

Department for Work and Pensions

Research Report No 610

Delivering better housing and employment outcomes for offenders on probation

Nicholas Pleace and Jon Minton

A report of research carried out by The Centre for Housing Policy, The University of York on behalf of the Department for Work and Pensions

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Responsibility for any errors lies with the authors.

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Abbreviations and acronyms

Approved premises	Probation hostel
CLG	Communities and Local Government www.communities.gov.uk
DPA	Data Protection Act www.opsi.gov.uk/acts/acts1998/ukpga_19980029_en_1
DWP	Department for Work and Pensions www.dwp.gov.uk
ETE	Education, training and employment services
ICO	Information Commissioner's Office www.ico.gov.uk
LAA	Local Area Agreements www.communities.gov.uk/localgovernment/performanceframeworkpartnerships/localareaagreements/
LSC	Learning and Skills Council
LHA	Local Housing Allowance
LSP	Local Strategic Partnerships www.communities.gov.uk/localgovernment/performanceframeworkpartnerships/localstrategicpartnerships/
MoJ	Ministry of Justice www.justice.gov.uk/
MIAP	Managing Information Across Partners www.miap.gov.uk/

NOMS	National Offender Management Service http://www.justice.gov.uk/about/noms.htm
NI 143 and NI 144	National Indicators 143 and 144 www.communities.gov.uk/publications/localgovernment/finalnationalindicators
OASys	Offender Assessment System
Offender manager	Probation Officer
OLASS	Offender Learning and Skills Service http://olass.lsc.gov.uk/
PSA 16	Public Service Agreement 16

Summary

About the research

- The research was focused on the delivery of Public Service Agreement 16 (PSA 16) for offenders. There is research evidence that when offenders are in settled and suitable accommodation and are in paid work they are significantly less likely to reoffend and PSA 16 is designed to deliver better accommodation and employment outcomes. The research was particularly focused on understanding the extent to which information sharing, including the role of the data protection legislation, influenced the delivery of accommodation and employment outcomes. The research involved interviews and focus groups with 95 service providers in six probation areas and a national conference with 97 participants from central government and local agencies. Interviews and focus groups were also conducted with 37 offenders.
- The research was conducted by the Centre for Housing Policy at the University of York. The project was jointly funded by the Department for Work and Pensions (DWP) and the Department for Business Innovation and Skills (BIS). A steering group for the research included representatives from Ministry of Justice (MoJ), National Offender Management Service (NOMS), Communities and Local Government (CLG) and the Office of the Information Commissioner.

Information sharing for service delivery

- Information sharing is pivotal to the delivery of PSA 16 for offenders. The effectiveness of information sharing is highly dependent on trusted working relationships and is a part of good joint working.
- There was strong evidence of effective information sharing for the purposes of frontline service delivery. This information sharing was happening as part of established, successful, joint working arrangements and was governed by information sharing protocols that drew free and informed consent for information sharing from offenders. The most developed joint working with protocols was found in urban areas and it tended to involve probation and specialist providers of housing support and education and training services.

- Much of the information sharing that occurred involved the case-by-case sharing of working knowledge: a mixture of recorded information, perception and professional judgement. This working knowledge was shared between frontline staff working for different organisations via telephone conversations, meetings and written communication. Working knowledge was often more highly valued than formal records by frontline staff because it was both more focused on pertinent issues and nuanced.
- One implication of information sharing often happening on a case-by-case basis between frontline staff was that agencies were not routinely combining datasets. While the practice of sharing working knowledge about single cases was valuable in helping individual offenders, it meant that networked shared databases were not necessarily being developed to help with monitoring and evaluation.
- Highly organised information sharing between probation and specialist housing and employment services for offenders could exist alongside more variable information sharing with other agencies. Information sharing with Jobcentre Plus was well developed in some areas, but was less well developed in some others. Effective information sharing was most common in areas in which Jobcentre Plus had developed a specialist, offender focused, staff resource.
- There could be poor coordination and information sharing with prisons that were not within the area covered by a probation service as information sharing protocols were negotiated locally. Generally speaking, there was evidence that information sharing was less developed in some rural areas, in part because there were lower concentrations of offenders and fewer specialist services in these areas.
- Failures in information sharing could result from confusion around the legislation, but they also appeared to be a 'litmus test' for poor joint working, i.e. when information sharing failures were occurring it was generally in the context of poor joint working.

Managing information on criminal records to overcome barriers to employment and housing

- Landlords and employers were viewed as likely to 'bin' applications from someone they knew to be an offender. Disclosure management processes had been developed by probation and by some specialist agencies to counteract the tendency for offenders to be instantly rejected by employers and landlords. These processes built up working relationships with employers and landlords and provided trusted reassurances that offenders did not represent a risk. There was also an emphasis on providing information on offenders' positive achievements.

- There was strong evidence that disclosure management processes which built up trusted working relationships with employers and landlords had tangible positive impacts. Jobs and housing were being secured for offenders on probation using this approach.
- Disclosure management processes can be used, alongside making a good business case, to persuade employers and landlords to work with offenders. Making a good business case meant that the advantages of offenders as employees and as tenants were clearly explained, emphasising, for example, evidence of an individual's personal reliability, qualifications and work experience obtained. There was strong evidence of success in using this approach to encourage mainstream employers and landlords to work with offenders.

Performance monitoring

- Some issues existed in respect of the availability, extent and quality of data that were available for outcome monitoring. Much of the local sharing of information happened on a case-by-case basis between workers and professionals, rather than by combining datasets. This meant that networked shared databases were not necessarily being developed at local level, even in situations in which the use of data sharing protocols and free and informed consent processes was widespread.
- If richer data were to be required for monitoring performance in delivering housing and employment outcomes for offenders, it would be necessary to issue guidance on the data required, as it would not necessarily exist or be systematically recorded at local level. There were significant logistical barriers to longitudinal tracking of offenders once they left probation.

Access to housing

- Offenders on probation were often in suitable accommodation. This was because some offenders serving Community Orders had settled housing and some of those leaving prison could return to their previous homes. However, offenders tended to be at heightened risk of homelessness because they often had needs, characteristics and experiences that are known to have a mutually reinforcing relationship with homelessness, such as mental health problems, substance misuse issues and support needs.
- The responses to securing housing for offenders on probation in a context in which affordable housing was generally scarce were often highly flexible and imaginative. A key feature of the success of these responses was the ability to employ multiple routes when attempting to meet housing need.
- There was very heavy reliance on the private rented sector (PRS) to provide housing for offenders on probation, particularly in London, as well as in some rural areas. The PRS could deliver suitable housing very quickly, but the sector was limited in scale.

- There was strong evidence of success in the recruitment of PRS landlords. By using disclosure management processes, which carefully managed a minimal sharing of information on risk and provided reassurance that an offender would be a 'good tenant', probation and specialist housing support services had arranged successful housing outcomes in the private rented sector.
- Some forms of accommodation regarded as 'settled' under National Indicator (NI) 143 were not regarded as settled and sustainable by some service providers.

Access to employment

- The path to employment for offenders on probation may be long and complex, or it may be short. Some offenders were regarded as 'job ready', others were regarded as very far from being employable.
- Professionals reported that offenders often needed to develop low level 'soft skills', including 'learning how to learn', and the development of emotional literacy to allow an individual to better manage classroom environments, before progressing on to acquiring basic skills.
- There was strong evidence of success in recruiting mainstream employers to employ offenders on probation. This involved the use of disclosure management processes, which released carefully controlled minimal summary information on an offender's criminal record and the risk they represented within a trusted working relationship. This also involved sharing positive information about the distance an offender had 'travelled' (i.e. become more employable), their achievements and generally presenting a 'business case' to employers. Probation, specialist services and offender dedicated Jobcentre Plus staff had all secured work for offenders using this model.
- Professionals reported that there was a case for a more nuanced measure of 'distance travelled' towards employment for those instances in which an offender on probation has got a lot closer to being employable, even if they have not yet secured paid work. However, the statistical measurement of outcomes in areas such as acquisition of 'soft' skills is problematic.

Key recommendations

- Information sharing about offenders routinely occurs at the frontline level between organisations. However, there was evidence of failures of information sharing in some key areas. There is a case for considering the development of formal, accessible guidance for information sharing between prisons and probation, between probation and housing support services and between probation, specialist education and training services and Jobcentre Plus. Such guidance would need to be produced through cooperation at national level.

- The information sharing that does occur does not always produce detailed and consistent data that would enable more detailed outcome monitoring. There is a case for developing specific guidance on establishing a minimum outcome data set that would **enrich** the data available on housing and employment outcomes. This would again need to involve the key agencies at national level.
- Any development of guidance on information sharing needs to involve the Information Commissioner's Office (ICO).
- There is good practice in 'recruiting' mainstream landlords and employers to work with offenders on probation. Both jobs and housing for offenders are secured through this route. There is a case for developing specific, accessible guidance on how best to achieve this, as a criminal record is a major barrier to housing and employment.

1 Introduction

1.1 About the research

The research was commissioned to explore the extent to which information sharing issues were impeding or facilitating the **frontline** delivery of Public Service Agreement 16 (PSA 16) for adult offenders under probation supervision in England. Adult offenders are one of four socially excluded groups covered by PSA 16, which is designed to promote improved housing and employment outcomes¹. The two National Indicators (NI) with which the research was concerned were:

- **NI 143:** Offenders under probation supervision living in settled and suitable accommodation at the end of their order or licence (percentage of offenders under probation supervision in employment at the end of their order or licence).
- **NI 144:** Offenders under probation supervision in employment at the end of their order or licence (percentage of offenders under probation supervision in employment at the end of their order or licence).

The research included probation supervision of offenders who had left prison and those on Community Orders. Most of the staff interviewed were involved in the direct delivery of services or were middle managers. The research also explored the views and experiences of offenders as service users.

The research was highly focused on information sharing related to a specifically defined area of frontline service delivery; it was **not** a general exploration of information sharing issues in the criminal justice system. The research did not explore strategic information sharing at the level of central government departments.

The research had three core elements:

1. Fieldwork in six probation areas.
2. A national level conference.
3. A small number of national level strategic level interviews focused on the delivery of NI 143 and NI 144.

¹ www.cabinetoffice.gov.uk/media/cabinetoffice/social_exclusion_task_force/assets/psa/guidance_psa_indicators_032808.pdf

For the purposes of the analysis and to allow free and frank discussion of the issues, respondents and organisations were guaranteed anonymity. The six fieldwork areas were:

- London (London probation);
- Birmingham (West Midlands probation);
- Warwickshire (Warwickshire probation);
- Leeds (West Yorkshire probation);
- Manchester (Greater Manchester probation);
- Bristol (Somerset and Avon probation).

Within each area, focus groups, face-to-face interviews and telephone interviews were conducted with the representatives of the following types of agencies. One set of interviews and focus groups was focused on **housing outcomes** and the one set on **employment outcomes**. The frontline professionals and middle managers interviewed included:

- **Employment, training and education (ETE):**
 - Offender managers and other probation employed staff with a specific education, training or employment remit, including local and regional managers.
 - Specialist education and training providers working specifically with offenders (mainly from the Third Sector).
 - Offender Learning and Skills Services (OLASS) managers and service providers.
 - Basic Skills tutors working with offenders (and service managers), including college representatives.
 - Learning and Skills Council (LSC) staff with a specific remit focused on work with offenders.
 - Jobcentre Plus representatives from local offices, including personal advisors and district managers.
 - Jobcentre Plus Prison Advisors and specialist staff working with offenders in the community, including Progress2work and EBS advisors.
 - Information, Advice and Guidance (IAG) providers and managers.
- **Housing:**
 - Offender managers and other probation staff with a specific housing remit, including local and regional managers.
 - Specialist agencies providing housing support services to offenders at risk of homelessness, mainly from third sector agencies.
 - Social landlords (councils and housing associations).

- Housing advice service providers.
- Private sector landlords (PRS).

Ninety-five workers, professionals and managers participated in these discussions, interviews and focus groups. In addition, face-to-face interviews and focus groups were conducted with 37 offenders under probation supervision. These offenders were divided roughly equally between those who were on probation after a custodial sentence and those who were on a Community Order.

The national conference was held at the University of York in May 2009. This conference provided a national level opportunity for probation, ETE and housing services working with offenders to explore the delivery of PSA 16 and relevant information sharing issues. In total, 95 representatives from across England and Wales attended the conference; the results of the discussions at this conference are incorporated into this report.

The research was commissioned by the Department for Work and Pensions (DWP) and the Department for Business Innovation and Skills (BIS)². The research began in November 2008 and concluded in August 2009.

² This was the Department for Innovation, Universities and Skills (DIUS) at the point when the research was originally commissioned.

2 Sharing information about offenders between organisations

2.1 The need to share information

Without appropriate sharing of personal and/or sensitive information, frontline services cannot coordinate with one another properly, and effectiveness in delivering the Public Service Agreement 16 (PSA 16) targets of better housing and employment outcomes for offenders will be compromised³. If the reductions in reoffending associated with settled housing and employment are to be achieved⁴, there must be frontline coordination between offender managers, Jobcentre Plus, social landlords and a wide range of housing support, training and education providers⁵.

Sharing of information about offenders in the delivery of frontline services is essential for four main reasons:

1. delivery of the appropriate service mix to each offender;
2. risk management of offenders;

³ Hartfree, Y., Dearden, C. and Pound, E. (2008). *High hopes: Supporting ex-prisoners in their lives after prison*. DWP Research Report No. 509, London.

