

Our vision for a closer working relationship between Probation and local authorities is shared with the Local Government Information Unit with whom we have collaborated to produce: ‘Primary Justice Reloaded: a model for local probation services’. A copy of our joint publication is enclosed with this response and we welcome further debate with the Government and other Probation stakeholders on the principles which it sets out; namely that:

- Localism in the delivery of probation services is absolutely vital and necessary for citizens to buy into
- Probation must deal with its democratic deficit
- The threat to localism posed by the regionalisation and destruction of Probation Trusts and the fragmentation of probation work to an unaccountable private sector must be avoided at all costs
- Public/public partnerships, built around existing Community Safety Partnerships, between Probation Trusts and local authorities is the way to create the new capacity to deliver community sentencing, to which the Government aspires, rather than the Government’s preferred model of privatisation within existing delivery frameworks.

Responses to specific questions posed in Transforming Justice Consultation Paper (CP1/2013)

Question C1: We are minded to introduce 16 Contract Package Areas. Do you think this is the right number to support effective delivery of rehabilitation services? Do you have any views on how the Contract Package Area boundaries should be drawn?

UNISON is totally opposed the parcelling up of the Probation Service into 16 contract package areas in order to advertise probation contracts to the private sector. This top-down approach is the absolute antithesis of localism, and shows very clearly the intent of Ministers to favour the private sector in competitions for probation services. If there are to be competitions to run probation services, the contract package areas should be drawn up and commissioned from the ground up, according to local needs. In line with our Primary Justice model, UNISON believes that only local commissioning, by democratically accountable bodies (Probation Trusts and Local Authorities) would be able to address specific local needs.

The idea in the consultation paper that national commissioning could somehow sustain local partnerships is disingenuous. Partnership describes a relationship of equals, not the sub-contractor relationship which Probation Trusts and the community and voluntary sector will be forced to enter.
into with the big outsourcing companies under the Government’s proposals. There is absolutely nothing in the consultation paper which sets out how Probation Trusts will interface with the 16 ‘Lot’ areas and this speaks volumes about the value which the Government places on Probation Trusts and their staff.

The ability of Probation Trusts or the community and voluntary sector to expand and to take on the financial risk of the PBR model is severely constrained by legal and, in the case of Trusts, government policy and procedure. Trusts and voluntary sector organisations must not be artificially excluded from the competitive process in this way, and their operating boundaries should not be defined by the requirements of the private sector. The boundaries should not be set merely to enable multi national corporations to profit from the public purse, with coverage so large that the needs of local areas and local people end up being ignored. UNISON favours a local and democratic approach to commissioning, not the top-down, bureaucratic and historically inefficient national commissioning model favoured by NOMS and the Ministry of Justice.

UNISON is greatly concerned that, under the contract culture being promoted by the Ministry of Justice, the private sector will squeeze staffing numbers to the lowest level, particularly as the Government has explicitly asked for a reduction in unit costs. The majority of current probation budgets go on staffing. UNISON’s experience of the private sector driving down unit costs is not one of innovation, it is one of our members being made redundant. As referred to above, the recently privatised community payback contract in London has seen a substantial reduction in staffing in the first few months of operation. This was presumably necessary for the contractor to begin to deliver on its promises to drive down unit costs. The impact of these staffing cuts on the quality of service delivery has yet to be quantified. If quality suffers, the ability of the client to ensure contract compliance will be severely tested, as it has been on previous Ministry of Justice let contracts. When the London contract was let, Ministers promised to review the performance of the contractor, and the success of its sub-contract with London Probation Trust, before proceeding with further privatisation of probation services. The consultation paper suggests that Ministers have forgotten that promise. UNISON is calling for a thorough review of the London CP contract prior to any Government decisions on the future of privatisation in the Probation Service.

The Government proposes that the public probation service will retain its core function of providing advice to court, but it is unclear how this responsibility will be discharged in a multi-provider environment. A multiplicity of providers will make it extremely difficult for Probation to co-ordinate up to date information to courts, particularly in relation to compliance and enforcement. UNISON is concerned that under the Government proposals, the public sector probation service could become the apologist for other service providers when the latter have failed to undertake the requirements of the court. If the system of delivering the sentences handed down by the court is fragmented, this is likely to lead to delays in feedback to courts and cases having to be adjourned, which will run entirely counter to the Home Office initiative to speed up courts process.

In similar vein, UNISON is concerned that a multi-provider workforce will encourage perverse outcomes if private sector providers become reticent to report problems with an individual offender’s engagement with a programme, if that report might lead to the offender being transferred to the supervision of the public probation service, and the provider lose funding as a result. The other side of this coin is the question of just how the public sector probation service will be able to flex its workforce to take over responsibility for offenders transferred to it from the private sector? It is unlikely that the public sector probation service will be permitted to carry the necessary staffing establishment to facilitate this. Ministers must articulate how this transfer process will work in practice.
Question C2: What payment by results payment structure would offer the right balance between provider incentive and financial risk transfer?

