

# Post-sentence supervision: A case study of the extension of community resettlement support for short sentence prisoners

**Matthew Cracknell** 

Middlesex University, UK

Probation Journal

2020, Vol. 67(4) 340–357

© The Author(s) 2020



Article reuse guidelines:

[sagepub.com/journals-permissions](https://sagepub.com/journals-permissions)

DOI: 10.1177/0264550520942834

[journals.sagepub.com/home/prb](https://journals.sagepub.com/home/prb)



## Abstract

Introduced under the *Transforming Rehabilitation* reforms, the Offender Rehabilitation Act 2014 created a period of post-sentence supervision (PSS) after licence for individuals serving short custodial sentences. This empirical study features on the ground views and perspectives of practitioners and service users of PSS in one case-study area. Findings from this research suggest a number of issues and ambiguities with the enactment of the sentence. These include ambiguities regarding the correct use of enforcement procedures; the antagonistic relationship between third sector and Community Rehabilitation Company staff, primarily centred around transferring cases and concerns over the use of ‘light touch’ supervision and uncertainties over what the rehabilitative aims of this sentence mean in practice. These issues led to practitioners questioning the legitimacy of the third sector organisation involved in the management of PSS, while service users experienced PSS as a frustrating ‘pass-the-parcel’ experience, where resettlement support was constantly stalled and restarted at each juncture of the sentence. Before briefly discussing the potential future of PSS under the next iteration of probation policy, this article concludes by arguing that there is emerging evidence of a commonality of failures occurring at every juncture of the short sentence, undermining resettlement prospects for the long-neglected short sentence population.

## Corresponding Author:

Matthew Cracknell, School of Law, Department of Criminology & Sociology, Middlesex University, The Burroughs, Hendon, Barnet, London NW4 4BT, UK.

Email: [m.cracknell@mdx.ac.uk](mailto:m.cracknell@mdx.ac.uk)

**Keywords**

resettlement, post-sentence supervision, privatisation, *Transforming Rehabilitation*, offender management

**Introduction**

A central part of the *Transforming Rehabilitation* (TR) reforms has involved the introduction of statutory post-release supervision for all prisoners serving a short prison sentence of under 12 months. Established in legislation under the Offender Rehabilitation Act (ORA) 2014, every individual released from prison from a short sentence now receives 12 months post-release supervision in the community (Ministry of Justice (MoJ), 2014). Prior to this, despite the complex needs and high reoffending rates of the short sentence population (National Audit Office, 2010; Stewart, 2008), these individuals did not receive any supervision or support from probation services following their release from prison and were released unconditionally at the halfway point of their sentence. Following their return to the community, individuals subject to a short sentence now serve a period on licence and then receive a 'top-up' supervision period, known as 'post-sentence supervision' (PSS).

PSS is distinguished from the licence period in three main ways. Firstly, PSS entails a different set of guidelines for enforcement practices. The licence period allows an automatic return to custody through the standard recall procedures, while the PSS period requires a return to court via breach proceedings (Sentencing Council, 2018). Secondly, Community Rehabilitation Companies (CRCs) have a variety of operating models for post-release supervision, these include a risk-led model that determines resources for service users according to risk; community hubs which provide a 'one stop shop' where service users can access multiple resources; specialist roles, where practitioners' caseloads have a specific resettlement focus, and a sub-contracted model, where a third sector organisation (TSO) are responsible for supervising PSS cases (Her Majesty's Inspectorate of Probation (HMIP), 2019: 20). PSS also has the expressed aim of 'rehabilitation' (National Offender Management Service (NOMS), 2014: 5) that policymakers developed for this sentence. In this regards, PSS also has different guidelines regarding supervision contact and individuals can be supervised with a 'light touch' (HMIP, 2019: 21). This article highlights that these unique features of the sentence have caused a considerable amount of ambiguity and concern towards how PSS operates.

Empirical research and academic commentary regarding the experiences of resettlement under TR has primarily focused on Through-the-Gate elements that concern the immediate transition between prison and the community, and not the more community-based element of PSS (see e.g. Burke et al., 2020; Maguire and Raynor, 2017; Millings et al., 2019; Moore and Hamilton, 2016; Taylor et al., 2017). Moore and Hamilton (2016) describe the 'silo mentalities' of prison practitioners operating within the reoffending pathways, which lead to insular working

practices regarding how the resettlement 'jigsaw' comes together. Taylor et al.'s (2017: 17) research outlines the multiple 'blockages, problems and weaknesses' of the Through-the-Gate model introduced under TR. The frantic pace of change of the reforms combined with under-resourcing and a wider penal crisis result in resettlement support becoming unrecognisable for prisoners and a box-ticking exercise for staff. Maguire and Raynor (2017) also paint a despondent picture of resettlement outcomes that fail to provide a meaningful level of continuity between prison and probation actors. This has led to Millings et al. (2019: 92) suggesting that mandating post-release support to an extra 45,000 people without the requisite resources or organisational support – '... has not only placed extra pressure on an already overwrought system but was only ever likely to enhance feelings of resentment and disconnection among those delivering services and those requiring them'. A subsequent Criminal Justice Joint Inspectorate (CJJI) thematic report on Through-the-Gate provisions (CJJI, 2016) further supports the above findings, highlighting a catalogue of failings. This includes ineffective and 'wholly inadequate' early screening of prisoner needs, which mean that prisoners are released without having immediate resettlement needs addressed. A lack of Through-the-Gate mentors also meant that prospects after release are poor for individuals serving short sentences.