⁴ May, C., Sharma, N. and Stewart, D. (2008). *Factors Linked to Reoffending: A one year follow up of prisoners who took part in the Resettlement Surveys in 2001, 2003 and 2004*. London: Ministry of Justice. Penfold, C. et al. (forthcoming) *Homelessness prevention and meeting housing need for (ex) offenders: A guide to practice*. London: Communities and Local Government; NOMS Partnership Unit (2008).

⁵ H.M. Government (2006). *Information Sharing Vision Statement*, p.5.

3. avoidance of duplication and poor coordination of services; and
4. recording and assessing outcomes for each individual offender and providing good quality summary data on outcomes that can be fed into regional and national outcome monitoring of outcomes for all offenders.

An offender manager⁶ might assess an offender as homeless or lacking sufficient skills to secure employment. The offender manager must be able to make appropriate referrals to employment, training and education (ETE) and housing support services in such cases. To allow this referral process to work and to facilitate assessment, the housing and ETE services **may** need to know some information about offenders. The two key areas where information about offenders **may** need to be shared are in respect of the **risk** an offender might represent and whether an offender has any needs, characteristics and experiences that are **relevant** to service delivery, in that specific adjustments to a service mix will be required.

If information about offenders is not shared when it is appropriate to do so mistakes may occur. For example, offenders may be referred to the wrong services, resulting in poor outcomes, or unacceptable risks may be taken because an offender is inadvertently placed somewhere they should not be. At the very least, there can be needless replication of effort, as if agencies lack basic information, each one will need to undertake a full assessment of each offender (see below).

Jobcentre Plus programmes, such as the New Deal, have requirements in relation to job searching that need to be carefully coordinated with any ETE programmes an offender may be involved with. Jobcentre Plus may not know of the status of an offender because the Department for Work and Pensions (DWP) systems for recording offending are voluntary⁷, whereas if this information were automatically shared, Jobcentre Plus could be more able to respond to an offender's needs (see Section 2).

The recording of outcomes is essential to evaluating the delivery of National Indicator (NI) 143 and NI 144 for each individual offender under probation supervision. Sensitive data can have a role in outcome monitoring because the 'hardest to reach' offenders have a range of challenging support needs and/or have committed the most serious offences. Outcome data also inform strategic planning within Local Strategic Partnerships (LSPs) and allow Government to look at regional and national programme effectiveness.

2.2 Levels and types of information about offenders

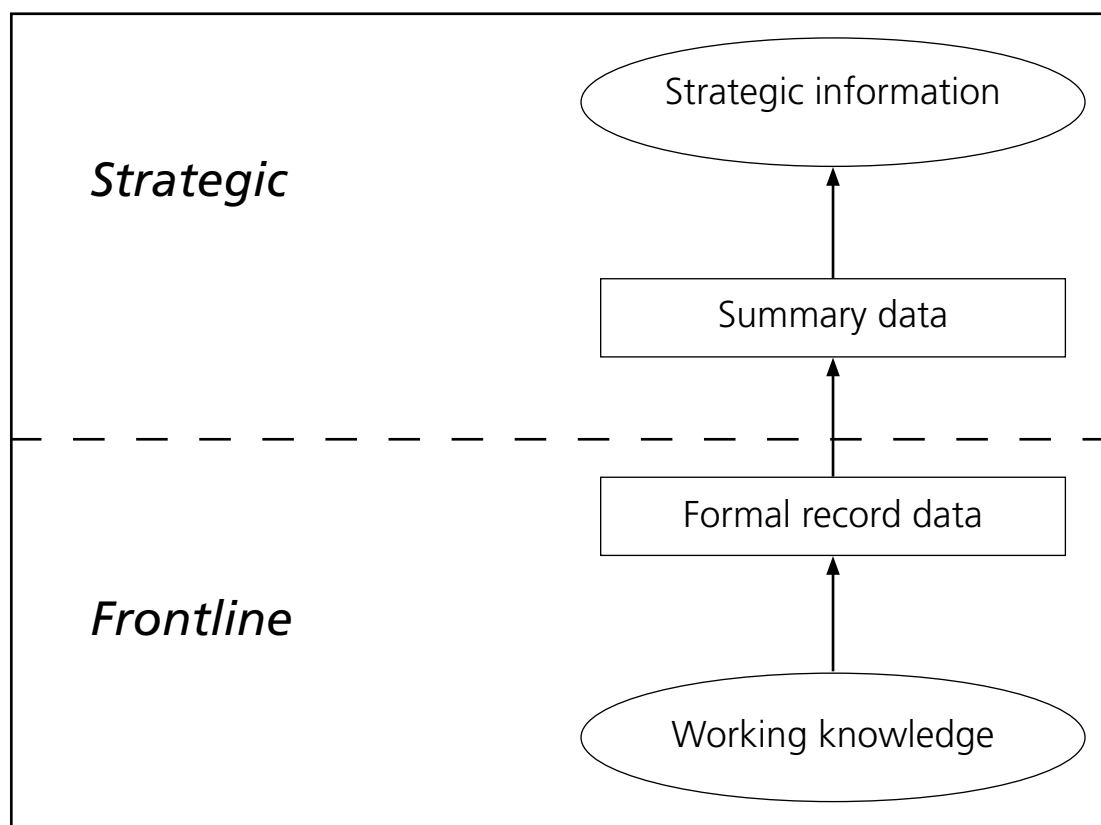
There are four levels at which information might be held about an offender. The first level is the mixture of **recorded information** from files and forms, opinions

⁶ That is a probation officer, the term Offender manager is used in this report.

⁷ Marshall, H. and Joyce, L. (2007). *Disadvantage Marker Study*. DWP Research Report No. 451, London.

and judgements that professionals hold in their heads as a result of working with an offender, which can be referred to as their **working knowledge**. The second level can be described as the **formal record data** held on an offender, i.e. the detailed written records and the databases of individual level data that several different organisations may hold. A good example of formal record data is the OASys⁸ form held on each offender by probation services, another example would be the data held on an individual offender by Jobcentre Plus. The next levels are **summary data** which is generated from formal record data recorded at frontline service delivery level, this may contain quite simple, but sensitive, details about an offender. In turn, these summary data are fed into **strategic information** (some of which may be aggregated and anonymised).

Figure 2.1 The different levels at which information about offenders is held



The sharing of information about offenders occurs at two levels (see Figure 2.1), for **frontline** and **strategic**:

⁸ Offender Assessment System (OASys) see Howard, P. *et al.* (2006). *An Evaluation of the Offender Assessment System (OASys) in three pilots 1999 – 2001*. London: Ministry of Justice.

- **Frontline** sharing of information about offenders allows services work jointly, i.e. to ensure that proper referrals are made, unacceptable risks are not taken and that frontline services know what they need to know about an offender to deliver an effective service.
- **Strategic** sharing of information about offenders involves understanding whether joint working is effective, monitoring of cost effectiveness and the delivery of policy objectives, i.e. **outcome monitoring**. In addition, data may be required for '**targeting**' of specific groups of individuals, i.e. actively looking for individuals who may benefit from specific service interventions or for **longitudinal monitoring** to determine, for example, whether 'immediate' successes in securing outcomes like employment and housing are sustained over the medium and long-term.

2.3 Sharing working knowledge and sharing formal record data between organisations

Information about offenders can be shared in two ways: The first is the sharing of **working knowledge** and the second is the sharing of **formal record data**.

- Sharing **working knowledge** involves professionals and workers sharing, for example, both the **recorded facts** about an offender and the **opinion** they have formed about an offender's temperament and their receptiveness to services. This sharing of working knowledge occurs between workers and professionals working for different organisations in face-to-face meetings, through telephone conversations, via email or via other forms of communication. This research found that this sharing generally occurred on a case-by-case basis and was confined to a small number of workers or professionals.
- The sharing of **formal record data** can involve transfer of sensitive data on a case-by-case basis, which was the most common practice found by this research, or through the use of networked relational databases that draw on a range of different organisations' formal record data⁹.

This research found that the sharing of information about offenders between organisations often uses both processes. Sharing might include transfer of some sensitive formal record data, for example one or two key fields from an OAsys database, but that it often depended, **primarily**, on sharing working knowledge (see ahead).

⁹ This was found to be uncommon for the purposes of frontline service delivery to offenders, though there are examples in the fields of homelessness and substance misuse service delivery, see Pleace, N. and Bretherton, J. (2006). *Sharing and matching local and national data on adults of working age facing multiple barriers to employment*. DWP Research Report No. 387, London.

Working knowledge is often complex and nuanced, a mix of the information that is **recorded** in formal record data coupled with professional **perception** and **interpretation**. The research found that the sharing of working knowledge tended to require a high degree of inter-organisational and interpersonal **trust**. This was because parties had to feel that their working knowledge was respected and to not be concerned that any information about offenders they disclosed would be abused or misunderstood. This information sharing tended to be focused and relevant, because it would occur within a trusted process that facilitated the asking and answering of direct questions. Shared working knowledge about offenders tended to have a **greater perceived value** than formal record data for these reasons.

Formal record data can also be used to convey vital information, such as the level of risk an individual presents, quickly and efficiently. However, the research found that formal record data also had some potential disadvantages from a frontline perspective, these centred on **focus, detail** and **comprehensibility**. Formal record data may not contain enough detail from which to make a judgement or the data may not answer a specific question, such as whether or not a given service would 'suit' an offender, something that a professional could sometimes answer more directly using their working knowledge. Formal record data might also be difficult to interpret, because they rely on a shorthand that trained professionals, like offender managers, understand, but which is not necessarily intelligible to others. A good example of this was the high/medium/low risk categorisations in OASys reports, which were ambiguous to someone unfamiliar with these data because they can refer to both frequency and severity.

These different ways in which information about offenders was shared have two implications which are central to understanding the arguments and the findings of this research report:

1. Sharing information about offenders is often an **informal** process of sharing **working knowledge** that happens within trusted working relationships between workers and professionals, it is **not** confined to the electronic sharing of sensitive formal record data.
2. Working knowledge about offenders is often viewed as more **useful** and **more highly valued** than sensitive case record data at frontline level, because it can offer a more focused, richer, more nuanced, more trusted and a more comprehensible source than formal record data.

2.4 Legislative compliance in sharing information about offenders between organisations

This research report does not constitute a working guide to the Data Protection Act (DPA). Any agency with questions about the sharing of personal or sensitive data should use the guidance produced by the Information Commissioner's Office (ICO) (www.ico.gov.uk).

The DPA regulates the collection and use of personal information and is intended to prevent unnecessary data collection and processing. The DPA applies to computerised and non-computerised information on individuals.

According to the 1998 Data Protection Act, personal information is any data that relates to a living individual who can be **identified** from those data. Information is also 'personal' if a 'data controller'¹⁰ either already has, or is likely to secure information that can be merged to identify an individual. For example, just having someone's name often cannot identify a specific individual, but once it is possible to match a specific name with a postcode, telephone number or National Insurance number, the information would become 'personal'.

Personal information also includes any expression of **opinion** about an individual and any indication of the intentions of an organisation holding data, or any other person, in respect of that individual¹¹. In other words, what a professional thinks about a service user and what they recommend in respect of that individual service user is personal data once it is recorded.

Sensitive information is defined in the 1998 DPA¹² in the following terms:

- racial or ethnic origin;
- political opinions;
- religious beliefs or other beliefs of a similar nature;
- membership of a trade union (within the meaning of the M1 Trade Union and Labour Relations (Consolidation) Act 1992);
- physical or mental health or conditions;
- sexual life;
- commission or alleged commission of any offence; or
- any proceedings for any offence committed or alleged to have been committed by the data subject, the disposal of such proceedings or the sentence of any court in such proceedings.

¹⁰ That is any organisation holding personal data.

¹¹ Data Protection Act (1998) PART 1 PRELIMINARY http://www.opsi.gov.uk/Acts/Acts1998/ukpga_19980029_en_1

¹² Data Protection Act (1998) SCHEDULE 3: Conditions relevant for purposes of the first principle: processing of sensitive personal data, see: http://www.opsi.gov.uk/Acts/Acts1998/ukpga_19980029_en_1

The DPA's principles apply equally to all sharing of data that is individually identifiable personal data (IIPD)¹³, but it can have allow differing standards of privacy and acceptability (see below). The DPA covers the sharing of both **formal case record data** and, on a practical basis, to the sharing of **working knowledge**, because that working knowledge will include some **information** and **opinion**, about an **identifiable** individual that has been recorded in accessible records. Information is not subject to the DPA if it is **anonymised**.

The sharing of information about an individual between two or more organisations for whom that individual is a current common case, i.e. when for an example an offender manager makes a referral to an ETE or housing provider, and makes a necessary disclosure of information about an offender, that sharing of information is subject to the DPA¹⁴ (see Table 2.1).

The DPA covers all sharing of individually identifiable information about offenders between organisations. There is no 'list' of which information about offenders can or cannot be shared between organisations within the legislation, the legislation **always** applies.

While the DPA applies in all cases it does **not** prohibit sharing of information about offenders between organisations. The widely held myth that the DPA is a simply an inflexible barrier has arisen for two understandable reasons. First, the legislation is complex. Second, there are some respects in which it is opaque, because the operational detail of various arrangements for sharing information have not been tested in the courts. Thomas and Walport note:

We have found that in the vast majority of cases, the law itself does not provide a barrier to the sharing of personal data. However, the complexity of the law, amplified by a plethora of guidance, leaves those who wish to share data in a fog of confusion¹⁵.