UNISON questions why the Government has so much faith in the Payment by Results (PBR) model? There is no evidence, to date, that PBR works. The fact that both PBR pilots in the Probation Service were abandoned in 2012, due to technical and legal difficulties with the employment model, suggests that the Government has a long way to go in arriving at a workable PBR system. The Peterborough prison PBR pilot is not due to complete until 2014, which throws further doubt on the Government’s faith in this untried and untested model. UNISON understands that Probation Trusts would have to set up complex arms-length vehicles in order to bid for any of the PBR contracts, because, under current Treasury rules, they cannot assume the financial risk inherent in the PBR system; the community and voluntary sector is in essentially the same position. The constraints on the ability of the Probation Trusts to bid to run their own services, under the Government’s PBR model, are nothing short of a disgrace and a gross rigging of the rules of competition in favour of the private sector. The Government appears to favour a model in which large outsourcing companies would inevitably win each large regional contract and then sub-contract bits of the work back to local agencies.

This model appears to rule out the ‘in house’ bid and is fundamentally flawed and discredited as a result.

In reality a reduction of offending can only be brought about by multi-agency investment in individuals, families and local communities across a long time span. This investment is for the public good and UNISON believes that it is wrong for the private sector to potentially profit from the cumulative and collaborative work done in and by local communities across the lifetime of its citizens. Probation has been the lynchpin of this public sector investment in offenders, helping to assist them through the process of change. For the last 105 years the Probation Service has been an organisation firmly embedded in and respected by local communities. It is an organisation that does not give up on people and firmly believes in the individual’s capacity to change. The process of change does not happen overnight. It can be a complex and lengthy process that works by cumulative effect, requiring different input and interventions dependant upon where the individual sits on a continuum of change.

There is an obvious danger in incentivising the reduction of offending, namely, that contractors cherry pick the ‘easy’ offenders, which means that the vital cumulative work referred to above could end up being ignored or undervalued. Working with offenders is a community investment, which starts with parenting and education and continues throughout peoples’ lives. This investment and collaborative approach is outlined in our vision for a closer working relationship between Probation and local authorities under Primary Justice. It will require justice re-investment at the local and community level, rather than via remote, top-down Ministry of Justice contacts with big private sector companies.

Payment by results is unproven; it seeks only to reward the private sector and cannot easily apportion reward to the actual intervention that was responsible for the reduction in offending. Our fear is that profit margins would always come first and that staff would bear the brunt of any financial deficiencies, which would ultimately impact on the ability to work effectively with offenders.
Question C3: What measurements and pricing structures would incentivise providers to work with all offenders including the most prolific?

UNISON turns this question on its head to ask: what pricing structures would the Ministry of Justice put in place to incentivise Probation Trusts, local authorities and the community and voluntary sector to participate in the competitions it wants to run for probation services? Do Ministers accept the need for a level playing field in relation to pricing structures, or are the rules drawn up exclusively for the benefit of the large public sector outsourcing companies?

To incentivise the reduction of re-offending, will automatically divert resources away from work not subject to financial incentives. UNISON is concerned about what happens in this context to the work of Probation Victim Liaison Officers, or Women’s Safety Officers? Such vital work will be over looked in the world of PBR and UNISON has grave doubts about the survival of Probation in this holistic sense should the Government’s plans be implemented.

UNISON calls for clarity from the Government on how the following functions of the Probation Service are to be organised in the future under the Government’s plans:

- Victim Liaison Work
- Women’s Safety Work
- Approved Premises

The consultation paper makes no reference to any of these vital probation services and suggests that the Government has not thought clearly enough about the wider work which the Probation Service undertakes to keep communities safe. UNISON is opposed to the privatisation of these critical areas of work and calls on the Ministry of Justice to clarify its intentions in relation to the future of these services.

Victim liaison work and women’s safety work both deal with high risk and are not suitable for privatisation.

Our members who work in approved premises are particularly concerned at the lack of information in the consultation paper on the Government’s intentions for the future of probation hostels. Approved premises are a critical component of Probation’s public protection work, providing close supervision of the most high risk offenders. Released from prison, but too dangerous to live unsupervised in communities, the offenders who live in approved premises represent the high end of risk to the public. The distribution of hostels is not uniform and grouping the hostels in the Probation estate on the same regional basis as the Government proposes for offender management and interventions would not be sensible.

UNISON hopes that the lack of detail in the consultation paper regarding approved premises indicates that the Ministry of Justice recognises the inherent dangers involved in privatising such a sensitive part of the Probation operation. We are as opposed to this work being privatised as any other probation function, but the Government’s silence on the matter is concerning. We call on Ministers to rule out the privatisation of approved premises.

Question C4: How should we specify public sector oversight requirements in contracts, to avoid bureaucracy but ensure effective public protection arrangements?