In contrast, the post-release experience of the short sentence under the ORA 2014 legislation has not received the same level of focus as Through-the-Gate provisions, with a gap in knowledge regarding the role PSS plays in the resettlement process. However, a small amount of literature is available. Padfield (2016) holds concerns that the extension of post-release support could increase recalls to prison via the 'backdoor' (Padfield and Maruna, 2006) of technical non-compliance with licence conditions, while Tomczak (2015: 152) articulates concerns of the extension of 'the spatial and temporal reach of carceral power' of the ORA 2014. In a similar vein, Cracknell (2018) forewarns of the 'net widening' impacts of extending supervision to the short sentence population.

A report by the Probation Inspectorate on post-release supervision for short sentence prisoners (HMIP, 2019) underlines multiple concerns, including macro-issues such as universal credit, poor housing support and cuts to other resettlement services which meant that service users were not receiving the right support. This is further impacted by poor resettlement plans which are often limited to signposting and lack coordination. There is little evidence of the innovation promised under PSS and this portion of the sentence often involves reallocation to a new practitioner, harming continuity and a leading to a reduction in the level and intensity of support offered.

This article aims to provide an on the ground perspective into how PSS operates and is experienced in one CRC office. Combining the perspectives of CRC probation staff, TSO actors and the individuals subject to this element of the short sentence, this article hopes to develop our understanding of the role PSS plays in the resettlement process, highlighting a number of concerns and ambiguities regarding enforcement practices, the role of the third sector in PSS and 'light touch' supervision. Following the findings section of this article, a discussion section will briefly

attempt to outline the future of PSS as we enter into the next iteration of probation policy.

## Methods

The findings in this article are based on a doctoral thesis that has sought to provide an in-depth qualitative understanding of how resettlement is enacted and experienced by practitioners and individuals serving short sentences concerning the ORA 2014. This empirical research uses a case-study approach, encompassing a local Category B 'resettlement' prison and the corresponding CRC office in the community. A case-study design provides a time-bounded snapshot perspective of a new process or programme at a particular point in time (Creswell, 2013) and has been advocated by Robinson and Svensson (2013: 105) as a means to understanding change in the frequently fast-paced 'moving target' of probation practice. As this research is based on one case-study area, it does not seek to make wider claims or generalisations regarding PSS, however there are commonalities between the finding of the probation inspectorate (HMIP, 2019) and the case-study area.

Data for the thesis were gathered via a total of 35 semi-structured interviews. However, featured within this article are the views and perspectives of nine community-based practitioners including CRC and third sector practitioners who supervise individuals subject to PSS. Interviews with eight service users subject to PSS were also undertaken in order to provide an understanding into how this sentence was experienced. Before fieldwork took place, ethical approval for this thesis was firstly attained internally by the author's university ethics committee,<sup>1</sup> ethical approval was subsequently granted by the NOMS national research committee, and then access was negotiated through the relevant gatekeepers within the prison and CRC. All participants featured in this study have been given pseudonyms in order to protect their anonymity. Data were gathered in one CRC office during June–September 2018. These interviews highlight how the intended reforms of TR and the ORA 2014 operate in practice on the ground. Data were analysed via grounded theory, specifically utilising a three-stage iterative approach to data analysis: open, axial, and selective coding (Strauss, 1987). This allowed the data to be reviewed in a more thematic way.

## Findings

As outlined above, CRCs nationally had different post-release models of supervision and the CRC where fieldwork was undertaken for this article implemented a sub-contracted model. This model gives responsibility to a TSO for the supervision of PSS for all males aged 26–49 (unless there are outstanding court appearances). This model expands probation supervision to a new third sector actor, with the aim that these practitioners hold specialist skills and have local knowledge of resettlement services (Mythen et al., 2012). In practice, this means that once the licence period is completed the individual is transferred from a CRC officer to a new third sector practitioner, known as a responsible officer (RO). This process was experienced as

ambiguous by practitioners and service users in three main ways and explored in more depth below.

### *Ambiguity about purpose and use of enforcement procedures*

The first ambiguity concerned a wider understanding of what PSS entailed. Practitioners and service users seemed uncertain or in some circumstances unaware of PSS and how it differed from the licence period. This uncertainty was reflected in how PSS was communicated to service users, with staff frequently unable to articulate a clear connection between the two periods, or to convey a distinct aim or purpose to PSS. Reflecting this, one probation service officer (PSO) observed:

They don't understand the link between them [PSS and the licence period]. I don't think the service user actually knows what they are. If I said 'you're now on PSS', they'd say, 'what's that?'. (PSO)

This quote outlined wider staff misconceptions of PSS, who felt service users failed to understand that there were two distinct periods to the post-release elements of their sentence, and many did not recognise they were subject to PSS. This meant that service users and practitioners often failed to see a clear connection between the two post-release elements. Similar views were exhibited by those subject to it. For example, one service user, Imran, who had just transferred from his licence period to PSS, reported the following:

What's PSS? The post sentence thing? I don't know what PSS is for, I'm not sure really, it's all just probation to me, just a different name for the same s\*\*t. (Imran, Service User)