¹³ Technically, for the DPA to apply, such data need to contain fields of **information** that are defined in the act as either 'personal information' or 'sensitive personal information'. However, the vast majority of data about individuals contains at least one of these specified fields, and so the DPA should be assumed to apply.

¹⁴ Technically, the DPA only applies to those fields of recorded information defined either as 'personal information' or 'sensitive personal information' within the act, and not to all recorded fields of information stored about individuals as data. However, as most individual records contain at least one field defined within the act, in most cases it appears easier to act as though the entire individual record is subject to the act, rather than just specific fields.

¹⁵ Thomas, R. and Walport, M. (2008). *Data Sharing Review*. London: Ministry of Justice, p.12.

2.4.1 Proportionality, informed consent, transparency and vital interest

The guidance issued by the ICO makes it clear that if that the eight principles in the DPA¹⁶ are followed, the sharing of information about offenders between organisations can occur. Key considerations include proportionality, free and informed consent, transparency, vital interest¹⁷ and the presence of any statutory duty to share information.

Proportionality¹⁸ refers to an assessment of whether, on balance, the reasons for sharing information are justified, i.e. the potential benefits are clear and the risk of any harm resulting from information sharing has been minimised. Proportionality is not something that can be reduced to a set of universal rules, as whether or not information sharing is proportionate will depend on exactly what information is being shared, about whom and on what basis¹⁹. Thomas and Walport note:

*It is impossible to generalise about the sharing of personal information. In itself, the sharing of personal information is neither good nor bad; in some circumstances sharing information may cause harm, while in others, harm may flow from not doing so. Whether or not to share information must be considered in context and on a case-by-case basis.*²⁰ [emphasis added]

¹⁶ i.e. that personal data are 1) Fairly and lawfully processed 2) Processed for limited purposes 3) Adequate, relevant and not excessive 4) Accurate and up to date 5) Not kept for longer than is necessary 6) Processed in line with your rights 7) Secure and 8) Not transferred to other countries without adequate protection. The DPA also provides the right to find out what personal information is held about one on computer records and on most paper records.

¹⁷ Information Commissioner's Office (2007). *Fieldwork Code of Practice for Sharing Personal Information*. Wilmslow: ICO. Information Commissioner's Office (2007). *Sharing Personal Information: Our Approach*. Wilmslow, ICO. www.ico.gov.uk/

¹⁸ Thomas, R. and Walport, M. (2008). *Data Sharing Review*. London: Ministry of Justice.

¹⁹ The ICO have designed the Privacy Impact Assessment (PIA) to ensure information sharing extends only to what is necessary and that the individuals about whom the information is being shared (what ICO would term the data subjects) are, where reasonable and appropriate, aware of what is going on and have given free and informed consent. Information Commissioner's Office (2007). *Privacy Impact Assessment Handbook*. Wilmslow: ICO.

²⁰ Thomas, R. and Walport, M. (2008). *Data Sharing Review*. London: Ministry of Justice, p.13

Free and informed consent means that someone has had a clear explanation of specifically what information about them is being shared for what purpose and with whom. It is very important to note that if free and informed consent is obtained **all** the information specified in the consent **can be shared** in the **ways specified** between the organisations listed in the consent.

The ICO also emphasizes the importance of **transparency** in information sharing. Free and informed consent cannot be properly in place if it is not clear which data are being shared and how they are being processed and what the likely consequences are for the individual.

Sharing of personal information about offenders can occur **without** free and informed consent when there is a **vital interest** or a **statutory duty**. In circumstances in which it is not possible to obtain free and informed consent from the offender (for example, because of mental health problems), or in which unacceptable risks to community safety would arise, information may be shared because there is a vital interest. In the case of potentially dangerous offenders in Multi-Agency Public Protection Arrangements (MAPPA), for example, there is a vital interest and statutory duty to share information about offenders to protect community safety²¹.

The meaning of the term 'vital interests' is **not precisely defined** within the DPA. No cases have yet come before a court which could clarify what are and are not legitimate interpretations of the 'vital interests' condition. There is arguably some ambiguity regarding the circumstances in which the 'vital interests' condition applies²².

²¹ The MAPPA are designed for assessment and management of serious sexual and violent offenders who represent a potential risk to the community. Whether or not an offender enters MAPPA depends on the offence and sentence, though it is also determined by assessed risk. This research did not explore MAPPA in great detail because it was intended to explore all information sharing for all offenders on probation supervision in respect of PSA 16 and the bulk of offenders on probation are not within MAPPA arrangements. During 2007/08 50,210 MAPPA offenders were in the community, source: National Statistics for Multi-Agency Public Protection Arrangements Annual Reports 07/08. By contrast, on 31 December 2007 242,722 offenders were supervised by the probation service, source: Ministry of Justice.

²² Slightly different conditions are defined relating to 'vital interests' for 'personal information' and 'sensitive personal information', as stated in Schedule 2 and Schedule 3 of the Act respectively. It is a matter of sensible professional judgement about whether the vital interest of an individual, or the wider community, is served by sharing information and the specifics of each decision are likely to vary.

2.5 How organisations shared information about offenders

The fieldwork showed that sharing information about offenders involved a set of processes in which success centred on good joint working relationships. Three types of information sharing were found to be in existence in the areas visited (see Figure 2.2):

1. Highly formalised sharing of information about offenders governed by data sharing protocols, service level agreements and free and informed consent processes between closely integrated networks of services with strong working relationships and a shared culture. These systems incorporated the sharing of **working knowledge** and **formal record data**. These can be described as **joint working with protocols**.
2. Systems designed to manage the disclosure of information on offenders between **specialist agencies working with offenders** and mainstream employers, education and training providers, housing support providers and social and private sector landlords. These can be described as disclosure management processes which tended to be at their most developed within areas with **joint working with protocols**.
3. **Dysfunctional networks** existed in areas where data sharing protocols were not widely used and systems for sharing information about offenders were not formalised. Distrust and confusion could exist around sharing information about offenders and joint working was less developed.

Figure 2.2 Different forms of sharing information about offenders

Joint working with protocols	Disclosure management process	Dysfunctional networks
<ul style="list-style-type: none"> • Careful adherence to DPA. • Probation and specialist housing and education and training working with offenders. 	<ul style="list-style-type: none"> • Information sharing of working knowledge on risk. • Probation, specialist agencies and mainstream services, landlords and employers. 	<ul style="list-style-type: none"> • Lack of protocols, free and informed consent processes. • Sharing of sensitive data impaired or non-existent. • Duplication of effort, operational errors.

2.6 Joint working with protocols

Joint working with protocols involved probation and specialist providers that provided housing support, training, education and employer engagement focused largely or exclusively on offenders. A formal network may consist of the following groups:

- offender managers;
- offender managers with a specific employment or housing remit;
- probation employed staff with specific housing or employment engagement functions who were not offender managers (including Approved Premises²³ staff);
- in some, though not all, instances other elements of the criminal justice system, i.e. the Police and local prisons;
- third sector and other providers that specialised in working with offenders, alongside some key statutory agencies including:
 - homelessness, resettlement and tenancy sustainment services that focused largely or entirely on offenders;
 - providers of housing related floating support and supported accommodation working wholly or largely with offenders;
 - training and education providers, which could be third sector, but which were often specialist units or members of staff based within colleges and training centres (including Offender Learning and Skills Service (OLASS)²⁴ services);
 - employer engagement services that actively recruited potential employers by visiting them and encouraging them to employ offenders.

These formalised joint working arrangements with data sharing protocols had the following characteristics:

- the use of data sharing protocols and free and informed consent processes covering all sharing of information about offenders between organisation;
- a shared culture and professional understanding;
- the **widespread** sharing of **working knowledge** between professionals;
- only the **limited** sharing of **formal record data**;
- a tendency to encompass probation and **specialist** housing, education, training and employment services working with offenders with an **urban** area, but not extending beyond the city or authority boundaries and **not** always extending to mainstream agencies like Jobcentre Plus.

²³ That is Probation Hostels.

²⁴ OLASS, see: <http://olass.lsc.gov.uk/OLASS+A+Brief+Guide.htm>

Information flow for the purposes of assessment and referral was usually regarded as efficient and effective by respondents who were working within such arrangements. The operational norm was for a free and informed consent to be signed by offenders. However, processes to ensure sharing of information without consent because there was a vital interest or a statutory duty to do so appeared to be in place and to operate well.

Both offender managers and staff from specialist agencies working within these joint working with protocols arrangements tended to praise this way of working.

'Say an offender is released from custody and is homeless, they report here, we complete a referral form with them and also a confidentiality waiver form with them...regardless of what the offence is, whether it's arson, a history of violent offending, drug taking etcetera, that information is normally passed on to the accommodation providers. That's normally done and the offender is told that is going to happen...so they'll give their consent for that to be passed on...So in terms of when they take people on, they're aware of the offending behaviour history, they're aware of the potential risks.'

(Offender manager)

'We've got a protocol in place which clearly defines the referral routes into housing and the time frame as well, as it's important to get that early intervention...information sharing as well, what can be shared and what can't be shared and how we share that information...one of the key factors is that we are managing the risk as well and in order to manage that effectively we have to have information.'

(Specialist housing support provider)

Great emphasis was placed on the development of **trust** between organisations as being a prerequisite for effective information sharing.

'I think a lot of it is about the relationship that's been built up because a lot of providers will attend an offender forum that's chaired by a senior probation officer here, so that will be about bringing those providers together thrashing out the issues, about the protocols, about the understandings.'

(Specialist housing support provider)

'The provision of information is around relationship management isn't it? It's on the basis that they know you and you know them and there's that trust and confidence develops.'

(Offender manager)

Sometimes reaching the point at which joint working and information sharing had become properly developed had been an arduous and time consuming for the organisations involved.

'We had to negotiate hard as to what we would tell them and what we wouldn't tell them, and what sort of offenders who we would refer and who we wouldn't refer. But, it was that rather than, "we'll tell you everything about this person".'

(Offender manager)

Offender managers in one area reported that they had 27 data sharing protocols in place with various organisations. An offender manager in another area stated that it 'took three years' to establish a single data-sharing protocol between probation and a key provider.

'I don't think actually it's about the transfer of information though, that's not always the issue, I don't think, in terms of the blockages, I think it's just about how the organisations are run. I mean our work together, initially, it was a bit of butting of heads I suppose, which was about "our organisation works like this" and "our organisation works like this". And I think we came to a point where...well, there was compromise and understanding on both parts, and it was "well ok, in order to make this work we'll do this" and "we can do this" and it took a while for that to happen. But now it's great, thank God. I think because of willingness on both sides, in both organisations, to make it work, it did.'

(Specialist ETE service provider)

Offenders who were interviewed within these areas generally exhibited a high awareness of the DPA and their rights under the law. They understood the process of free and informed consent and that they had a right to see their records. Service providers, offender managers and offenders themselves all emphasized the importance of offenders having a clear idea why information was being shared, centred on how information sharing might benefit them. Trust of these formal processes by offenders was very high; they were very unlikely to report worries that their sensitive data were insecure or would be seen by unauthorised people.

'So when you come through there, you've got to sign something that allows them to discuss...you tick off 'doctors'...'probation'. You tick it off anyway, who you share it with. It doesn't say 'the public' like. If it's useful, it's alright.'

(Offender)

'I think if it happens [data sharing] within a good relationship, people don't seem to mind that, if they feel it's going to be of benefit, if that information is going to be shared.'

(Training provider)

Earlier research (conducted in 2005) with offenders who were not at that time engaged with joint working with protocols showed widespread apprehension, distrust, and ignorance of rights under the law²⁵. This also suggests that joint working with protocols provided systems for sharing information about offenders that offenders felt confident in using.

Joint working with protocols tended to be characterised by a high degree of shared **working knowledge** rather than necessarily by extensive sharing of **formal record data**. As noted above, **working knowledge** was often more useful, from a frontline perspective, because it could provide focused, nuanced and detailed information, unlike the standardised formal care record data.

Working arrangements used what might be termed 'shorthand' working knowledge rather formal records. A good example of this were exchanges around risk, where rather than the transfer of **any** formal record data on risk assessment, a process of sharing information about offenders had developed in which the **working knowledge** of an offender manager had become the main source of information.

'We actually started with a lot of information, about risk assessment and levels of risk, and it became clear after a while they did not really want or need that level of knowledge. What they needed was an assurance from us about who we were giving them.'

(Offender manager)

This sharing of working knowledge had another characteristic. Much of the exchange of information about offenders that occurred happened on a **case-by-case** basis.

2.7 The limits of joint working with protocols

Joint working with protocols had four logistical limitations which can be summarised as follows:

- Joint working with protocols required a **critical mass** of specialist ETE, housing and offender management services for there to be a sufficient operational incentive to develop protocols and free and informed consent processes, which meant that joint working with protocols was **confined** to 'service rich' environments in the major cities.

²⁵ Pleace, N. and Bretherton, J. (2006). *Sharing and matching local and national data on adults of working age facing multiple barriers to employment*. DWP Research Report No. 387, London.