UNISON is extremely concerned at the implication in the consultation paper that oversight of the regional probation contracts will be undertaken by the Ministry of Justice or NOMS. Neither organisation has a credible track record in contract management, or compliance work. The reality of large regional contracts is that contract compliance is very difficult to achieve: the larger the contractor, the more difficult it is for the client to ensure performance. Like the banks, large outsourcing companies become too big to fail. This has certainly been the sad experience for Probation Trusts forced to accept the poor standards of the Home Office Facilities
Management contract. Despite high level concerns over the performance of this contract, it has been agreed by the Government to extend the contract for another year! It is a simple fact of life, that procurement of large Government contracts and contract monitoring are costly and bureaucratic.

To ensure effective public protection within a complex web of 16 regional contracts will be extremely difficult if not impossible. It would at the very least require the development of an effective, timely and shared public/private ICT system, which would bring with it huge costs in relation to investment, upkeep, ownership and oversight. UNISON has grave concerns over who would be responsible for this system and how effectively it could track and assess dynamic levels of risk in offenders being managed across so many different providers? NOMS, in particular, has a truly dreadful track record in designing and operating effective ICT systems – and that’s just in the public sector. How much more challenging will this be with a multiplicity of private sector companies performing probation work?

The cost of developing the necessary public/private ICT system which will have to underpin the Government’s privatisation plans must be included in the value for money assessment of the Government’s reform proposals for the Probation Service. This must not end up as a hidden subsidy from the Government for its friends in the City.

The challenges facing the designers of such an ICT solution are enormous: who would have the responsibility for inputting data on risk; who would make risk assessments; how would the system transfer responsibility for supervision from the private to the public sector and visa versa?

**Question C5:** We want to incentivise through the gate provision, but some prisoners will disperse to a different part of the country following release. How can we best account for that in contract design?

Government proposals would create a fractured market, in which it would not be in the interests of competing providers to collaborate across contract boundaries. The relationship between the nationally competed ‘through-the-gate’ prison services and the 16 regional probation contracts would be difficult to define. It would also be difficult to assign which contributions were responsible for any reduction of offending and when or who would do a risk assessment.

Just how many incentives is the government prepared to pay for? If, as is likely under the current austerity measures, the various incentives for the contracts the Government wants to let represent actual running costs, what incentive would there be for any provider to take on the risk that they might end up being paid at a rate under their running costs? Any organisation that failed to meet its running costs would automatically seek to reduce these, and this would inevitably be to the detriment of service delivery and staff.

**Question C6:** What mechanisms can be used to incentivise excellent performance and robustly manage poor performance to ensure good value for money?

Good employers engender excellent performance in their staff. The public sector Probation Service is a good employer with good industrial relations. Probation staff are committed to the public sector ethos of public protection and the rehabilitation of offenders. People work for Probation because they see value and merit in a public sector criminal justice system. They value long term investment in community justice, and are proud to work for a just and fair criminal justice system that is the envy of many other countries in the world. Probation staff are paid and fairly rewarded through a national collective bargaining structure. This investment in staff is repaid by loyalty, commitment and pride in the job.

To date, poor performance on Ministry of Justice and NOMS contracts has manifestly not been managed. It is not for UNISON to tell Government how to improve a system, which bitter experience of our members tells us is probably beyond effective management. The prime examples of this are
the NOMS and Home Office Facilities Management Contracts, which although not as fundamentally complex as the current proposals to privatise offender management, were both great disappointments in relation to quality of service and value for money. In both cases, Probation Trusts did not get value for money, nor were NOMS or the Home Office able to effectively manage up performance.

Value for money needs to be robustly demonstrated in any contract let to the private sector, but there has been a complete lack of transparency in relation to this test on contracts let by the Ministry of Justice or NOMS in the past. It is for NOMS to demonstrate what benefit Probation Trusts have got from the Home Office Facilities Management contract? If this cannot be disclosed, what faith can the taxpayer have that his/her money is being used by the Government wisely in these latest privatisation proposals.

We are also extremely concerned to discover that the Government underwrote a significant proportion of the pension liability costs of the London community payback competition, because, without this public subsidy, the contract would have been commercially unattractive! In a report to the Probation Consultative Forum, the Ministry of Justice confirmed that the shortfall in London Pension Fund assets which would have transferred with London Probation Trust staff to the private contractor was to be underwritten by the Department. The Ministry explained this as follows: ‘To allocate that shortfall to the admission body (private contractor) would be to prejudice the commerciality of the agreement to provide the CP services.’ As a result, the Ministry of Justice covered these substantial costs. It is very unclear whether this underwriting was taken into account in the value for money assessment of the London CP contract. UNISON asks the Ministry of Justice to confirm this value for money calculation for the contract.

The issue of pension liability costs and public sector procurement is therefore hugely significant, and the Ministry of Justice needs to come clean on what public sector subsidies were offered to London Probation Trust and the eventual winner of the CP contract. The Department also needs to confirm whether the more extensive privatisation proposals set out in ‘Transforming Rehabilitation’ would attract the same public sector subsidies?