A further uncertainty that practitioners had regarding PSS concerned widespread confusion in relation to the enforcement actions that service users were subject to. Official guidelines stipulate that individuals subject to PSS have to abide by the same 'standard' licence conditions (MoJ, 2020),<sup>2</sup> the difference being that failure to comply with these conditions will not result in an automatic recall to custody, but a return to court via breach proceedings, where a Magistrate could implement a range of penalties, including a fixed-term period in custody (Sentencing Council, 2018). From a practitioner perspective, the distinction between PSS and the licence period was often unclear and this was typified by a widespread uncertainty regarding the use of the correct enforcement procedures. This confusion was emblematic of a wider struggle of practitioners to locate and categorise PSS into a definite classification and identity. Within this ambiguity it became labelled as a 'patchwork sentence', alternating between a quasi-Community Order and a pseudo-licence period, with no clear and definitive domain. This uncertainty could then transfer to a perspective from probation practitioners that PSS had insufficient 'penal bite' in comparison to the stricter licence conditions. A PSO outlined the consequences this had on the ground when supervising individuals:

They'll just say 'I can't be recalled', or 'I don't have to do that', they just see it as something that they don't have to engage with. I think that they know once the recall period is finished, that with the breach element of the order there are only certain things you can do, it's not that scary. (PSO)

Practitioners felt that the lack of teeth to PSS meant many individuals subject to it would fail to comply. This outlined a cynical perception of the service user population that PSS was something to reluctantly endure, rather than a valuable rehabilitative component that individuals would wish to actively engage with. It also indicated that because the sanctions involved with PSS were less onerous than the licence period, PSS was intrinsically less valued as a sentence and held less weight. The RO, whose role was to facilitate PSS, felt that the ambiguities that officers had of PSS caused incorrect information to be passed onto service users, creating difficulties for the RO to effectively engage with service users:

They'll tell service users they're not on their licence, but they are, it says PSS, but it's still part of their licence. They don't get it. They'll tell service users they're not on probation anymore when they hit PSS, but they are. (RO)

The views of the RO also further demonstrated the different interpretations and frequent misunderstandings practitioners had of PSS and the adjacent role it plays to the licence period. In this case, the RO seems to characterise the licence period and PSS as one singular sentence – with the same set of licence conditions – while other practitioners understood PSS as a separate, less valuable sentence with no recall powers. Both of these interpretations seem to have failed to fully understand the correct procedural processes of the sentence.

### *Ambiguity about allocation, transfer and communication between the CRC and the TSO*

The ambiguity towards PSS was also realised in the allocation and transfer of service users from a CRC officer to a RO once the licence period had elapsed. Again, this concerned issues with communication, although in this case, the communication difficulties were between CRC practitioners and the RO from the third sector. This was well highlighted by a partnership manager whose role was to manage the contract with the TSO responsible for PSS:

We have a big problem with transfer cases. Officers aren't recognising that people have gone onto PSS and so aren't transferring them over. We're continuing to manage a whole load of cases, that we're actually paying [the TSO] to manage. So we're doing extra work, while [the TSO] are getting paid to do nothing. (CRC Partnership Manager)

For many practitioners, a lack of understanding or awareness about PSS translated into difficulties on the ground and confusion over the correct management of

cases. In particular, practitioners expressed a wider ambiguity over the precise criteria and eligibility to transfer an individual to the TSO once they reached the PSS stage, with frequent misunderstandings regarding age criteria and the correct transfer process. The criteria for transfers was viewed as limiting and confusing and were also a catalyst for an antagonistic relationship between CRC practitioners and the RO, particularly as the RO was deemed by practitioners to be resistant to taking on cases, with many practitioners reporting difficulties in moving a case over once they had reached the PSS stage. In contrast, the lone RO for the case-study area articulated her perspective of the antagonistic relationship with CRC practitioners, outlining a vastly different viewpoint regarding transfers, offering her alternative perspective on this contentious issue and further supporting the reality of tensions between the two organisations:

There's been a few issues, especially because I was new here and they were used to the person before, where I am more like 'if they don't meet the criteria, it's not happening'. If OASys<sup>3</sup> isn't done, if the age isn't right, you keep them. (RO)

The antagonistic relationship between CRC and TSO practitioners was further reinforced through a lack of clarity regarding communication that occurred on the ground. Many practitioners in the case study CRC perceived that the lines of communication were often difficult and opaque. Highlighting this wider concern, a probation officer discussed the challenges this had on day-to-day practice:

It's just the one [TSO] person in the office, so we don't get any feedback. I don't think there's enough direct contact and we need more. If somebody isn't doing something they should be, or if one of my colleagues has an issue with me, then the management is here, but with [the TSO] it's not. (Probation Officer)

In the case-study area, there was only one RO who worked from the office 2 days a week and was solely responsible for all PSS cases in the area. The TSO also had no visible managerial presence on the ground and this exacerbated issues in regards to the ability to solve issues promptly face-to-face. This resulted in CRC practitioners' advocacy for the PSS model becoming measured on a highly individualised basis and according to individual experiences with the sole RO.