- They required resources to establish and maintain, which meant reliance on top-slicing from other budgets, drawing on short-term piloting funds and drawing on time limited funding sources that could be used flexibly was widespread, particularly European Social Fund (ESF)²⁶ funding.
- The presence of a formal network did **not** guarantee good quality sharing of sensitive data for all operational purposes in an area, the networks were 'enclosed' systems of probation and offender-dedicated or focused specialist agencies. When key agencies and organisations were outside these networks, either because they were geographically distant or there were problems in establishing protocols, sharing of sensitive and personal data could be **poor**. This was a particular issue in relation to inconsistent relationships with **Jobcentre Plus** and **prisons**, particularly when those prisons were in different administrative areas.
- The quality and nature of sensitive and personal information sharing within joint working with protocols could be very different to what is understood as 'information sharing' at strategic level.

2.7.1 Jobcentre Plus and joint working with protocols

In some areas, there were information sharing protocols that included Jobcentre Plus. These arrangements appeared to be at their most developed when Jobcentre Plus had established dedicated resources for meeting the needs of offenders, creating a pool of Jobcentre Plus staff that was, in effect, a group of specialists in working with offenders.

'...increasingly we've found that it has become better...probation and the Jobcentre Plus have developed a good working relationship both nationally and locally...as far as my experience is concerned it's working well...I mean if you try to do it from Westminster it's difficult, but if you do it locally it's different, it works...you strike a deal, have a service level agreement and it works.'

(Offender manager)

'...probation also tell us if there are restrictions on someone's employment. So we would then set up on our system, we would know, not the offence, but where there are restrictions in where they can work.'

(Jobcentre Plus staff member)

However, Jobcentre Plus was not always a part of the existing protocols in some areas. In these cases, information was not always shared with the utmost confidence that the legislative framework was being respected, or was fully understood. A need to develop protocols and better joint working was reported by both Jobcentre Plus and by probation in these areas.

²⁶ ESF, see: <http://www.esf.gov.uk/>

'...the communication channels, as we all know, need to be a lot deeper and a lot clearer and a lot more consistent I think. So, we've now established a probation champion in each Jobcentre in X...and what that entails is for an advisor or a Jobcentre member of staff to have a link with a probation worker, it's generally a Skills for Work Officer, and then if there's any queries or questions we've established that sort of conduit so we can get information, non-specific information, it's never a particular case, it's always a hypothetical anonymous person, so that's been set up.'

(Jobcentre Plus staff member)

'We are working at establishing consistent liaison at local level. It happens for certain high risk cases, we are required to provide information to Jobcentre Plus and I think we probably do that reasonably well, on that very small number of cases. But I don't think, as a matter of routine, we either encourage or enable people we are working with to disclose their status to Jobcentre Plus and that then has consequences for some of the training and other options that could be open to them.'

(Offender manager)

A familiar picture, of agencies thinking they were unable to share data, coupled with front line and middle management bewilderment about the legislative framework, emerged in those areas where Jobcentre Plus was not a part of joint working with protocols²⁷. Poor data sharing was, in all instances, coupled with troubled or tense working relationships between probation, specialist agencies working with offenders and Jobcentre Plus.

'We can't work with Jobcentre Plus because of data protection, it's madness, you've got the link between custody, probation and the Learning and Skills Council LSC, but we haven't got the crucial link with Jobcentre Plus.'

(Offender manager)

Jobcentre Plus was also reported as not being able to always determine the status of offenders because its recording systems (the Disadvantage Marker²⁸) were voluntary, which, coupled with a lack of information transfer more generally, meant that sometimes offenders didn't receive the most effective service.

²⁷ Pleace, N. and Bretherton, J. (2006). *Sharing and matching local and national data on adults of working age facing multiple barriers to employment*. DWP Research Report No. 387, London.

²⁸ Marshall, H. and Joyce, L. (2007). *Disadvantage Marker Study*. DWP Research Report No. 451, London.

'[on disclosing status as an offender to Jobcentre Plus] but of course that is voluntary and it relates to information on our Labour Market System now if we wanted to share that information, any of that sort of stuff, wider, I think we would need to have a sort of separate document signed by the person to allow that.'

(Jobcentre Plus staff member)

The biggest problem is still that Jobcentre Plus don't necessarily know they are offenders...so what information they could share would be pretty inaccurate anyway.'

(Offender manager)

There were examples of New Deal requirements clashing with ETE programmes arranged via probation and specialist ETE services for offenders which appeared to result from poor information sharing, itself related to poor coordination.

'...you have to shape a lot of the delivery of courses around conditions regarding their benefit, I think sometimes that's quite unfortunate, as you could do a course, a more intensive course, in a shorter space of time, but because of restrictions...and it also means that they can't go into other groups that are maybe full-time.'

(Education provider)

2.7.2 Prisons and joint working with protocols

In some cases **local** prisons were within local joint working with protocols and information sharing appeared to function well. However, the situation appeared to vary on a prison-by-prison basis, rather than there being a developed set of information sharing protocols with, for example, three prisons in an area, there might be a good working relationship with one, but not with the others. There were some areas in which information sharing with prisons was, generally, seen as poor.

In terms of information sharing, the situation is much harder if it is between prison and the community services. My experience has been that you have a lot of difficulty transferring information from prison to probation. It's not supposed to be but that is the reality. But within the community itself...we would have specific service level agreements, information sharing protocols, it's easier to share information and in terms of IAG²⁹ itself, we ask them to deliver in the probation offices, so the information is there for them.

(Offender manager)

'...we have a hell of a problem getting information on guys in custody coming back into the community.'

(Offender manager)

²⁹ An acronym for 'Information, Advice and Guidance'.

We take a fair number of referrals directly from prison and the communication is really quite difficult...the timing of having a definite release date and being able to put your accommodation in place. And more often than not they will come into some sort of emergency accommodation and that's the high risk time.'

(Housing provider)

An additional problem was identified in the major cities, which was information transfer on offenders returning to a city from a prison in another area was often poor. This appeared to be a particular problem within London, although it was also mentioned by agencies within Birmingham.

'It is our vulnerable area isn't it? Where people come from external areas from prisons where they're not always as free with information that we may be locally.'

(Offender manager)

2.8 Disclosure management processes

2.8.1 Information disclosure as a barrier to housing and employment

When employers, landlords, colleges or training providers directly asked if someone had a criminal record, or required a Criminal Records Bureau (CRB) check, there was no professional moderation of how that information was interpreted. There was a widespread consensus among offender managers, specialist service providers and offenders themselves that unless disclosure of criminal records were carefully managed, one of three outcomes was **highly** likely:

1. A refusal to engage with any known offender on any basis, even without knowledge of specific offences. Applications for jobs, tenancies, training and education places would be 'binned'.
2. Misinterpretation of the risk an offender represented, generally, an **exaggeration** of the risk which again led to a flat refusal to engage with an offender.
3. Little or no allowance for any 'distance travelled' by an offender because no information on the positive aspects of an individual was available.

'Generally, in my experience of what I've seen, people that have a criminal record the only way that I've seen them get a job is if they don't disclose their criminal record.'

(Offender)

'We don't have an issue with exclusions per se, we do have an issue with exclusions without justification. An example is a particular housing association that provides services to the elderly, over fifties, excludes anyone with a conviction...any sort of conviction.'

(Offender manager)

'People become their criminal record. They lose their own identity as a person and become this criminal record. And that's what you're trying to get into work and that's the brick wall with the employers.'

(Education provider)

Some agencies and organisations that were theoretically prepared to work with offenders were seen as making inappropriate decisions because they did not know how to 'read' the detail of criminal record or interpret risk assessments. Offender managers and specialist agencies saw this as a resulting from a lack of professional understanding of criminal record and associated risks.

'...with individuals that are not trained to understand the information, there is a risk of misinterpretation...in regard to the OASys information, because that's the basis of the risk assessment tool...we find that when we do share it with providers, even the professionals within Housing Options centres, very often they need training.'

(Offender manager)

'We have to explain and train them in what that means, because we can't just give someone the data, they have to know what it is they are receiving. So we about twice a year train providers on two things. One is an introduction to the criminal justice system, because a lot of them know about that and two is about risk management, what risk means, so I say to someone, "this guy is high risk", this is actually what I mean.'

(Offender manager)

2.8.2 Disclosure management processes for 'recruitment'

Probation services and specialist agencies working with offenders had reacted to the extensive evidence that mainstream agencies, employers and landlords would not work with offenders by seeking to manage disclosure. This management of disclosure worked on two levels, the first was to ensure that a history of offending was disclosed in such a way to minimise the chances that an employer, landlord, college or other mainstream agency would simply reject working with an offender. This centred on presenting the information on a history of offending in a context, for example by emphasising more positive aspects, such as the 'distance travelled'³⁰ by an offender.

³⁰ That is their positive achievements, this was expressed as 'distance travelled' from the point at which they had been convicted, it referred to training, voluntary work, acquiring basic skills and generally good and positive behaviour.

The second level was to ensure that information on the risk an offender presented was properly understood, with a particular concern being on the low risk represented by many offenders. To this end, probation services and specialist service providers working with offenders sought to develop working relationships with various agencies:

- private sector landlords (PRS);
- social rented sector landlords (housing associations and councils);
- further education colleges;
- training providers;
- small and medium size enterprises (as employers);
- major corporations (as employers and offering work-related activity).

Sharing information on risk was a prerequisite to developing these working relationships, because the 'recruitment' could often not happen unless these organisations (or individuals in the case of some small businesses and private sector landlords) felt 'reassured' about who it was they were taking on when they agreed to work with an offender.

The release of information on criminal records and risk generally involved the **minimal** sharing of **working knowledge**, i.e. professional judgements and recommendations about particular offenders, rather than formal records. This necessitated the development of a trusted working relationship between a mainstream organisation and offender managers or specialist offender-focused services. Again, the central importance of working relationships, shared understanding and trust was apparent from the research findings.

A relationship would be developed that an employer, landlord, college or other mainstream agency trusted, this trust would be sufficient to mean that when information about offenders was disclosed based on **working knowledge** of an offender, it was **very limited**. A mainstream agency would, in effect, trust the word of an offender manager or specialist service provider that a given individual had a criminal record, but represented an acceptable risk. Very often no other data would be disclosed (in all instances the offender was informed and consented to their criminal record and a summary risk assessment being shared). Disclosure of the nature of offences or any material from a formal risk assessment did not occur under these managed disclosure processes and no formal record data were shared.

'We almost don't need the information. We have to trust probation... we have to trust them as colleagues...we have to trust our professional colleagues because we are not in a position to judge if someone should be with us or not.'

(Training provider)

'As a provider, I don't always know why they are there, but I know a risk assessment has been carried out. So I know they are going to be suitable for the group.'

(Education provider)

'Well, they [private sector landlords] know that their prospective tenant is an ex-offender, that's all they pretty much know, sometimes they persist and say they don't want to know what the offence is, but they want to know what the offence isn't, so they'll say we don't want somebody who is a sex offender or an arsonist or a high risk violent offender, but beyond that we cannot give any direct, concrete information.'

(Specialist housing support provider)

Part of the work that had been done with the 'recruited and reassured' organisations and agencies had been to ensure that the risk of housing or employing an offender was **recast**, or represented, using the criteria for risk assessment that, for example, a social landlord employed. In other words, offender managers changed their risk assessment into a language that a social landlord, college, employer or private sector landlord **understood**.

Offender managers understood that this trust could be something that took a long time to develop, but which could be lost quickly if there was any serious problem. This meant considerable care had to be taken with referrals of offenders to employers, landlords, colleges and training providers.

Disclosure management processes were not confined to areas with joint working with protocols. However, they did appear to be more commonly used and more extensively developed in those areas with joint working with protocols.

2.9 Issues for outcome monitoring

The information sharing at local level did not tend to generate shared networked databases of formal case record data. Organisations were most often sharing working knowledge between professionals, which while it drew upon formal record data, was not the same as networking databases of formal records together.

The distinction is perhaps quite subtle, but important. Personal and sensitive data from formal record data were being shared, but they were being shared as a **part** of the case-by-case sharing of working knowledge by professionals and workers. Data sharing, therefore, happened but it happened most often on a case-by-case basis and not through the merging of datasets. Of course, in a very real sense the data merging **was** occurring, recorded information from accessible records was being shared and combined, but it happened in the telephone conversations, email exchanges³¹ and meetings that workers had with one another about individual

³¹ Probation services would only share information via email if it were possible for an agency to have an Government Secure Intranet (gsi) email address.

cases. Similarly, when personal and sensitive data were shared with mainstream agencies through disclosure management processes, this also happened on a case-by-case basis.

Networked databases of formal record data were not always directly 'useful', from a frontline or disclosure management process perspective. This was because if an organisation wanted to know about an offender, they knew who to contact in another organisation to get that information.

Of course, the exchange of formal record data occurred within joint working with protocols. Specialist agencies reported back to offender managers on outcomes and pieces of information from databases were shared.

'All of the providers that we do work with we have a weekly return form. And we can sort of say 'this is something intrinsic we need to get back from you'...all that information is collated, and, it's produced in a report for the LSC³².'

(Education service commissioner)

However, in disclosure management processes the flows of information tended to be **one way**. The offender manager or specialist agency had carefully released very limited information with an offenders consent to **reassure** a mainstream employer, landlord or other service.

Once an offender moved into mainstream education, training, housing or employment, outcome monitoring began to be problematic. Mainstream and organisations did not perceive themselves as working with enough offenders to create any organisational interest in the specific tracking of outcomes for offenders.