**Question C7: What steps should we take to ensure that lead providers manage and maintain a truly diverse supply chain in a fair, sustainable and transparent manner?**

If lead providers are several large multinationals running large sometimes multiregional contracts it would be extremely difficult to dictate how a new employer should manage and maintain a diverse supply chain. The Government’s general approach to procurement is to concentrate on output measures only and give little or no attention to input measures in contract design. This did not prove very successful in the context of the Olympic Games security contract, so it is interesting to see the Ministry of Justice bucking the general trend and trying to specify input measures to its proposed probation contracts.

If the Government is serious about a diversity of providers, it will have to demonstrate that it is preparing a level playing field on which both public and private sector lead providers can compete equally. In this context it could invite bids from Probation Trusts, local authorities, police forces and private sector organisations which are working in partnership with the voluntary and community sector.

UNISON wonders why the government has not examined the diverse partnerships and collaborations that are already in place in the public sector. These relationships are effective and accountable to the communities they work in. At the moment, there is good work being done in partnerships between Probation and local agencies, particularly in the fields of drugs and alcohol programmes. Moving to 16 large contract areas, as the Government proposes, will break apart these established local partnerships and will be detrimental to effective intervention.
Question C9: How can we ensure that the voluntary and community sector is able to participate in the new system in a fair and meaningful way?

A range of small and medium size third sector providers already operates within the probation environment and public sector Probation Trusts have a range of partnerships with these bodies. These relationships have developed over time and serve all parties well, adding real value to probation work. UNISON fears, however, that the very same small and medium sized organisations, currently involved in probation, will be squeezed out of any developing market by the format of the proposed commissioning processes. The desire of Government to hand over work to large multinational organisations, who are able to carry the necessary commercial risk, as is happening in the Community Payback competition, will rule most small and medium sized players out of the market. The use of subcontracting within large contracts has appeared to create an impression of greater participation by smaller and medium sized organisations in procurement exercises, but often these relationships are exploitative and unstable for the smaller body.

Local commissioning of services presents the best opportunity to develop greater participation by small and medium sized enterprises. This approach develops local capacity in a more organic way providing real community development and ensuring greater stability and mutual cooperation.

Question C12: Given our proposals for the commissioning structure and the proposed responsibilities of the public sector, what kind of delivery structure would be most appropriate for the public sector probation service?

UNISON does not accept the Government’s proposals for a much reduced public sector probation service. We do not believe that the small specialist organisation which Ministers want the Probation Service to become will be sustainable in the long term. If Probation Trusts are forced to merge into 16 super trusts and lose most of their offender management and interventions work to the private sector, UNISON believes that the public probation service will simply not be able to compete on a level playing field with other providers.

But the Government’s plans for the future of a public probation service are even worse! Not content with uprooting local probation services, and forcing competition and regionalisation, the Ministry of Justice is not prepared, at the same time, to give Probation Trusts the financial and legal freedoms to bid on a level playing field for the work to be put out to competition. Instead, the Department will force Trusts to set up complicated mutual or arms-length companies to bid for the work. This is a perversely bureaucratic model and one which commands no support from the workforce. Rather than force Trusts to create new vehicles to employ their own staff, the Ministry of Justice should allow Trusts the freedom to compete on the same terms as the private sector.

UNISON has many concerns about the creation of mutuals and other delivery models within the Probation Service. We believe that they are largely a distraction in the current debate and, that if introduced, could lead to a set of unfortunate unintended consequences for both the workers they represent and the services they bid to provide. UNISON therefore makes the following comments regarding mutuals:

- Would the Ministry of Justice continue to fund mutuals on the same lines as Trusts?
- How would small mutuals raise funds for capital investment, and how would they do this better than a Probation Trust with more financial flexibility?
- What would be the governance model for mutuals and who would assume liability for service failures?
• Are mutuals seen by NOMS or the Ministry of Justice as a cheaper model than Probation Trusts, and if so, why and how? UNISON would certainly oppose the driving down of terms and conditions in a mutual model.

• A mutual is an outsourced body. Would such a body be allowed admitted body status in the Local Government Pension Scheme (LGPS), and if so, which body will provide the guarantees to facilitate its admission? Treasury rules currently forbid a probation trust from providing such guarantees. Additionally, would a mutual have to raise a bond to cover its potential liabilities for redundancy etc, within the LGPS?

• EU procurement law means that any services which a mutual might wish to take over from Trusts would have to be competed against all the large multi-national outsourcing companies. What chance would such small mutual organisations have of winning such contracts?

• All the evidence from previous mutualisation of public services is that small mutuals eventually have to merge to survive in a competitive public sector procurement market. Alternatively, they end up being uncompetitive and swallowed up by their private sector competitors. In this sense, mutuals are merely a precursor to privatisation. For these reasons, UNISON does not support the development of mutuals to enable Probation Trusts to bid for probation work. We are aware that NOMS is trying to persuade a small number of Probation Trusts to set up mutual staffing models. UNISON asks that NOMS is more transparent about this work and consults properly with staff and their trade unions to avoid disputes arising in the future in relation to attempts at mutualisation. The trade unions have been deliberately excluded from this workstream at national level, which leads us to believe that our members’ interests are secondary to the Government’s plans to privatising as much of the Probation Service as possible. We have been given no information on the Cabinet Office programme to promote mutuals, or the funding which seems to have been granted to a small number of Trusts to develop plans for mutualisation. UNISON is therefore advising its branches to take a sceptical view of mutualisation. Mutualisation that is imposed on staff from above simply will not succeed.