Practitioners also expressed frustrations regarding the process of handing over an individual once their licence period had been completed, particularly when they had already commenced a resettlement plan. A PSO illustrated this point by outlining her experiences of transferring a case to the RO once she had started to enact changes with the individual:

I'd been meeting with him for a few weeks, I did referrals for ETE [employment, training and education], I contacted the substance misuse team and then I was told the case is being transferred! You feel really like, 'I've just done a piece of work here and now someone else will take credit for it!' I'd made that initial contact with somebody and you've done a little bit of work. I do feel like 'oh no, I shouldn't have bothered!'. (PSO)

Other CRC practitioners also felt that moving an individual on to a new practitioner effectively limited their roles, severed any relational gains, and hampered continuity. In turn, this could harm the actualisation of a resettlement plan. Without being able to share in a tangible end-result, practitioners articulated a view that the existing PSS sub-contracting model encouraged a culture of ambivalence and detachment. A partnership manager further advanced these concerns and discussed the impact that the transfer process had on service users:

There's a big thing about building that relationship with the service user. It's actually not about just holding their case, but getting your teeth stuck into them for 12 months. Because if I was working with someone for 12 weeks and things were going well and I promised them X, Y and Z and they go to someone else and they are not as onto it, it could be quite damaging. (Partnership Manager)

In effect, the limited time practitioners had with service users discouraged them from taking a long-term approach, where a relationship could be developed and instead only provided space for a more distanced and superficial approach. Several service users also voiced an apprehension regarding the potential damage the sub-contracting model could do to the trust in their officer and the relational value of supervision. Luke, who had just commenced his PSS, outlined his perspectives of being transferred to a different officer:

I'm not seeing my probation officer anymore, you're just seeing some charity worker from [the TSO] so I won't tell them nothing, I'm not going to sit and talk to them, I'd rather see my own officer who knows me. (Luke, Service User)

The retreat away from an open and trusting relationship with the RO was emblematic in that some service users viewed the TSO staff as less valued than a qualified probation practitioner. Adding an additional service provider into the short sentence further undermined continuity and caused additional complexity and disruption to the resettlement of the individuals subject to this sentence. This is despite evidence regarding effective resettlement suggesting that having the service user assigned one single practitioner, that begins work pre-release and then supervises them in the community can potentially lead to better outcomes for developing a productive relationship and resettlement (Crow, 2006).

Within this framework, the resettlement process was constantly restarting at each juncture of the sentence. The service user was forced to start again each time they moved forward into the next stage of the sentence, as the poor communication between the different agencies hampered continuity and undermined the ideals of a seamless transition between these disparate elements of post-release supervision. Ben articulated his experiences as a service user of traversing through these different elements of the sentence:

They switch up your probation worker so often. You get a bit of trust and build up some rapport and then all of a sudden you've got a new probation worker, they don't know

anything about you, you got to build up that trust again. Some of these probation workers don't give a f\*\*k, it's easier for them to recall you. (Ben, Service User)

Many service users asserted a belief that they felt passed around between different practitioners, unable to build trust and make progress, with the resettlement process constantly stalled with each move and frustrations created through restarting resettlement plans and applications. The transition from licence to PSS should have indicated an individual's progress, as they moved beyond the official parameters of the prison sentence and into a different period of the short sentence which is ostensibly based on rehabilitation. However, the transfer process undermined the idea of PSS being a progressive move away from the licence. Instead, it became viewed as a frustrating experience of starting again, as service users felt like portable entities, with their unmet resettlement needs and the responsibility for them, passed onto a new practitioner.

Previous research by Robinson (2005: 310) captured these frustrations, albeit in a different context, during the move towards 'offender management'. This period created the conditions for casework to be displaced by case management. This model of practice was 'fragmented by design' and discouraged practitioners to think of individuals subject to probation as theirs, but should instead be viewed as portable entities, which are 'managed into appropriate resources' (Robinson, 2005: 310). Robinson places this instrumental change in practice, as part of 'a breakdown of the traditional relational model of offender supervision' (2005: 307) which led to a highly fragmented 'pass-the-parcel' style of practice (2005: 312). This offender management framework sought to divide service users according to risk, where the dwindling amount of professionally trained staff would focus on the higher risk individuals, leaving the lower risk individuals to be the recipients of the pass-the-parcel framework, often operated by practitioners with less skills and training (Robinson, 2005: 309). This research underlines the similarities between Robinson's (2005) findings and the current system of practice for resettlement. This research subsequently contends that TR has not only further entrenched 'pass-the-parcel' supervision into everyday practice, but also exacerbated its use by adding an additional actor into the existing framework.

Illustrating the realities of starting again at each juncture of the sentence, the RO faced particular challenges in supervising cases when they were passed onto her. These service users were transitioning to the third part of their sentence, which should mean that the role of RO was to consolidate resettlement work that had already been commenced. However, the on the ground reality did not conform to this:

When they're on licence, the main target of the probation officer is the OASys, which you have to do in 15 working days of release, everything else gets forgotten. Then it's on to PSS and we end up doing everything. Most of the time we start fresh with that service user and start from the beginning. Usually, the probation officer hasn't done any referrals, literally you do it all, it's like starting again. (RO)

The overriding targets that the CRC practitioners faced, such as completing the OASys, relegated the importance of more expansive resettlement work. This left ROs with the potentially daunting task of 'starting again' with the service user. In effect, this resulted in individuals subject to a short licence only beginning to undertake any resettlement work once they had commenced PSS, the last element of the short sentence. This could be several weeks or even months into an individual's release. By necessity, this also resulted in much of the work undertaken in PSS becoming very practical in nature and focused upon foundational issues that had not previously been addressed. One example the RO gave of this involved seeing a service user who had not received benefits and had no suitable ID, weeks after release from custody.