Two tensions were also identified: The first was the tension between an offender being able to 'move on' from their offence and 'flagging' (or 'tagging') someone as an offender throughout their lives, which would, it was widely thought, subject them to lifelong disadvantage. The second was that if outcome monitoring data were sought, it would undermine the 'business case' for working with offenders that was seen as a crucial part of engaging mainstream landlords or employers. If offenders were seen as requiring additional administrative work in the form of providing outcome data, that was a disincentive from a business case perspective (see Chapters 3 and 4).

'In terms of actually tracking people who actually go on to work placements or go on to employment...the HR Director at [major corporation] does not have the time, the capacity or the ability to be able to do that. And nor would we necessarily want it, because at the end of the day when we engage with employers, we are not asking the employers to do any favours.'

(Offender manager)

'The difficulty is, once the individual in effect moves into the system, i.e. is a "learner"...particularly if they get referred on to another provider that isn't aware of the requirement to tag the individual on the Individual Learner Record³³. But in some respects that's a good aspiration to move towards, because then the individual is being treated as a Learner...he's getting the full range of 'learning offer' that's available in the community, and isn't being 'tagged'.'

(Education provider)

These various factors can be summarised as follows.

- The sharing of sensitive and personal recorded information that did occur as part of joint working with protocols was a part of the person-to-person sharing of working knowledge between professionals on a case-by-case basis, it did not involve the computerised networking of various sets of formal case data. This was largely because working knowledge, which was focused, nuanced and specific was more useful for frontline services than simply combining recorded information.
- The information sharing with mainstream employers, landlords and organisations about offenders was often through disclosure management processes centred **one way traffic** of very limited information based on **working knowledge**. An employer or landlord would be (literally) told, on a case-by-case basis, that it was 'safe' to work with an offender.
- Mainstream agencies could have little interest in monitoring what happened to offenders as a group, which meant they had little incentive to provide feedback data. Asking these agencies to provide feedback and outcome data was seen as undermining the 'business case' for them engaging with offenders.
- There were concerns that offenders could not 'move on' from their past behaviour if they were 'tagged' in the records held by mainstream organisations.

These findings have implications for outcome monitoring as formal record data, the source of summary data for outcome monitoring (see Table 2.1), were **not** being shared on a wide scale. In other words, the 'information sharing' at local level did not **automatically** generate the data that would be useful for outcome monitoring at regional and national level. In addition, the collection of outcome monitoring data from mainstream agencies was seen as creating possible disadvantage for offenders, if they were 'tagged' throughout their lives, and as undermining the 'business case' approach that was used to encourage employers and landlords to work with offenders.

The result of these findings is that some specific guidance to enhance outcome monitoring may be required. This should be centred on the delivery of a minimum,

³³ The Individualised Learner Record (ILR) is a collection of data about learners and their learning that is requested from learning providers in the FE system by the information authority.

standard dataset for outcome monitoring and longitudinal tracking. In some cases a **modification** of existing protocols and consents at local level may be required. This point is revisited in the final chapter.

2.10 Dysfunctional networks

There were areas in which the joint working with protocols did not exist. Both the fieldwork results and the findings from the discussions held with organisations at the national conference (see Chapter 1), showed that joint working with protocols were less common in more rural areas.

The cities possessed a critical mass of offenders on probation, which generated a corresponding set of specialists housing and ETE services. Networks to meet housing and employment needs existed within many major cities, networks built on joint working, which were partly founded on effective, protocol driven, sharing of sensitive and personal information. Where these networks were not in place, not only was information sharing restricted but proper referral, assessment and the delivery of appropriate packages of services was also compromised. What was possible in central London, Birmingham, Leeds or Manchester was not possible in some more rural areas.

In some more rural areas, an offender manager would simply not be in a position to refer a homeless offender to, for example, a specialist housing support service. There might well be a generic homelessness service, but because referrals from probation were relatively rare, that generic homelessness service might have little incentive or interest in developing a data sharing protocol, nor would its staff necessarily know how to interpret, for example, information on the risk an offender might present. Instead, offender managers might have to rely on a disclosure management process, trying to 'recruit' the homelessness service and reassure it about working with a about a specific offender.

In one probation area, a single offender manager had a role that focused almost entirely on trying to engage private rented sector landlords to take offenders as tenants through a disclosure management process. This process effectively centred on PRS landlords being willing to take the personal 'word' of this individual that an offender would be an acceptable tenant.

To some degree, dysfunctional networks existed **everywhere**. Even within those areas in which there was a protocol driven network, that network might not encompass Jobcentre Plus, or local prisons and it would not include prisons outside the administrative and geographical area. As soon as the offender left the organisations within the joint working with protocols, problems in information sharing could occur. There was no areas in which information sharing was perfect, because no matter how well developed the systems were, all that was needed for something to (potentially) go wrong was for a referral to be made to an organisation with which there was not a protocol.

Problems like duplication of effort were much more likely in areas without joint working with protocols, but they could occur anywhere. As information sharing was not occurring, each agency involved in supporting an offender would undertake a full assessment of that offender. Offenders were reported, and described, being subjected to one protracted assessment after another. This was not to suggest that the agencies in the cities conducted one, shared assessment, every agency conducted some level of assessment, but the detail and length of the assessments in areas without joint working with protocols seemed to be significantly greater. National systems, such as Managing Information Across Partners (MIAP)³⁴, did not have the cross-sector interconnectedness of the joint working with protocols that existed in the cities, and so could only partially compensate for an absence of local data sharing protocols in some more rural areas.

'There's still organisations who are outside that...we do still assess, send them to [agency], they'll assess, send it to X their provider, they'll assess, so all this belief that through MIAP and through partnership working that we'll just do one assessment. I've had guys come back to me and say "how many times do you need to assess me? I know I'm entry level three I don't need anybody else to tell me I am".'

'Basically they are all government bodies and there's no sharing of information between them. I mean basically, if I went down to sign on at Social Security they'd be asking me the same questions that these [Probation] would be asking and then you'd go to an employment agency that's run by a college or what have you and they're asking the same questions again, worded differently.'

(Offender)

When information sharing was poor, the outcomes of referrals could be less positive, as when an offender was referred to another service with only minimal information, the result of that service's detailed assessment could be that they were unable to work with that offender. Again, this kind of basic logistical problem was much less likely in areas that were protocol driven, because the services involved at least knew enough to determine whether someone was an appropriate referral.

There was also evidence of a bureaucratic 'mess' being generated because some agencies were not working jointly together. When joint working was not properly in place and protocols were not established, services were not interacting in the way that they should.

It was important to note that information sharing failures sometimes occurred, at least in part, because there was confusion about the legislation and what could be shared. This was generally because there was no formal protocol in place that set parameters and established working practice. In many senses, poor information sharing was something of a litmus test for poor joint working.

³⁴ <http://www.miap.gov.uk/> MIAP is an ICT driven system that works on a 'collect once, use many times' basis across the educational system.

Some respondents involved in providing ETE and housing support services reported considerable uncertainty about information sharing when formal protocols had not been agreed. They could be unsure about what aspects of data sharing and information sharing within their day-to-day work were, and were not fully compliant with the legislation. As one respondent put it:

'People do sort themselves out locally, for the benefit of the offenders. But, it's very, very risky, and it's very vulnerable. What needs to be changed is the structure, so it's proper and appropriate to do it, not the sneaking-round-the-back-door way of doing it.'

3 Routes into settled and suitable accommodation

3.1 Introduction

This chapter of the report explores the factors that influenced the delivery of settled and suitable housing for offenders on probation. The chapter begins with an overview of the importance of settled and suitable accommodation within the management of reoffending, before going on to explore temporary accommodation, housing support services and access to the social rented and private rented sectors. The chapter concludes with a brief discussion of the views of service providers on National Indicatory (NI) 143.

3.2 The importance of settled and suitable accommodation

NI 143 is focused on the provision of settled and suitable accommodation for offenders under probation supervision:

Offenders under probation supervision living in settled and suitable accommodation at the end of their order or licence (percentage of offenders under probation supervision in employment at the end of their order or licence).

The target is recorded through Offender Assessment System (OASys) and has a baseline of 77 per cent based on 2006/07 data. Probation areas are expected to work towards exceeding this 77 per cent level. An increase of 0.4 per cent or more is seen as an improvement on this indicator³⁵.

³⁵ H.M. Government (2007). *PSA Delivery Agreement 16: Increase the proportion of socially excluded adults in settled accommodation and employment, education or training*. London: The Stationery Office.

There is evidence that as soon as settled and suitable accommodation is absent from an offender's life for any period of time, the risks to that individual's well being and reoffending both rise³⁶. There are mutually reinforcing relationships between homelessness and substance misuse³⁷, offending and recidivism³⁸. In their recent review of effective support of offenders leaving prison, Hartfree *et al.* noted that:

Support with gaining stable housing is a critical need for ex-prisoners in the period immediately following release. Without it, many other goals – such as seeking employment or trying to live free of drugs – are much more difficult and, for many, these additional difficulties result in a return to prison³⁹.

3.3 Pathways into suitable and settled accommodation

Not all offenders on probation **automatically** face a greater risk of homelessness. Many offenders under probation supervision serve Community Order or have other sentences⁴⁰ which mean they do not enter prison, so that, where it is in place, settled housing is not lost as a result of offending. Equally, offenders on probation who have served quite long prison sentences may not lose their existing accommodation because, for example, their partner remains in settled housing, paying the rent or mortgage.

³⁶ Carlisle, J. (1996). *The Housing Needs of Ex-Prisoners*. York: University of York/Joseph Rowntree Foundation; Alexander, K. *et al.* (2000). *Blocking the Fast Track from Prison to Rough Sleeping*. London Research Centre, 2000; Social Exclusion Unit (2002). *Reducing re-offending by ex-prisoners*. London: SEU; Hartfree, Y., Dearden, C. and Pound, E. (2008). *High Hopes: Supporting Ex-Prisoners in their Lives after Prison*. London: Department for Work and Pensions; Penfold, C. *et al.* (forthcoming). *Homelessness Prevention and meeting housing needs for (ex) offenders: A guide to practice*. London: Communities and Local Government.

³⁷ Kemp, P. A. and Neale, J. *et al.* (2006). 'Homelessness among problem drug users: prevalence, risk factors and trigger events'. *Health & Social Care in the Community* 14(4): 319-28.

³⁸ May, C., Sharma, N. and Stewart, D. (2008). *Factors Linked to Reoffending: A one year follow up of prisoners who took part in the Resettlement Surveys in 2001, 2003 and 2004*. London: Ministry of Justice.

³⁹ Hartfree, Y., Dearden, C. and Pound, E. (2008). *High Hopes: Supporting Ex-Prisoners in their Lives after Prison*. London: Department for Work and Pensions, p.39.

⁴⁰ As at 31 December 2008, approximately 60 per cent of probation supervision was Court Orders and 40 per cent pre and post release supervision. Overall, approximately 42 per cent of probation supervision was Community Orders. Source: Ministry of Justice. www.justice.gov.uk/publications/probationquarterly.htm

However, significant numbers of offenders on probation are at **heightened risk** of homelessness. Alongside quite widespread issues such as mental health problems and substance misuse, some offenders can lack the social supports, i.e. friends and/or family, and the skills and agency to address their own housing needs. This can apply to those leaving prison and to those on Community Orders.

The main pathways into settled and suitable accommodation were:

- the Private Rented Sector (PRS);
- via Housing Support Services;
- the Social Rented Sector (SRS), mainly through the statutory homelessness route.

3.3.1 Flexibility and improvisation in response to scarcity

All the respondents and conference participants⁴¹ reported that a shortage of suitable settled accommodation was an operational issue. Without exception all the areas visited had been forced to develop flexible, imaginative service responses to housing need among offenders on probation. The issues around securing suitable settled housing were at their most pronounced in London and the rural areas, but there were still issues in other areas. There is widespread recognition of the shortage of affordable housing supply in much of England⁴².

What was repeatedly emphasized was the need to have flexibility in response to housing need by using whatever path was available. When the SRS could be used, it would be used, as was also the case with respect to the PRS, if the statutory homeless system could be employed, it would be employed and if none of these were possible, another avenue would be explored.

'It's also about having a very flexible service, lots of routes and options, if you can't go down one you can go down another...we quite often start off from the point of view that our first aim might be to get the offender to have some kind of family reconciliation and move back to where he was before, we'll not look for housing at all for him. That might be the first thing we do. Then beyond that, does he have enough support needs to make a homelessness application, no, has he got enough support needs for supported housing, no. We work down the line until we finally reach private rented accommodation, but its having all those flexible options that make it successful...don't get too fixed on one idea, that offenders all have to go down this one route.'

(Specialist housing support provider)

Alongside simple scarcity of affordable and suitable housing, offenders could find it difficult to access suitable housing because they were a stigmatised population. An offender will not necessarily be seen as a 'deserving case' or as a 'desirable tenant' when considered alongside a citizen without a criminal record.

⁴¹ See Chapter 1.

⁴² Barker, K. (2004). *Review of Housing Supply Final Report: Delivering Stability: Securing our Future Housing Needs*. London: H.M. Treasury.