**Question C13: What else can we do to ensure the new system makes best use of local expertise and arrangements, and integrates into existing local structures and provision?**

On the face of it, the Government’s proposals to carve up the Probation Service into 16 mega-Trusts is about as far removed from making the best use of local expertise and arrangements as it is possible to get. The only way that privatised regional contracts could interface with local agencies is via potentially exploitative sub-contracting arrangements. Inevitably, any small or medium sized organisations (including Probation Trusts) seeking to work with big outsourcing companies are likely to be in the junior role of sub-contractor. Sub-contracting is a recipe for short-termism and exploitative business relationships. UNISON’s expectation is that the terms of such sub-contracts would likely see the sub-contractors bidding on the basis of cut-price delivery models, with all the implications this would have for staff pay and conditions, motivation and skill levels.

Primary Justice provides a real alternative view on how the Justice System, and Probation in particular, could be operated at a local and accountable level at a time when regionalisation, privatisation and the centralisation of decision-making, appear to be the dominant driving forces. The Ministry of Justice and the National Offender Management Service have struggled to reconcile these trends with Government’s stated commitment to localism. Primary Justice provides a potential template to build a truly local, accountable Probation Service.

By fostering greater cooperation among the various public sector bodies that are working in the field of community justice, the principles of Primary Justice might help to bring clarity to the question of how localism and the future of the Probation Service might come together. By pooling public sector
resources, by working more effectively and smarter, with less barriers and by addressing the concerns of the community through genuine democratic accountability, a long term strategic vision for Probation could be secured.

As we have explored earlier in this response, the Probation Service stands at a cross roads: one way lies a fragmented, regionalised service with mega-probation trusts and cross-regional commissioning of huge contracts; the other way, the potential for a truly local, accountable probation service with local commissioning and public/public partnerships. Probation remains largely, although not exclusively, a public sector organisation with a strong ethos of effective offender management for the public good and not for profit. UNISON intends that Probation should stay this way.

The challenges set out in ‘Transforming Rehabilitation’ are immense. Probation Trusts are faced with significant and continued reductions in resources. They now learn that many of the services they have provided, including low to medium tier offender management, will be subject to competition, and a damaging strain on productive resources caused by having to engage in a new procurement bureaucracy to secure work and remain viable organisations in a competitive market.

The competing of probation work has many dangers. The government makes it clear that it believes that competition will deliver the efficiency and productivity gains that they are seeking, and yet provide little or no evidence to support this. In reality, privatisation is likely to bring a fragmented workforce, the erection of commercial barriers, the creation of silos, less skilled and poorly trained operatives engaged with offenders and the profit motive paramount in decision making. Critically, the Government’s proposals for probation could see local probation services withdrawing back into the safety net of those few statutory services reserved for the public sector (court reports etc). This will lead ultimately to the demise of Probation, as Trusts retrench to become small organisations with little community focus or engagement with partners, unable to play a significant role or be a key player around the table.

UNISON and the Local Government Information Unit (LGIU) support an alternative vision. This vision is based on bringing the skills of Probation Trusts and their skilled and trained workforces together in greater partnership with other accountable public bodies. It is about unlocking the potential of co-commissioning work within the public sector to produce the right results and to re-invest the rewards back into ever greater improvements and local community gain.

What is clear about crime and social disorder is that many public services are involved both in prevention and also in dealing with the aftermath. It has been the great prize of policy makers in the justice field to move expenditure from dealing with the consequences of crime to preventing it in the first place. This shift of resources has yet to be comprehensively achieved, and it will be ever so, unless public sector partners truly work together in a holistic way, sharing resources and risk. Housing, employment, skills and training, policing, social welfare, drug/alcohol treatment, licensing, protection, probation and courts are all locally delivered services which could be operated in a more cooperative way to enable partnerships which produce positive results for all concerned. The fiscal rewards alone would be significant through reduced short term prison numbers.

The Government has opened the door to looking at a range of options where probation delivery is concerned. The commissioning of probation services will be a key battleground and it is here that local authorities could have a huge role to play in driving public sector partnerships in which Probation plays a leading role. Indeed UNISON can see many good reasons why this should be the de-facto position and not simply accept the outsourcing model.

Clearly what is now required is a much stronger case being put forward to unlock the potential of public sector partnerships. These partnerships increase the capital available to manage the current situation of resource cuts. Savings and efficiency can be driven by sharing services and functions like estates and asset management. Partnership procurement could drive down the costs of goods and services with the savings re-invested into providing a more complete operational service.
Without profits being extracted from the available resource, all of this could be targeted at further operational improvements. All public sector partners have a vested interest in making these partnerships work for the benefit of local communities. They make sense. Now is the time to deliver them.