### *Concerns about the value of light touch supervision*

A significant contributing factor towards the disillusionment with PSS and the concerns regarding the practices of the TSO centred on a controversial feature of PSS called 'light touch' (HMIP, 2019: 21). Light touch involved a reduced intensity of support and supervision and caused consternation among numerous practitioners. A partnership manager outlined the ambiguity shared among staff concerning light touch supervision and the uncertainties practitioners had regarding what light touch entailed in practice:

The only thing that's different is its [PSS] labelled light touch, whatever that may mean. Light touch could mean they get seen less often, or they have telephone contact. But that has been happening more in [the TSO] than it was in the CRC. (Partnership Manager)

The partnership manager echoed the concerns of numerous practitioners who held considerable trepidations of the practices of light touch supervision and who felt that it was the TSO primarily utilising this model of practice. These concerns were centred on ambiguities regarding how light touch operated in practice, and the different interpretations practitioners seemed to have of it. However, the RO refuted these CRC staff perspectives:

There is no light touch. Literally everything that we do, we shadow the CRC. All our targets are the same. We send all our referrals to the same places. We do case recording the same, we do OASys the same, there's no difference. When they say light touch there's not, it's exactly the same, but I just deal with the PSS stage. (RO)

The RO asserted that concerns with the light touch model of practice had been used unfairly by CRC practitioners to devalue and delegitimize the work of the TSO. However, practitioners were concerned that there were no clear guidelines concerning what light touch meant in practice and it appeared to have been interpreted in different ways. This led to one probation officer question how a light touch model of supervision could be utilised with a short sentence cohort who often had a range of multi-systemic issues that needed addressing:

I saw one guy this morning, he's on PSS, he's got no job, his benefits have been sanctioned, he's got no clothes, he's got no food. How light can one touch that? (Probation Officer)

Although practitioners held a belief that individuals serving short sentences required an intensive hands-on level of support, in reality the light touch model encouraged a more distant approach from practitioners and reduced the supervisory role of officers to signposting individuals to suitable agencies and then monitoring their engagement and progress. Signposting received wider criticisms from practitioners and a probation officer well captured how this signposting model worked on the ground:

Everyone said you're just going to see them for the first bit for their licence, then it'll go into the light touch and you'll be signposting them to all these other agencies and wonderful things that are going to be there and that hasn't materialised. I think the whole PSS thing hasn't really worked. (Probation Officer)

Echoing the concerns of other practitioners, the probation officer underscored how the rhetoric of the signposting model had failed to evolve into reality on the ground, with many pathway services either inadequate or non-existent. This fatal flaw seemingly undermined the ability to supervise individuals with a light touch and the promise of rehabilitative support from specialist practitioners. This article suggests that there was widespread apprehension from CRC practitioners regarding the efficacy of the TSO staff and their capability to produce any positive achievements that were unique from what was already readily available.

However, probation staff also recognised that TSO staff could also do very little with the limited resources available to them, as they faced the same barriers to service provisions. Officers recognised the issues with PSS were not purely based on a micro-level with individual concerns about practitioners, but that there were wider problems with available signposting services. In particular, macro-level austerity policies have significantly harmed the ability of pathway agencies to function properly (Walker et al., 2019). However, that both the CRC and the TSO had access to the same services raised wider concerns regarding the efficacy of the signposting model and the aims and purpose of PSS. Practitioners felt if the PSS model used was not able to facilitate its core role of aiding rehabilitation, then staff questioned its purpose. Sean, who was subject to PSS, provided a service user perspective of the realities of the signposting model and outlined his struggles with various aspects of his resettlement needs and the inability of TSO staff to help with this:

I personally don't think I've been helped. With housing, I just keep getting told the same thing, that their hands are tied and they can only do a certain amount. I'm not getting a lot from my Job Seekers, I'm trying to get work, I'm trying to view flats, but travel is expensive. At the moment I'm just staying on friend's floors, I'm not getting that help from anyone, really. (Sean, Service User)

The perceived failure of the RO to instil any meaningful change beyond what could already be achieved by the CRC, meant that service users felt stuck and unable to make progress in their resettlement. This further suggested a failure to articulate and shape the expansive and abstract aim of rehabilitation (NOMS, 2014) into a tangible and realisable goal.

The ambiguities of light touch subsequently led to Her Majesty's Prison and Probation Service (HMPPS) mandating that all service users would be seen a minimum of once a month (HMIP, 2018). This announcement had been made shortly before fieldwork took place. This frustrated several practitioners combined with concerns regarding poor signposting options caused uncertainty from one probation officer regarding what could be achieved with PSS and how service users would respond to this change:

A lot feel like 'I've done my time, why am I still coming here, what are we discussing?' especially if it's supposed to be light touch. Light touch used to be 6 weeks, 8 weeks, but now it has to be every month. Somebody who's done 4 weeks, so 2 weeks custody, 2 weeks licence, then its 50 weeks of coming here once a month, to do what? What do you do with them? It's just wasting their time. (Probation Officer)

The probation officer articulated a concern that was held by other staff that the 12-month supervision period was redundant and served little purpose for some service users. In particular, the minimum contact requirement was viewed as taking up valuable resources and staff time. The views of this practitioner indicate that administering PSS to all individuals on a short sentence, regardless of risk or need, becomes a catch-all, with no individualisation of suitable practice for service users not requiring that length of supervision. The move towards minimum contact times had also seemingly caused resentments with service users, positioning supervision as an unproductive use of time for both actors. Michael captured these service user frustrations and provided an overview of what light touch supervision entailed:

About ten minutes. 'Is everything alright?' 'Yeah', 'ok then'. They could just do supervision by text message, 'I hope you're doing this'. I'd rather do that then have to spend money to come down here. (Michael, Service User)

The very perfunctory nature of supervision encouraged under this model entailed a very cursory check-in and seemingly provided no rehabilitative value, serving no real purpose and wasted the time of supervisor and supervisee. Although practitioners largely understood light touch within the lens of frequency of appointments, in practice light touch also translated to the intensity and level of engagement of supervision. Dominey (2019: 283) refers to this as a 'thin' model of supervision, which is primarily superficial and administrative. Concurring with this pessimistic outlook of PSS, a probation officer questioned the purpose of PSS, noting the disconnect between the policy rhetoric and the reality on the ground:

I think the idea was lovely and when you read it, you think yes, people aren't going to come out and be left on their own and get so much extra support. Well, they don't. What they get is the misery of coming to probation for a year! With no extra, no plus side to it. (Probation Officer)

The overriding purpose of PSS was to extend support to a previously neglected service user group, however, this extension came with a commitment of enhanced rehabilitative support. Practitioners widely felt that this reciprocal accord had not been followed through, leaving service users with additional oversight and responsibilities, but without meaningful help with their resettlement needs. In the absence of achieving any meaningful objective, a partnership manager held a cynical view that the motives of the TSO were primarily financial:

We're just managing people, it's almost just a numbers game, so the more people they get the more they are paid. (CRC Partnership Manager)

### *Post-sentence supervision and third sector legitimacy*

The ambiguities that resulted from the use of the sub-contracted model utilised in the case study CRC suggests a failure for the two principal actors responsible for the post-release elements of the short sentence to form a collective professional 'brand' or identity.<sup>4</sup> Instead, there was an antagonistic relationship on the ground between CRC and TSO practitioners. This indicated a failure to form a collective set of goals that encompassed the licence and PSS periods to complement each other and provide a cohesiveness to resettlement. Instead, these elements were viewed by practitioners as two disparate and disconnected entities. This further suggests a sense of fragmentation occurring between CRC and third sector staff. Fragmentation has been outlined as a core issue in contemporary practice concerning TR (see e.g. Deering and Feilzer, 2015; Dominey, 2016; Robinson et al., 2016). However, this fragmentation was primarily outlined as existing between the CRC and the NPS, fracturing probation into two distinct services. This research contends that fragmentation subsequently existed within the case study CRC, occurring internally between the CRC and the TSO.

These findings also expand our understanding of how legitimacy operates under TR. Previous literature regarding TR outlined emerging cultural differences between CRC and NPS practitioners, that contributed towards a perception that the CRC inhabited a second class status (see e.g. Clare, 2015; Kirton and Guillaume, 2015). Findings from the case study CRC posit that the fragmentation and legitimacy concerns position TSO practitioners as a perceived 'third class' of offender management, operating at a level below those of CRC staff. In effect, CRC staff locate themselves and sustain their own legitimacy, by being more able and legitimate practitioners than the third sector staff. This indicates that TR has served to foster a culture of competitiveness between the various actors charged with offender management. This culture was mobilised by a marketised and privatised system of

practice, creating an environment where the two primary organisations charged with facilitating resettlement appeared to compete with each other for legitimacy, instead of forming a collective badge that worked together to facilitate resettlement.

## **Discussion: The future of PSS after the demise of TR**

This article has underlined some of the issues concerning PSS in one case-study area. These issues have been recognised as occurring on a wider scale (HMIP, 2019) and have subsequently been recognised as problematic at a government level, where a Justice Select Committee report (House of Commons Justice Committee, 2018) made three pertinent suggestions regarding how this sentence might be reformed.<sup>5</sup> These options included: a mirrored approach, which mirrors the length of the sentence in the community with the original prison sentence. This would mean a 3-month prison sentence would attract a 3-month period on licence in the community. The second alternative is a split approach. This offers a short sentence followed by a Community Order (a similar design to the original custody plus plan).<sup>6</sup> The third option is an assessment-based approach, which provides post-release supervision according to need determined by individual assessment. Although this final approach is more flexible, it is potentially open to the assessment becoming 'gamed' – meaning assessments could be altered according to service provisions and not service user need – or the need being unclear if the assessment is of poor quality.

Recent announcements regarding the demise of the TR model (MoJ, 2019) with the NPS taking responsibility for all offender management, results in a number of uncertainties regarding what – if any – role PSS should play in the next iteration of probation practice. Early indications of the next probation model from the latest draft targeting operating document (HMPPS, 2020a: 77) suggest that PSS will continue to be in effect for all individuals subject to a short sentence. However, some flexibility appears to have been built into its design, indicating a move towards the assessment-based approach mentioned above. In practice, this means 'cases will be managed according to their risk and need' (HMPPS, 2020a: 78) and individuals subject to PSS will be excluded from the monthly minimum contact requirement and can be supervised via telephone if approved by a line manager. This indicates that the light touch model of supervision will prevail. However, without further investment in partnership services that aid resettlement, then the rehabilitative aims of this sentence will not be realisable, until they are articulated into a more concrete and realisable form.