3.4 The Private Rented Sector

Using the PRS could offer a number of distinct advantages. The PRS could very rapidly provide what was a 'settled' housing solution, rather than just emergency or temporary accommodation. Direct probation links with PRS landlords or between specialist housing support services and PRS landlords could ensure that homelessness or potential homelessness was dealt with very rapidly (see Section 3.5.4). The quality of the housing accessed through this route could also be as good, or better, than what was available in the SRS.

'...we rely quite heavily on private landlords because the council does not work that well for us, bring someone there on release from prison and they would say they are not vulnerable, not in priority need, intentionally homeless, all those things. So, generally, the private landlord works the best way for us.'

(Offender manager)

'If we lost our private sector landlords, the local authority simply could not cope, so it is vital.'

(Service provider)

The use of the PRS could provide **good outcomes** for offenders. Even if the PRS (theoretically) offered less security of tenure⁴³, it could often provide SRS. This is not to suggest that low standards did not exist in the PRS or that other problems did not arise. However, although it was quite often the sole tenure that was actually available on a practical basis for many offenders (see below), the PRS could often be the **best** housing solution for offenders.

Difficulties could be encountered in recruiting PRS landlords. Four particular issues were:

- demand for PRS housing from groups that some landlords viewed as more reliable and less problematic tenants, such as working professionals;
- concerns about risk;
- fear of adverse publicity;
- the changes in the operation of the benefit system, focused on the local interpretation and implementation of the Local Housing Allowance (LHA) which had replaced the Housing Benefit (HB) system in the PRS.

⁴³ There is something of a myth surrounding insecurity of tenure in the PRS, in part this has arisen because many people tend to use it for short periods. However, there is evidence of extensive provision of long-term lets by the sector, see: Rugg, J. and Rhodes, D. (2008). *The Private Rented Sector: its contribution and potential*. York: Centre for Housing Policy.

The first of these issues, strong demand from other households seen by PRS landlords as more 'reliable' tenants, was not something that could easily be overcome. The PRS is often, incorrectly, perceived as a single 'tenure' when in reality it is composed of a series of submarkets, only one of which is for people eligible for benefit. Much of the PRS, particularly in relatively affluent areas, is marketed at households who have relatively high income levels. Nationally, an average of around 27 per cent of the PRS market makes lets available to tenants on LHA⁴⁴. For those offenders who are working, the affordable submarket of the PRS might also be quite restricted in scale, depending on the nature of the PRS in that area.

There were general worries about the risk that an offender might present. This was both in the sense of being potentially unreliable in paying the rent or causing damage and in terms of whether there were risks to the landlord themselves or neighbouring households.

You can get that sometimes, like I've rung landlords up and like as soon as you say, say for example 'actually he's got a sex offence', that's a straight no, straightaway. Specialist housing support provider.

PRS landlords could be concerned about attracting adverse publicity if they housed known offenders, particularly if the offence had been serious.

'Clearly it is very difficult to find landlords who want to work with offenders because they feel threatened by it and also they are afraid of media coverage, publicity and so forth. So to build that relationship with the private sector takes a long time.'

(Offender manager)

There was some evidence that greater complications in securing direct payments of rent through LHA, in **some** local authority areas, was discouraging some PRS landlords. The old HB provision of direct payment of rent to landlords for 'vulnerable' tenants was no longer automatic in some local authority areas. This had caused loss of income for some PRS landlords, making them less likely to house offenders on probation in future.

'The right hand of government telling us that vulnerable people, we're talking about offenders, have got targets, we've got rigorous targets set for us for getting offenders into accommodation to reduce reoffending and the left hand of government is actually making it more and more difficult to actually facilitate that, because of the problems around getting the rent paid to landlords, the bond schemes, the lack of finance, the lack of support.'

(Offender manager)

⁴⁴ Rugg, J. and Rhodes, D. (2008). *The private rented sector: its contribution and potential*. York: Centre for Housing Policy, University of York. LHA is the replacement for HB.

Excellent joint working relationships with PRS landlords had been established in almost all the fieldwork areas. As described in Section 2.8, that had created trusted working relationships with PRS landlords underpinned these joint working relationships. If a PRS landlord could be persuaded to trust the judgement of offender managers about the level of risk, they could be persuaded to take on offenders on probation as tenants. These working arrangements were commonplace and were used not only to house lower risk offenders, but also incorporated into lower level Multi-Agency Public Protection Arrangements (MAPPA) cases in some areas.

PRS landlords could also be reassured by the use of floating support services. If an individual offender on probation presented a potential risk, floating support could be offered that would, in effect, perform the housing management role for the PRS landlord.

That's why I think they are happy to be involved if there is this condition of floating support in place because they realise that risks can be managed, the tenancy can be managed and, you know, any issues arising will get looked at by the floating support service. Specialist housing support provider.

As was the case in relation to securing access to employment for offenders on probation (see Chapter 4), there was a clear emphasis on creating a 'business case' for PRS landlords to house offenders.

'One of the priorities, I think for landlords, private sector landlords is getting their rent paid. At the end of the day, they are running business, they aren't charities, they are willing to take people on, to give it a go, to trust us.'

(Offender manager)

There was anecdotal evidence that the downturn of some rental markets, because of the current recession had encouraged some PRS landlords to look at housing offenders as a potential income stream. This is an opportunity that might be exploited, but if this is to occur, there may need to be modifications to the guidance on LHA as PRS landlords are most likely to be attracted by the prospect of secure rental income.

The use of Bed and Breakfast (B&B) hotels was viewed as not desirable, but it meant an offender on probation could rapidly have a roof over their head when there was a risk of rough sleeping. B&B could be employed when there was no PRS let available, or in those cases in which an offender's past history with local PRS landlords made them reluctant to make a letting.

'[B&B]...picks up those who aren't able to access mainstream accommodation due to enormous rent arrears or anti-social behaviour or anything else that would normally restrict their access.'

(Specialist housing support provider)

3.5 Housing support services

An offender with support needs who was at risk of homelessness might receive either an **accommodation based service** (hostel or shared supported housing) or a **floating support service**. Accommodation based services tend to follow a 'staircase' or 'continuum' housing support model, where an offender's ability to live independently is slowly reinforced through successive stages. For example, if homelessness was linked to substance misuse, a 'staircase' model might provide detoxification in a hostel setting, followed by eventual resettlement into ordinary housing⁴⁵.

There are also dispersed supported housing models, which use several sites, such as shared houses, which support staff visit. Specialist supported housing provision exists in the major cities for groups like women offenders, crack-cocaine users and young offenders. Providers of these specialist services include NACRO, Penrose Housing Association, the Novas Scarman Group and St Mungos⁴⁶.

Services can also be provided using a floating support model⁴⁷. In this case, a potentially homeless or homeless offender is moved into ordinary housing and receives floating support that follows them should they move. A typical floating support model was that provided by St Giles Trust, **Through the Gates** service⁴⁸, which supports an offender through the process of leaving prison, helping them to access housing and meeting any support needs, either directly, or, more commonly by arranging access to necessary services.

3.5.1 Joint working in delivering housing support services

Joint working with mainstream landlords seemed to be at its most developed within the cities. Both dedicated probation staff, focused on strategic and frontline delivery of settled accommodation, and a range of specialist housing support services that worked mainly or solely with offenders were in place.

⁴⁵ Pleace, N. (2008). *Effective Services for Substance Misuse and Homelessness in Scotland: Evidence from an international review*. Edinburgh: Scottish Government.

⁴⁶ www.nacro.org.uk/; www.penroseha.org.uk/; www.novasscarman.org/; www.mungos.org/

⁴⁷ Pleace, N. and Quilgars, D. (2003). *Supporting People: Guide to Accommodation and Support Options for Homeless Households*, London: ODPM, Homelessness Directorate.

⁴⁸ www.stgilestrust.org.uk/About/260137/study_highlights_support_needs_for_prison_leavers.html accessed 27/06/09 (the service worked with offenders on probation).

'It's not just about housing, it's about treatment, it's about employment. So all the services know that client is housed in a specific place, they're going to meet up with probation, they link up with probation...so that things are put in place and the client also knows that services are working together, that's how it works well, when it all works together.'

(Specialist housing support provider)

Within the cities, there was evidence of good outcomes resulting from joint working. These successes were underpinned by what were seen as effective information sharing protocols (see Chapter 2).

'There is a good range of services available, types of accommodation. If one person cannot take a particular type of offence like arson, there's others out there that might be able to. Geographically, across the city, there's a good spread of providers, you know, because there's many people that won't go to the north of the city [due to] gang related crimes, so there will be others [services] in the south of the city that will take them.'

(Offender manager)

3.5.2 Issues in delivering housing support services

Limitations and problems in service delivery were also identified. These centred upon:

- insufficient places being available in housing support services, seen as resulting, particularly, from difficulties in 'moving on' offenders into suitable ordinary housing;
- concerns about the impact of the removal of the Supporting People ring fence and the future funding of services more generally;
- difficulties in accessing some housing support for homeless people in some cities and questions about the suitability of some housing support services;
- an absence of specialist housing provision and housing support in some more rural areas.

Silting up of specialist fixed site housing support services

Most accommodation based models were supposed to move offenders on into ordinary housing as quickly as was possible, but there were difficulties in accessing suitable, affordable housing. Staying in these schemes for longer than was needed was not regarded as a good outcome for an offender and it effectively 'blocked' a supported place that was often needed by another offender.

'Silting up is the biggest single issue. The evidence we got for that...we had an inspection on accommodation for offenders...they asked us to identify which of our offenders were living in supported accommodation. Now, we always feel like we record everything that moves, as most organisations do these days, but we did not record that, so we had to go to the providers to give us a list of who they had, which was fine. Until we checked the list against the current caseload and discovered 90 per cent weren't current.'

(Offender manager)

Changes to Supporting People funding

The Supporting People Programme was intended to provide a strategic framework and dedicated revenue funding stream for housing support services. Before the end of March 2003, probation paid for housing support for offenders on probation through the Probation Accommodation Grants Scheme, which was absorbed into the Supporting People grant⁴⁹. Probation was therefore actively involved in Supporting People planning in the fieldwork areas.

The planned removal of the Supporting People 'ring fence'⁵⁰ was causing concern among respondents. The intention was that service design could become more 'flexible', but there were concerns that relatively expensive politically 'unpopular' services, including those for offenders on probation, **might** be cut⁵¹. However, some respondents thought there would be little practical difference compared to current arrangements.

'We've got ring fencing coming off Supporting People funding...it may well be a good thing for the local authorities, but then there's a risk, an added risk attached to that, which may be realised, that money is not going to get spent on unpopular groups like offenders and you end up with lots of nice new swimming pools everywhere.'

(Offender manager)

Use of 'generic' housing support services

In more rural areas specialist housing support services for offenders did not exist because there were not enough offenders in any one place to justify their development. Political objections to projects for offenders could also be more

⁴⁹ The Home Office (2004). *'Supporting People' Guidance for the National Offender Management Service*. London: The Home Office.

⁵⁰ In 2009/10 Supporting People is a non ring-fenced named grant and then from 2010/11 it will become part of the Area Based Grant.

⁵¹ There is some other research which reported similar worries across the housing support service sector, Communities and Local Government (2008). *Changing Supporting People funding in England: Results from a pilot exercise (Summary)*. London: Communities and Local Government.

widespread⁵². This could mean a reliance on services that worked with lone homeless people with support needs or other 'generic' supporting people services.

Two problems were reported in referring offenders on probation to generic services:

- generic housing support services were often pitched at a specific level of need, if an offender was outside those parameters the services would not engage with the offenders;
- generic housing support services might misjudge the risks and refuse to work with individual offenders.

The problem was sometimes expressed as one of getting generic housing support providers to 'look beyond' an offender's criminal record or specific offences. The standard response was the use of disclosure management processes described in Chapter 2.

Sometimes housing support services that were not focused on offenders offered the best solution for an individual offender. This was the case when a particular support or care needs, such as mental health problems and/or substance misuse were the main issue facing an offender, both in terms of securing accommodation and more generally.

3.6 The homelessness legislation

In all the areas in which fieldwork was conducted there were long waiting lists for SRS housing. Unless they were found unintentionally homeless and in priority need under the terms of the homelessness legislation, offenders would face an often very protracted wait for a SRS tenancy.

It is important to note that in England (as in the other countries in the UK), the statutory definition of homelessness extends far beyond rough sleeping:

Broadly speaking, somebody is statutorily homeless if they do not have accommodation that they have a legal right to occupy, which is accessible and physically available to them (and their household) and which it would be reasonable for them to continue to live in. It would not be reasonable for someone to continue to live in their home, for example, if that was likely to lead to violence against them (or a member of their family)⁵³.

⁵² This has been a major obstacle to developing new approved premises, see Bridges, A., Owers, A. and Flanagan, R. (2008). *Probation hostels: Control, Help and Change? A Joint Inspection of probation Approved Premises*. London: Criminal Justice Joint Inspection.

⁵³ Department for Communities and Local Government (2006). *Homelessness Code of Guidance for Local Authorities*. London: Communities and Local Government, p. 10.

However, there is a distinction between being 'homeless' and meeting all the statutory criteria that determine whether a local authority owes the main duty to secure accommodation under the homelessness legislation. In order for the main duty to be owed, an individual or household must be eligible for assistance, be 'unintentionally' homeless (i.e. homeless through no fault of their own) and must fall within a 'priority need' group. In the case of offenders, falling within a priority need group would usually mean they were 'vulnerable'.