A copy of the joint Report ‘Primary Justice Reloaded’, produced by UNISON and the Local Government Information Unit, fleshes out these ideas in more detail and is attached to this response.

Question C14: Police and Crime Commissioners will play an integral role in our reforms. How best can we maximise their input/involvement and that of other key partners locally?

There has been a long history of local government involvement in the probation service. Prior to the creation of the National Probation Service (NPS) in 1999, probation services in England and Wales were arms-length committees of the principle local government authority. They received funding via a home office grant (80%) and a precept levied on the Council Tax (20%). Training arrangements also meant a greater degree of movement between local authority-operated social services and probation. Probation was a beneficiary of this relationship, as services like procurement, financial management, HR and Estates often had joint arrangements in place delivering economies of scale and greater capacity for all concerned.

It is also worth noting that the former governance structures for probation included elected councillors, magistrates and members of the judiciary. UNISON believes that this arrangement ensured a greater degree of accountability and could have been strengthened rather than dismantled when the National Offender Management Service was created. We would urge any future governance arrangements to once again include key stakeholder representatives including members of the judiciary, magistrates and local government councillors. This action alone will significantly increase the levels of accountability to and ownership by the local community which is so vital if reform is to be effective.

The creation of the NPS and later NOMS, led to a gradual move away from local authority partnerships and the creation of supposedly more independent business focused services. This was accompanied by the regrettable growth in the provision of mandatory central service provision; namely NOMS commissioned estates, facilities management and ICT, which have largely been costly failures.

It would make sense to encourage again a greater degree of involvement by local authorities in probation work, where such partnership working would be beneficial. Such a strategy would also support the general direction towards localism in the provision of services, which the Government says that it supports. It is hard to see this presenting any great challenges to local government, and greater mutual cooperation in addressing crime and disorder has a good track record of success. Effective public sector partnerships, we argue, are essential to deliver improved performance and efficiency.

The election of Police and Crime Commissioners (PCCs) will clearly have an impact on the probation landscape as the Government clearly wants them to become key players in the local criminal justice community. It is unclear at the present time how effective this new arrangement will be, or how PCCs will want to interface with their Probation Trust. There is a real danger, as we have indicated above, that PCCs may seek to usurp the local commissioning role of Probation Trusts if democratic legitimacy cannot be reintroduced to Probation. If this threat is not addressed, we may see successful candidates for the role of PCC seeking to divert resources away from areas in which probation work adds real value, but where it is part funded through police resources. The political aims of PCCs to use all available resources for front line policing activity which is electorally popular could lead to less money for Probation in the long term.
Question C15: How can we ensure that professional standards are maintained and that the quality of training and accreditation is assured? A professional body or institute has been suggested as one way of achieving this. What are your views on the benefits of this approach and on the practicalities of establishing such arrangements, including how costs might be met?

The potential fragmentation of the service under the Government’s competition proposals is a real threat to the probation profession which has a proud history of professional development and has been a world leader for a long time.

Currently all staff are able to develop and train while working for a public sector Probation Trust. This has allowed staff working in many roles to develop to the level of probation services officer and beyond. Staff are exposed to a range of different probation environments and can build up a significant skill base which equips them with the right aptitudes to go on and become excellent practitioners. The current qualification pathway supports staff to gain vocational and academic recognition on the journey to being a probation officer. UNISON believes this must be supported if we are to maintain a diverse and effective workforce.

It is very hard to see, how a privatised and fragmented service would be able to offer the same level of practical experience that is so important to the development of staff. It is even harder to see how new private sector providers would be willing to invest in the long term development of staff when they might not be around after the next contract award to realise a return on this investment in their profit margin. Privatisation threatens to make staff development a commercial consideration and where profit motive drives decision making this will lead to a dumbing-down of quality and a dilution of the effectiveness of the current training regime. UNISON believes this will inflict long term damage on the effectiveness of probation practice and that appropriate safeguards must be put in place to ensure that this threat to the delivery of quality services is addressed. These safeguards would need to be placed in any contracts and would require monitoring.

The overall governance and ownership of training will also be placed at risk in a fragmented environment. Who will ensure that continued professional development is a constant feature of the new landscape? Who will own the training and developmental records of employees and who will act as a custodian of the professional qualification regime? It is clear that some central authority will be required to act in a governance capacity and this body should oversee the professional development of all probation staff.

UNISON is part of the working group convened by the Probation Chiefs Association (PCA) which is developing ideas about a Professional Institute for Probation. UNISON supports the proposals to create such an institute and believes that, if done correctly, it could be a force for positive improvement in professional standards, training and career development. This work may eventually lead to the creation of a Professional Register for Probation and might allow for the regulation of standards and professional development in the mixed economy which the Government hopes to encourage.