Furthermore, beyond the fundamental structure of PSS, the role of TSOs in the supervision of individuals on PSS needs to be considered. TR has expanded the role of TSOs into probation practice, with mixed success (Burke et al., 2020; Clinks, 2016, 2018; Corcoran et al., 2019; Maguire et al., 2019). The next probation model features a 'dynamic framework' meaning third sector partners will deliver additional 'resettlement and rehabilitation work' (HMPPS, 2020b).

However, it is unclear as yet, what role these organisations might play in wider supervisory practice and resettlement work, or if the sub-contracting model will

continue for PSS. However, research from this article suggests CRC practitioners question the legitimacy of these organisations and the perceived quality of their work. The next probation model will need to carefully consider what exact role TSOs play and how they work alongside individual practitioners to ensure fragmentation does not happen, particularly in light that this article contends that service users found transferring to PSS a stalled process.

## Conclusion

Ostensibly introduced as one of the centrepiece reforms encompassing *TR*, PSS was introduced as a means to provide resettlement support for the long-neglected short sentence cohort (MoJ, 2014). However, the reality captured in this case study demonstrated a very different picture. PSS was experienced as ambiguous by CRC staff and for service users subject to it, undermining its rehabilitative aims. These individuals did not articulate a clear link between the two post-release periods and often misunderstood or miscommunicated enforcement procedures. The transfer process between the licence and PSS was often confusing and severed any relational gains and was experienced as a 'pass-the-parcel' experience by service users. Light touch supervision was interpreted in different ways and was undermined by the lack of available pathway services. Combined, these ambiguities led to CRC staff to question the legitimacy of the third sector operator charged with supervising PSS cases.

The findings highlighted in this article have been gathered from the one case study CRC who used a specific sub-contracted model, therefore further research would be beneficial to explore how PSS operates in CRCs which have used alternative models. However, the failures of PSS explored in this article indicates the existence of a recurring set of issues at each juncture of the short sentence, encompassing prison, through to the community. A previous case-study research project (Burke et al., 2020; Millings et al., 2019; Taylor et al., 2017) based in a 'resettlement' prison, found a number of similar problems and barriers to those featured in this article. These included staff uncertainty regarding roles, difficulties of new TSOs securing a sense of legitimacy and insufficient resources to facilitate resettlement. These failures have meant that the support provided to individuals subject to a short sentence has often been unrecognisable. These collective failures demonstrate that a major reform designed to improve resettlement outcomes for 45,000 short sentence prisoners has been undermined, leaving a cohort who have faced a 'history of neglect' (Clancy et al., 2006: 2), to continue to receive insufficient resettlement support.

## Declaration of conflicting interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

## Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

**ORCID iD**

Matthew Cracknell  <https://orcid.org/0000-0001-9909-1173>

**Notes**

1. Approval received from The School of Law Ethics Committee at Middlesex University in March 2016.
2. These conditions are described as 'default' and not 'standard' as seen in licence conditions and are only applied where they are necessary and proportionate, although the presumption is that in the majority of cases all of the requirements will be applied (MoJ, 2020: 5). There are two further requirements that can be applied to PSS – drug appointment and drug testing requirements.
3. OASys – the offender assessment system – is used as a risk management and sentence planning tool for service users.
4. Annison et al.'s (2015) research on integrated offender management (IOM) discuss how the two disparate partners of IOM – police and probation – were able to work collectively and form a shared brand and professional identity. This collective brand was used to project a unified message, and also helped to foster and sustain a legitimate authority and a set of shared values.
5. These ideas were originally put forward by now-former HM Chief Inspector of Probation, Dame Glenys Stacey.
6. Custody Plus, introduced under the 2003 Criminal Justice Act, provided a 12-month community order following a short sentence. Custody Plus was indefinitely delayed in 2006 without ever being implemented (Cracknell, 2018, for more information; see: Raynor and Maguire, 2017).

**References**

- Annison H, Bradford B and Grant E (2015) Theorizing the role of 'the brand' in criminal justice: the case of integrated offender management. *Criminology and Criminal Justice* 15(4): 387–406.
- Burke L, Millings M, Taylor S, et al. (2020) Transforming rehabilitation, emotional labour and contract delivery: a case study of a voluntary sector provider in an English resettlement prison. *International Journal of Law, Crime and Justice* 61: 100387.
- Clancy A, Hudson K, Maguire M, et al. (2006) *Getting Out and Staying Out, Results of the Prisoner Resettlement Pathfinders*. Bristol: Policy Press.
- Clare R (2015) Maintaining professional practice: the role of the probation officer in community rehabilitation companies. *The Probation Journal* 62(1): 1–13.
- Clinks (2016) *Change and Challenge: The Voluntary Sector's Role in Transforming Rehabilitation*. London: Clinks.
- Clinks (2018) *Under Represented Under Pressure Under Resourced, The Voluntary Sector in Transforming Rehabilitation*. London: Clinks.
- Corcoran MS, Maguire M and Williams K (2019) Alice in wonderland: voluntary sector organisations' experiences of transforming rehabilitation. *Probation Journal* 66(1): 96–112.
- Cracknell M (2018) Post-release reforms for short prison sentences: re-legitimising and widening the net of punishment. *Probation Journal* 65(3): 302–315.