Case law has established that the test of vulnerability is broadly, whether, when homeless, the individual would suffer injury or detriment in circumstances where a less vulnerable person would be able to cope without harmful effects⁵⁴. The statutory guidance states that local authorities should not make 'blanket' assumptions about offenders.

In addition to the question of priority need, when assessing applicants in this client group difficult issues may arise as to whether the applicant has become homeless intentionally. Housing authorities must consider each case in the light of all the facts and circumstances. Housing authorities are reminded that they cannot adopt a blanket policy of assuming that homelessness will be intentional or unintentional in any given circumstances⁵⁵.

Offenders may be accepted as owed the main duty because they may be 'vulnerable' due to severe mental illness, physical disability or other support needs. An offender whose household contains children, or is about to contain a child, may also be found to be in priority need under the legislation⁵⁶.

⁵⁴ When determining whether an 'applicant' is vulnerable, the local authority is supposed to consider '...whether, when homeless, the applicant would be less able to fend for him/herself than an ordinary homeless person so that he or she would suffer injury or detriment, in circumstances where a less vulnerable person would be able to cope without harmful effects', this vulnerability must be assessed on the basis that someone will become homeless, not on the basis of whether they can fend for themselves when still housed, see paragraphs 10.13 and 10.14, Department for Communities and Local Government (2006). *Homelessness Code of Guidance for Local Authorities*. London: Communities and Local Government.

⁵⁵ Department for Communities and Local Government (2006). *Homelessness Code of Guidance for Local Authorities*. London: Communities and Local Government, p. 90.

⁵⁶ 'Applicants have a priority need if they have one or more dependent children who normally live with them or who might reasonably be expected to live with them. There must be actual dependence on the applicant, although the child need not be wholly and exclusively dependent on him or her' (paragraph 10.6) Department for Communities and Local Government (2006). *Homelessness Code of Guidance for Local Authorities*. London: Communities and Local Government.

The statutory guidance makes it clear that local authorities must consider **intentionality** as part of assessing whether offenders on probation are owed a duty under the homelessness legislation:

Some ex-offenders may apply for accommodation or assistance in obtaining accommodation following a period in custody or detention because they have been unable to retain their previous accommodation, due to that period in custody or detention. In considering whether such an applicant is homeless intentionally, the housing authority will have to decide whether, taking into account all the circumstances, there was a likelihood that ceasing to occupy the accommodation could reasonably have been regarded at the time as a likely consequence of committing the offence⁵⁷.

There is a general expectation that local authorities will work with the criminal justice system where appropriate and that information will be shared with the local authority to facilitate this. The guidance to the legislation notes:

*In many cases a housing needs assessment may have been completed in respect of offenders by the Probation Service, Prison Service, Youth Offending Team, Criminal Justice Intervention Team or a voluntary organisation acting on behalf of one of these agencies. Where such an assessment identifies an individual as needing help in finding accommodation and judges the individual to be particularly **vulnerable** and the applicant makes an application for housing assistance, this information will be made available to the relevant housing authority⁵⁸ (emphasis added).*

If an offender is found to be owed the main duty, the local authority has a duty to 'secure accommodation' until settled accommodation becomes available. In around 70 per cent of cases, the settled home that brings the main duty to an end is an offer of SRS⁵⁹. In many areas, people accepted as owed the main homelessness duty are placed in temporary accommodation until an SRS tenancy becomes available. With an applicant's consent, a local authority may also end the main homelessness duty by arranging a PRS tenancy.

It is very important to note that the delivery of homelessness services by local authorities has undergone a radical change in the last five years. There is now an operational emphasis on homelessness prevention. This new strategy has resulted in a very large fall in the number of households that are recorded as being owed

⁵⁷ Department for Communities and Local Government (2006). *Homelessness Code of Guidance for Local Authorities*. London: Communities and Local Government, p. 98.

⁵⁸ Department for Communities and Local Government (2006). *Homelessness Code of Guidance for Local Authorities*. London: Communities and Local Government, p. 90.

⁵⁹ Source: Communities and Local Government.

the main duty⁶⁰. There is specific guidance for local authorities on homelessness prevention among offenders and ex-offenders, focusing on housing advice and related support⁶¹.

Service providers did not regard the homelessness legislation as often providing a route by which homeless offenders on probation could secure accommodation. Research specifically on offenders experience of homelessness has reported a very similar picture for over a decade⁶². While some other recent research has also suggested that the imperative to 'prevent' homelessness also makes authorities generally less likely to accept applicants as being owed the main duty, this was not reported⁶³.

⁶⁰ In 2008/09, 53,430 households were found to be owed the main duty, equivalent to just 44 per cent of the 120,860 found to be owed the main duty in 2004/05 source: Communities and Local Government (2009). *Statutory Homelessness: 1st Quarter 2009, England*. London: Communities and Local Government.

⁶¹ Pawson, H.; Netto, G. and Jones, C. (2006). *Homelessness Prevention: a guide to good practice*. London: Communities and Local Government. Note that this guidance includes all offenders, not just those on probation, hence it focuses on issues such as avoidance of tenancy loss during short prison sentences.

⁶² Carlisle, J. (1996). *The Housing Needs of Ex-Prisoners*. York: Joseph Rowntree Foundation; Pleace, N. (1995). *Housing Vulnerable Single Homeless People*. York: Joseph Rowntree Foundaton; Paylor, I. (1995). *Housing Needs of Ex-Offenders*. Ashgate; Alexander, K et al. (2000), *Blocking the Fast Track from Prison to Rough Sleeping*. London Research Centre, 2000; Social Exclusion Unit (2002). *Reducing re-offending by ex-prisoners*. London: SEU; Hartfree, Y. Dearden, C. and Pound, E. (2008). *High Hopes: Supporting Ex-Prisoners in their Lives after Prison*. London: Department for Work and Pensions; Penfold, C. et al. (forthcoming). *Homelessness Prevention and meeting housing needs for (ex) offenders: A guide to practice*. London: Communities and Local Government.

⁶³ Though a possible reason there was not a particular impact was that it was already a difficult route for offenders, see Pawson, H. (2007). Local authority homelessness prevention in England: Empowering consumers or denying rights? *Housing Studies* Vol 22(6).

The perception in London was that the boroughs were very strict in their interpretation of the homelessness legislation⁶⁴.

'I mean the whole HPU [Homeless Persons' Unit] process works like that in every borough to some degree, it's all about not meeting criteria. You know, I mean that's why we find we need staff to get people through who are obviously eligible, they should waltz through, and they don't because of the way the process runs.'

(Specialist Housing Support Provider)

'...you've got different priorities within local authorities. Some are more enlightened...because they understand and I think they are aware of the offending agenda and how tackling that is going to create better communities, but then again it's stock and things like that, different parts of the country work in different ways. When you go north, you find that it's slightly easier for offenders to find accommodation because there's housing stock available up there, whereas there isn't here [London], which leads to gate-keeping by local authorities and intentionality being thrown at you all the time.'

(National level official)

This perception that the SRS could be quite hard to access was widely shared by offenders. Most thought that approaching the local authority was likely to be a futile exercise in respect of securing housing.

'It is if you are waiting on the council, you be waiting until you was dead probably, but private renting, I got Housing Benefit, got a flat.'

(Offender)

'Housing, I don't think they help with that much, I don't think they can help that much. I think that is left more down to you.'

(Offender)

3.7 Differences between NI 143 and the goals of frontline service providers

Offender managers, housing professionals and specialist housing support providers often had an operational target that could be **beyond** that specified in NI 143.

⁶⁴ There is strong evidence of unique pressures existing on the SRS and the statutory homelessness system in London, see Greater London Authority (2009). The London Housing Strategy: Draft for Public Consultation. London: GLA and Pleace, N et al. (2008). *Statutory Homelessness in England: The experience of families and 16-17 year olds*. London: Department for Communities and Local Government.

This target was settled and sustainable **housing**, which is the standard outcome measurement of success for homelessness services.

National Indicator 143 describes settled and suitable accommodation in the following terms:

Settled accommodation is permanent, independent housing; bail/probation hostels⁶⁵ and supported housing. Suitable accommodation refers to the suitability of accommodation in terms of quality of residence, appropriateness of living arrangements, overcrowding, and relationships with rest of household, as well as suitability of the location of the accommodation⁶⁶

(emphasis added)

NI 143 defines Approved Premises and supported housing as 'settled' accommodation. Service providers often did not share this view, regarding these forms of accommodation as short-term rather than as 'settled'. This is in part because accommodation based housing support services operate with time limited stays, but mainly because they are **designed** to move offenders into ordinary housing⁶⁷. Moving offenders on to ordinary housing is also goal for approved premises⁶⁸.

There is something of a grey area here, in that some specialist supported housing for offenders and ex-offenders in cities like London, can offer up to two years residence with an Assured Shorthold Tenancy⁶⁹. The extent to which such supported housing can be regarded as 'temporary' is debatable.

⁶⁵ That is probation Approved Premises, this is a direct quotation from PSA 16 (see following footnote).

⁶⁶ H.M. Government (2007). *PSA Delivery Agreement 16: Increase the proportion of socially excluded adults in settled accommodation and employment, education or training*. London: Stationery Office, p. 22.

⁶⁷ Penfold, C. et al. (November 2008). *Homelessness Prevention and meeting housing needs for (ex) offenders: A guide to practice*. London: National Centre for Social Research.

⁶⁸ Bridges, A., Owers, A. and Flanagan, R. (2008). *Probation hostels: Control, Help and Change? A Joint Inspection of probation Approved Premises*. London: Criminal Justice Joint Inspection. Approved Premises are additionally designed to provide a period of enhanced supervision for offenders assessed as posing a high risk of harm to the public.

⁶⁹ An Assured Shorthold Tenancy is the standard tenancy agreement that is usually employed across the private rented sector. It gives the same rights as someone would have as a tenant of a private rented sector landlord letting an ordinary house or flat. See: Communities and Local Government (2009). *Assured and Assured Shorthold Tenancies: A guide for tenants*. London: Communities and Local Government.

4 Routes into employment

4.1 Introduction

Chapter 4 presents the findings on the provision and effectiveness of Education, Training and Employment (ETE) for offenders on probation. A broad range of interventions related to the provision of education and training services, as well as employment are considered. This reflects the multi-tiered and varied response to securing work for offenders on probation which probation services have pursued. This chapter begins with a discussion of the importance of employment, before moving on to consider the pathways to paid work in detail. The chapter ends with a brief discussion of the views of service providers on National Indicator (NI) 144.

4.2 The importance of employment

Paid work is associated with reductions in reoffending⁷⁰. NI 144, the offenders' ETE outcome measure, specifies the proportion of offenders during the previous twelve months who, at the end of their Community Order or licence, were in employment:

*Offenders under probation supervision in employment at the end of their order or licence (percentage of offenders under probation supervision in employment at the end of their order or licence)*⁷¹.

Employment is defined either as part-time employed or full-time employed. In 2006/07, the baseline figure was 35 per cent of offenders on probation having

⁷⁰ Social Exclusion Unit (2002). *Reducing re-offending by ex-prisoners*. London: SEU; Hartfree, Y., Dearden, C. and Pound, E. (2008). *High Hopes: Supporting Ex-Prisoners in their Lives after Prison*. London: Department for Work and Pensions; H.M. Government (2005). *Reducing Re-Offending Through Skills and Employment*. London: The Stationery Office.

⁷¹ H.M. Government (2007). *PSA Delivery Agreement 16: Increase the proportion of socially excluded adults in settled accommodation and employment, education or training*. London: Stationery Office.

achieved employment by the end of their probation period. An increase of 0.5 per cent is viewed as an improvement on this baseline⁷².

4.3 Pathways to paid work

4.3.1 An ETE pyramid

Respondents reported that some offenders were not at a point at which they were able to undertake paid work, or even undertake basic skills training, when they received their Community Order or left prison. Mental health problems and substance misuse issues might need to be tackled before any other progress could be made, for example.

Whereas respondents thought employment by the end of the probation sentence was a realistic goal for some offenders, for other offenders with more complex needs, it was not thought realistic (see Section 4). Generally, education and training was described as having two main functions:

- meeting any deficit in skills that prevented most or all forms of employment from being available (such as dealing with illiteracy);
- providing a socialisation process that acquainted offenders with structured working environments, keeping to timetables, working with others and helped develop emotional literacy;
- building confidence and self-esteem through both enhancement of 'soft' skills, and through achieving basic qualifications; and generating the self-confidence needed to seek work.

Much education and training, particularly at the basic level, was seen as enabling offenders to develop a range of soft skills, learning to interact with others, to manage their time and so forth, at the same time as they developed basic skills. For some respondents working in ETE services for offenders, the socialisation and soft skills functions were held to be **predominant** in importance. This was sometimes expressed as 'learning to learn' a step that often had to proceed bringing an offender to a point where they (in effect) 'learnt to work'.