However, UNISON is very clear that any such institute or professional register would have to offer something to the whole workforce, and not become the exclusive preserve of the most qualified of probation professionals. Accrediting the whole workforce will be time-consuming and costly, but must be done if the Government is not to duck its stated commitment to ensuring a level playing field in respect of skills and competence across competing workforces. If Ministers are concerned, as they should be, at the potential for professional standards to be diluted in a mixed economy of probation providers, the work of any professional institute for probation must cover the whole workforce. It is possible that some of the providers that the Government hopes will bid for probation work would regard the imposition of such professional standards for all probation work as a barrier to their entry to the market. This should not prevent high standards being set and monitored as part of any contractual process. The logical development of this argument would be the requirement for each
mentor meeting an offender at the prison gate to be accredited by the professional body and in effect given a licence to practice. UNISON supports this concept.

It is likely that the costs of setting up a Probation Professional Body would eventually have to be met by membership costs. Whether these would be met by the employer or employee is a matter for discussion. It should be remembered that fees for joining such a professional body are generally tax-deductible and so could be reclaimed to some degree by employees.

**Question C18:** What are the likely impacts of our proposals on groups with protected characteristics? Please let us have any examples, case studies, research or other types of evidence to support your views.

UNISON argues that the greater use of the private and third sector in the delivery of probation services will lead to greater inequality within the workforce with female workers and black and minority ethnic workers potentially losing out. The private sector is less equal in terms of pay and often has worse terms and conditions when it comes to sick pay, maternity and paternity. Any equality impact assessment regarding competition, must focus on the impact which changes may have on the female dominated Probation workforce.

### Summary of Responses to Specific Consultation Questions

- **UNISON** is totally opposed the parcelling up of the Probation Service into 16 contract package areas in order to advertise probation contracts to the private sector. This top-down approach is the absolute antithesis of localism, and shows very clearly the intent of Ministers to favour the private sector in competitions for probation services.

- Commissioning of probation services should be carried out locally and under democratic control.

- The performance of the London Community Payback contract must be thoroughly evaluated prior to any further moves to compete probation services; this should take place 12 months from the start of the contract (October 2013).

- Payment by Results (PBR) is untried and untested and appears to be weighted in favour of the private sector. There must be no barriers put in the way of the public sector, including Probation Trusts and local authorities, bidding in a PBR system, without having to create complicated arms-length bodies to do so.

- If, as is likely, payment by results ends up funding the running costs of probation providers, contract compliance will need to closely monitor service quality if providers have to forgo their PBR bonus at any point in their contract, as financial penalties will likely result in staffing cuts and a subsequent fall in service quality.

- Probation work with victims, women’s safety work and approved premises is not referenced in the consultation paper and the Ministry of Justice needs to clarify its intentions in relation to the delivery of this vital work in the future. None of these areas of work is suitable for privatisation and UNISON argues strongly for their retention in the public sector.

- Monitoring and managing 16 large regional contracts for probation work will require the development of significant new ICT capacity within the Ministry of Justice and the Probation Service, to which the consultation paper makes no reference. The ICT requirements need to be properly outlined and costed by Government prior to any decisions on competition strategy. The costs of any new ICT needs to be factored into the value for money calculation prior to decisions on embarking on new competitions.
• The Government needs to publicise what part the indemnification of pension liabilities will play in the value for money assessment of its competition proposals to compete the majority of probation services.

• Supply chain management and guarantees in relation to future probation providers using local small and medium sized enterprises are unlikely to be deliverable, because large outsourcing companies do not make supply chain decisions on the basis of localism, they make decisions based on profit margins. The Government should be concentrating instead on making it possible for local public sector agencies (Probation Trusts and local authorities) to bid in association with local community and voluntary sector organisations.

• The voluntary and community sector, working alongside the Probation Service, can best be protected by local commissioning, by local bodies, rather than remote national commissioning from the Ministry of Justice.

• The plans to force Probation Trusts to set up mutual bodies to bid for probation work is unnecessarily complicated, bureaucratic and unsustainable. Instead, the Ministry of Justice should free up Probation Trusts to be able to commission, or co-commission, services at a local level and also give Trusts the financial freedoms to bid for work in their own right.

• Primary Justice provides a sustainable and local model for co-commissioning probation services on the basis of public-public partnerships. The Ministry of Justice should investigate this model before making any decisions on the basis of this consultation.

• Police and Crime Commissioners, who don’t appear to play a large role in the vision set out in the consultation paper, have an important role to play, as co-commissioners, in the public-public partnerships envisaged in the Primary Justice model for probation services. They would provide redress for the total democratic deficit which sits at the heart of the Ministry of Justice proposals as presented.

• Probation Trusts need to address their own democratic deficit by the reintroduction of local authority seats on Trust Boards.

• The idea of a Probation Professional Body, such as is being worked up by stakeholders under the Probation Chiefs Association project, could provide the basis for ensuring professional standards in a mixed economy of probation provision, but only on the basis that it was able to make an offer to the entire workforce.

• The Ministry of Justice needs to undertake an extensive equality impact assessment of the likely effect of its proposals on the Probation workforce. The private sector does not have a good track record in promoting equality in service delivery.