- Creswell JW (2013) *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*, 3rd ed. Los Angeles, CA: SAGE.
- Criminal Justice Joint Inspection (CJJI) (2016) *An Inspection of Through the Gate Resettlement Services for Short Sentence Prisoners*. London: HM Inspectorates of Probation and HM Inspectorates of Prisons.
- Crow I (2006) *Resettling Prisoners: A Review*. York: York Publishing.
- Deering J and Feilzer M (2015) *Privatising Probation: Is Transforming Rehabilitation the End of the Probation Ideal*. Bristol: Policy Press.
- Dominey J (2016) Fragmenting probation: recommendations from research. *Probation Journal* 63(2): 136–143.
- Dominey J (2019) Probation supervision as a network of relationships: aiming to be thick, not thin. *Probation Journal* 66(3): 283–302.
- HM Inspectorate of Probation (HMIP) (2018) Minimum contact position statement. Available at: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2018/06/HMI-probation-position-statement-Minimum-Contact-FINAL-internal-120618v-1.pdf> (accessed 3 April 2020).
- HM Inspectorate of Probation (HMIP) (2019) *Post-Release Supervision for Short-Term Prisoners: The Work Undertaken by Community Rehabilitation Companies*. Manchester: Her Majesty's Inspectorate of Probation.
- HM Prisons and Probation Service (HMPPS) (2020a) *A Draft Target Operating Model for the Future of Probation Services in England and Wales Probation Reform Programme*. London: HMPPS.
- HM Prisons and Probation Service (HMPPS) (2020b) *Update to the Draft Target Operating Model for Probation Services in England and Wales*. London: HMPPS.
- House of Commons Justice Committee (2018) *Transforming Rehabilitation Ninth Report of Session 2017–19*. HC482. London: Stationary Office.
- Kirton G and Guillaume C (2015) *Employment Relations and Working Conditions in Probation After Transforming Rehabilitation*. London: Queen Mary University of London.
- Maguire M and Raynor P (2017) Offender management in and after prison: the end of the 'end to end'? *Criminology and Criminal Justice* 17(2): 138–157.
- Maguire M, Williams K and Corcoran M (2019) 'Penal drift' and the voluntary sector. *The Howard Journal of Criminal Justice* 58(3): 430–449.
- Ministry of Justice (MoJ) (2014) *New Law Will See Support Extended to 50,000 More Prisoners*. London: Ministry of Justice. Available at: <https://www.gov.uk/government/news/new-law-will-see-support-extended-to-50000-more-prisoners> (accessed 3 April 2020).
- Ministry of Justice (MoJ) (2019) *Press Release: Justice Secretary Announces New Model for Probation*. London: Ministry of Justice. Available at: <https://www.gov.uk/government/news/justice-secretary-announces-new-model-for-probation> (accessed 3 April 2020).
- Ministry of Justice (MoJ) (2020) *Post sentence supervision requirements policy framework*. Available at: <https://www.gov.uk/government/publications/post-sentence-supervision-requirements-policy-framework> (accessed 3 April 2020).
- Millings M, Taylor S, Burke L, et al. (2019) Through the gate: the implementation, management and delivery of resettlement service provision for short-term prisoners. *Probation Journal* 66(1): 77–95.

- Moore R and Hamilton P (2016) 'Silo mentalities' and their impact on service delivery in prison-community transitions: a case study of resettlement provision at a male open prison. *The Howard Journal of Crime and Justice* 55(1–2): 111–130.
- Mythen G, Walklate S and Kemshall H. (2012) Decentralizing risk: the role of the voluntary and community sector in the management of offenders. *Journal of Criminology and Criminal Justice* 13(4): 363–379.
- National Audit Office (2010) *Managing Offenders on Short Custodial Sentences*. London: The Stationery Office.
- National Offender Management Service (NOMS) (2014) *Post-Sentence Supervision Requirements, PI-29-2014*. London: Ministry of Justice.
- Padfield N (2016) The magnitude of the offender rehabilitation and 'through the gate' resettlement revolution. *Criminal Law Review* 65: 99–115.
- Padfield N and Maruna S (2006) The revolving door at the prison gate: exploring the dramatic increase in recalls to prison. *Criminology and Criminal Justice* 6(3): 329–352.
- Robinson G (2005) What works in offender management? *The Howard Journal of Criminal Justice* 44(3): 307–318.
- Robinson G, Burke L and Millings M (2016) Criminal justice identities in transition: the case of devolved probation services in England and Wales. *British Journal of Criminology* 56(1): 161–178.
- Robinson G and Svensson K (2013) Practising offender supervision. In: McNeill F and Beyens K (eds), *Offender Supervision in Europe*. Basingstoke: Palgrave Macmillan, pp. 97–124.
- Sentencing Council (2018) Breach of post-sentence supervision. Available at: <https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/breach-of-post-sentence-supervision/> (accessed 3 April 2020).
- Stewart D (2008) *The Problems and Needs of Newly Sentenced Prisoners: Results from a National Survey*. London: Ministry of Justice.
- Strauss A (1987) *Qualitative Analysis for Social Scientists*. Cambridge: Cambridge University Press.
- Taylor S, Burke L, Millings M, et al. (2017) Transforming rehabilitation during a penal crisis: a case study of through the gate services in a resettlement prison in England and Wales. *European Journal of Probation* 9(2): 115–131.
- Tomczak P (2015) The voluntary sector and the mandatory statutory supervision requirement: expanding the carceral net. *British Journal of Criminology* 57(1): 152–171.
- Walker S, Annison J and Beckett S (2019) Transforming rehabilitation: the impact of austerity and privatisation on day-to-day cultures and working practices in 'probation'. *Probation Journal* 66(1): 113–130.