Conclusion

UNISON has a credible alternative to the proposals set out in ‘Transforming Rehabilitation’ which will deliver the increased capacity in community supervision which the Government wants, but do so by developing public-public partnerships at a local and democratic level. Our proposals are contained in our joint publication with the Local Government Information Unit: ‘Primary Justice Reloaded – a model for localised probation services.’ We hope that the Ministry of Justice will give serious consideration to our proposals.
Our members are totally opposed to the wholesale outsourcing of probation service work set out in ‘Transforming Rehabilitation’. We believe that privatisation will take away proper state responsibility and accountability for the criminal justice system. Justice must be seen to be done in a fair, transparent and equitable manner, and it is a public sector duty to ensure that justice and public protection is delivered. If probation work is given to the private sector, no amount of oversight of how that work is discharged can make the Probation Service responsible or accountable for the actions of the private sector.

Our members take great pride in the valuable work that they do for an organisation that has been in existence for 105 years, and at the forefront of rehabilitation for all that time – the Probation Service. We welcome the big idea in ‘Transforming Rehabilitation’ to provide supervision for the first time for offenders leaving prison following short term prison sentences, but do not agree with the proposals to regionalise and privatise to achieve this. The Probation Service is already delivering and is effective at its job. It works collaboratively with a diverse range of service providers, involving and benefitting local communities; it is responsible and accountable to the Ministry of Justice and the public. Our work with the Local Government Information Unit to promote the concept of Primary Justice as a model for delivering the rehabilitation revolution deserves proper consideration by Government and those working in the field of Probation. We want to see enhanced probation services delivered via public-public partnerships at a local level and underpinned by proper democratic control.

UNISON's members who work in the Probation Service are dismayed at the hollowed out vision for their Service set out in the consultation paper; they are disappointed to see so little mention of Probation Trusts. This seems to put a big question mark over the value which Ministers place on the Probation Service and can only feed into existing mistrust of the Government's plans for the Service. Probation Trusts have engaged fully with the government in the rehabilitation revolution and the implementation of budget cuts and savings, only, it seems, to be dismissed, to make way for the multinationals.

We are told that the private sector will bring innovation, investment and new ways of working to the Probation Service. But it is the Service itself which leads the way in innovative cutting edge work with offenders, investment in staff and in research and professional development. This could all be lost to achieve the real aim of this consultation, which would appear to be driving down unit costs with no thought for the quality of services.

The private sector can only deliver efficiency by cutting staffing costs, whether pay, conditions or pensions. This inevitably leads to a fall in staff morale, commitment and the quality of new entrants. Ministers should be clear on these points before launching their privatisation proposals.

UNISON believes that instead of creating new layers of bureaucracy and fragmentation through regionalisation, mutualisation and competition, the Government should be focusing on how to unlock the potential of public sector Probation Trusts, and their public sector partners, to enable them to continue to provide quality services in an ever more challenging financial climate. In some respects the improved performance of Probation Trusts over the past years (recent MOJ performance data) despite further budget reductions, demonstrates that this is achievable.

UNISON argues that Government should be supporting greater freedoms for Trusts. This is to enable them to manage their own estates, facilities management and ICT services, so that they can and find savings and efficiencies themselves and not be constrained by NOMS and its rigid centralised bureaucracy. We believe that trusts should have the ability to hold reserves and carry forward monies from one year the next as other partners and indeed competitors are able to do. We support greater partnerships within the wider public sector family to co-commission and achieve economies of scale and believe, this is the real sustainable prize which will deliver safer communities. We support the need for local partners to be free to unlock the true potential of partnership and share the proceeds of any gains through reinvestment back into the local community. We support the absolute need to invest in the workforce and to maintain the high skill levels which is such a key feature and asset of the workforce. This investment takes many years of sustained commitment and simply cannot be delivered in 3 or 5 year private contracts. We note with increasing concern, the attempts of the private sector to recruit such
skilled persons for commercial gain despite the public investment that has gone into these individuals and despite the loss to the taxpayer of such departures.

UNISON remains deeply concerned that the possible outcome of this consultation will be a further eroding of the viability of probation trusts and a drive towards regionalisation and privatisation, which has long been the outcome favoured by NOMS. If this is the Government’s end-game it will have grave consequences for local accountability, for innovation and for mutual cooperation to deliver real positive gains. It will also, we fear, lead to the eventual demise of a public Probation Service.

In summary, UNISON’s alternative vision is for the following:

- Strengthened Probation Trusts given the powers and financial flexibilities to work more effectively with local public sector partners through co-operation rather than competition

- Commissioning, and public sector co-commissioning, of probation services to take place at the local level – based around local authority and police authority boundaries – with a presumption that public/public partnerships can deliver service improvements rather than crude outsourcing

- Commissioning to be based on principles of Best Value, rather than central diktat from NOMS, with Trusts and other public sector bodies free to manage their procurement without the unnecessary bureaucracy of an artificial purchaser/provider split

- Probation Trusts to re-establish a genuine democratic engagement with communities through the re-introduction of elected councillors, magistrates and judiciary on their Boards

- Additional capacity in community supervision to be developed between Probation Trusts and local authorities in line with our report ‘Primary Justice Reloaded’