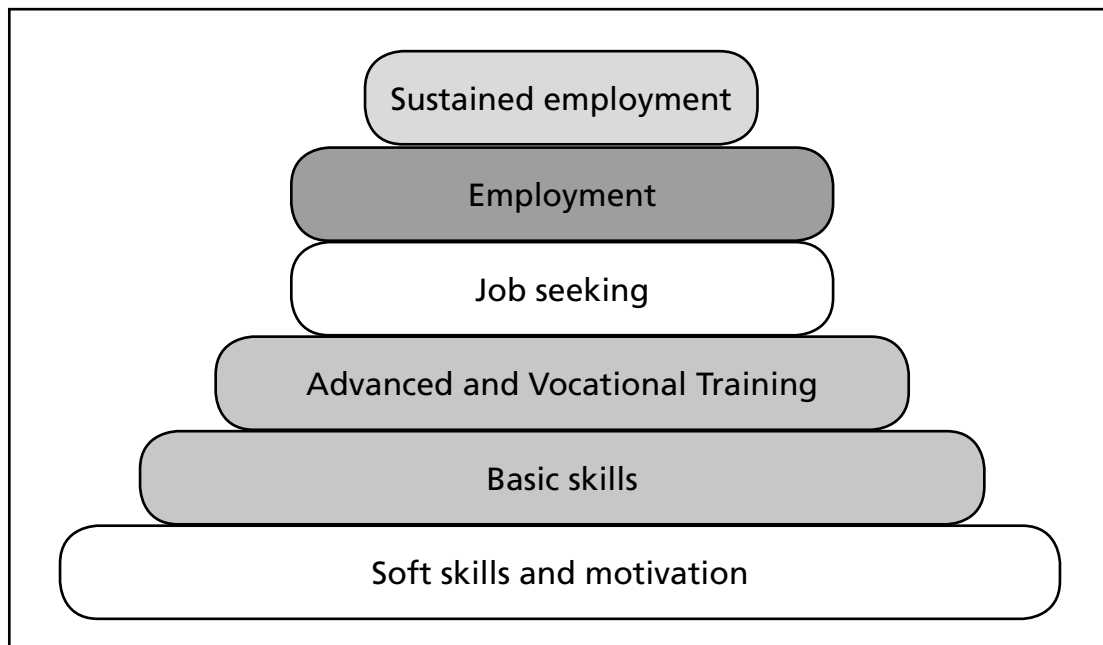
Offender managers and key workers often viewed 'formal' ETE, i.e. class based learning or training, apprenticeships and work placements, as fitting mid-way along what can be described as a 'pyramid' of interventions (see Figure 4.1). Quite often, the 'soft skills' stage of socialisation had to be completed before this

⁷² H.M. Government (2007). *PSA Delivery Agreement 16: Increase the proportion of socially excluded adults in settled accommodation and employment, education or training*. London: The Stationery Office. According to the technical document 'Good performance is typified by a positive increase in percentage', and the source of the data is 'NOMS via OASys national reporting /ODEAT [OASys Data, Evaluation & Analysis Team]'.

formal stage could be reached. This could, for many offenders, create a need to successfully complete a 'soft skills' and motivational stage of engagement prior to undertaking more formal training.

The amount of time and effort taken to complete each stage in this intervention, and so be ready for the next stage, varied greatly from offender to offender, depending on their needs, characteristics and experiences. Although each case was unique, and each probation area had a different set of responses and approaches to offender management and the probation programme, a relatively typical ETE programme pyramid appeared to be as follows (see Figure 4.1)

Figure 4.1 Education, training and skills pyramid



It was **not** necessary for every offender to complete all the stages in this 'pyramid' to secure work. Offenders started at different points, some being able to immediately go to advanced and vocational training, or to immediately look for work. An offender who started on the bottom of the ETE pyramid, could 'leapfrog' over various stages, for example, by securing work at the point at which they secured basic skills, without the need for further training. Progress through this pyramid was not necessarily linear and did not necessarily need to occur at all for an offender to secure work.

Nevertheless, the view that many offenders started from a very low base with limited soft skills and a lack of basic qualifications was very widespread among ETE service providers. The model encapsulated in the pyramid diagram, of a process that began with soft skills acquisition which only quite **gradually** brought an offender to being work ready, reflected common working practices.

4.4 Soft skills and motivation

Before engaging effectively with ETE services, professionals and workers described how offenders often needed to 'learn how to learn' which meant developing soft skills, so they could cope with the structure required to engage with, for example, basic skills training. To be brought to a point where they could 'learn how to learn', according to respondents working in ETE services, offenders had to:

- not be in a position in which substance misuse or mental health problems were dominating their lives, making it impossible or very impractical to engage with ETE services;
- have the following 'soft skills':
 - being able to work alongside others;
 - emotional literacy, including anger management;
 - an ability to exercise control over impulses;
 - patience and an ability to deal with not having immediate gratification or solutions;
 - the ability to 'think ahead', such as being able to cope with set timetables; and
 - possess sufficient self esteem to be able to engage with other learners and have confidence that engaging with ETE would not result in humiliation.

Some of these issues were described by respondents in the following terms:

'When you first come out of prison after a long stretch, it takes a lot of time to adjust back into the system...you come and you got all these people coming at you, you're used to small groups and getting into big groups makes you nervous.'

(Offender)

'If you're dealing with somebody who's been to prison, or been out of work a long time, on a Community Order a long time, it's a huge step for them to suddenly go off to college or to go off to [employment agency], you might get an appointment but they don't go.'

(ETE Provider)

'...when someone's just been released, and they've been in quite a while and they feel like they've got 'offender' stamped on their head.'

(ETE Provider)

Given these behavioural characteristics, offenders were sometimes drawn to training courses for relatively short-term, immediate gains. For example, their probation sentence being cut in return for attendance, or in a small number of

cases small payments, or free food, being provided to attract and retain offenders. The goal was that, as soft skills and esteem were developed, the offenders would come to recognise the courses' intrinsic and long-term benefits.

'When I came here, I was so "didn't want to know", I thought I was hard done by and everything, it's been a long time since I first got into trouble and I wasn't interested...But, after the initial...I got to know a couple of these lads and got myself together and it gets me out of the house, I'm doing something aren't I?'

(Offender)

Specialist ETE services had to be more flexible in a number of ways:

- tolerance of behaviour that could include poor impulse control, limited emotional literacy, poor socialisation, low self-esteem and poor etiquette;
- allow that offenders would, at least initially, have difficulties in concentrating, working in a structured way and working for sustained periods.

One ETE provider described common practice in the following terms:

'...it's almost like you can't say that people come along and they do an hour of English, or 50 minutes of English, they'll come they might discuss a problem with a letter they've had...then they do a bit of English, then they might go out and have a fag and come back in and do a bit of Maths, there will be a whole melange of things, because they've got the chaotic lifestyles that people talk about, but also they're not used to sitting down and doing something.'

(ETE Provider)

Individual motivation, most often encapsulated in the phrase 'a willingness to change' was seen as a key factor in successful engagement with ETE services by professionals and by offenders themselves. This willingness appeared to be linked to the acquisition of soft skills and associated rises in self-confidence.

'You can't just be a bum can you? Just stay in all day. Because that's back to square one isn't it? You obviously got to get up in the morning...you got to be motivated.'

(Offender)

'I think it's sometimes just the general change in attitude in the client, if you have a positive attitude, wanting to move on...we're not counsellors we can only try and encourage them to look at different ways, signpost them to organisations.'

(ETE provider)

'If the client actually wants to move on. That's the best starting point. Whether it's wanting to get back into the community, socialising again. If that client wants to do something that, for me, is where the doors seem to open. And it's not because you're particularly pointing them in a direction. It's because they've got that motivation and that drive. And then, between you, the opportunities seem to flow through just talking. Ideas come out, you know, in the conversation.'

(ETE Provider)

For some ETE providers, this could mean that relatively small increases in soft skills and changes in mindset represented very significant progress for some offenders on probation:

'The numbers don't matter to me to be honest...somebody that's lived on the benefits of crime, not doing that and signing on, that's really massive for somebody. Somebody staying sober to come into class, that's a massive move...somebody actually turning up on time every day, that's massive for some people. You know, that kind of stuff. That's the important work, in lots of ways.'

(ETE Provider)

The perception that many offenders on probation tended to not be immediately ready for education, training or job 'ready' was shared by some specialist Jobcentre Plus staff. They quite often saw a need for a range of soft skilling to occur before an offender would be ready to engage with ETE services or employment.

'I don't think there are that many people currently on probation that are what we would term as job ready. But I think that's to do with their life goals and their attitudes to work and training, because they can make more by committing crime than moving into work and it's that attitude, you know. And we need to show them, you know, yeah you may not be earning as much money, but you'll have better things, better homes, better holidays, all the stuff we take for granted.'

(Jobcentre Plus staff member)

4.5 Basic skills, advanced and vocational training

Levels of formal education within the offender population tend to be much lower than within the population as a whole. Approximately one half of all offenders on probation lack any type of formal professional or vocational qualification, as against approximately one eighth of persons of working age in the UK as a whole⁷³. Previous research has reported high rates of learning difficulties⁷⁴ and dyslexia⁷⁵ among offenders. Some offenders interviewed for this research reported that learning difficulties and dyslexia had not been identified while they were at school.

For older offenders who lacked basic literacy and numeracy skills, the inability to read, write, and perform basic calculations was something they had become used to. Offenders in some cases indicated that they believed themselves to have built-up compensatory (albeit informal) know-how and capabilities, such as more developed social skills or 'common sense'.

Diagnostic tools designed to identify basic problems with numeracy and literacy could thus be perceived as challenges and threats to the offender's self-image as (broadly) competent and capable adults. Again, respondents working in ETE reported that socialisation and soft skills, including development of self esteem, could be necessary before a lack of basic skills was recognised as an issue by offenders.

'I said to her [offender manager at induction], "I ain't listening to a XX like you, who's just graduated'. She was just out of graduation class. I says, you know, 'I'm a forty-nine year old man, I've been round the block a few times and I don't need to be told by a little XX like you how to behave".'

(Offender)

⁷³ Howard, P. et al. (2006). *An Evaluation of the Offender Assessment System (OASys)*, p.111 and Department for Innovation, Universities and Skills (2007). *The Level Of Highest Qualification held by Adults: England 2007 (Revised)*, London: DIUS.

⁷⁴ Harrington, R. and Bailey, S. (2005). *Mental Health Needs and Effectiveness of Provision for Young Offenders in Custody and in the Community*. Youth Justice Board for England and Wales, reported that 23 per cent of young offenders had a learning difficulties, i.e. an IQ of 70 or less. There is global evidence of an association between learning difficulties and offending, e.g. in research from the EU, US and Australasia.

⁷⁵ Baker, S.F. and Ireland, J.L. (2007). 'The link between dyslexic traits, executive functioning, impulsivity and social self-esteem among an offender and non-offender sample'. *International Journal Of Law And Psychiatry* 30 (6): 492-503 Nov-Dec 2007. There is global evidence of an association between dyslexia and offending.

4.5.1 Motivation to learn and train

Offenders often stressed the importance of ETE provision being offered on a voluntary basis, and in a friendly and respectful manner, rather than something 'forced' upon them. Where programmes of interventions were felt to have been 'imposed' on offenders as 'punishment', many offenders suggested their natural response would be to behave defiantly towards course tutors. Offenders would also engage with training they had learned about, or which was recommended, by other offenders. Courses that provided training in vocations they were particularly interested in moving into were also, for obvious reasons, popular.

'I got offered this course of how to do a CV, English, basic English...another guy came into the equation...who offered us all the HGV course and we all took it up, because the way it was offered, the way it was put across, it wasn't forced on us, it was offered in the sense of 'would you like to do it', not in the sense of "you've got to do this".'

(Offender)

Offenders could also engage with learning in order to have something to do and plan their weekly structure around. In many cases, offenders identified a need to have 'something to do' as a reason to start a course, even one very similar or identical to one they had taken previously. In doing this, the kinds of 'soft skills' and structures of habit described in the previous section were being developed and 'refreshed' alongside the basic skills.

'I've done the level one and two, maths and English and I've just completed the level two IT, which I've got to take a test for, so that's now going to release funding to get onto a training course.'

(Offender)

ETE professionals laid considerable stress upon convincing offenders on probation of the merits of learning basic skills. Conveying a sense that a tangible, worthwhile achievement would be available at the end of a basic skills course was important.

'The group of offenders that are most in need of that [basic skills], are those who've managed to avoid education for a very long time, ...the reality is, they kept their heads down for so long, that trying to sell the benefits of reading when they're thirty six years old...you've got to get to them, and in this case, to get to the end of it.'

(ETE Provider)

Offenders' expectations of training centred on semi-skilled and skilled manual work. What might be termed the 'traditional' trades for offenders tended to figure heavily in all of the case study areas. A typical area might for example offer vocational training and qualifications in:

- bricklaying and building;
- catering;

- Heavy Goods Vehicle (HGV) driving;
- forklift truck driving;
- painting and decorating.

A small minority of offenders had academic aspirations, but the route by which these might be pursued was often not obvious to them. Specialist ETE providers and offender managers talked extensively about the role of colleges (indeed many specialist ETE services were part of colleges), but there was little or no mention of forging links with higher education.

A number of offenders stated that they only became aware of some of the courses for which they were eligible through word of mouth and personal recommendation from other offenders, rather than through the offender managers. Although the offenders sometimes suggested this reflected poorly on offender managers' abilities as promoters of relevant ETE courses, it was also used as evidence of commitment to engage with training by offenders themselves.

4.6 Getting work

4.6.1 Coordination with Jobcentre Plus

Many offenders, offenders managers, and ETE providers reported a 'lack of flexibility' on the part of Jobcentre Plus with regard to job-search requirements when undertaking probation-led training, and the sixteen hour rule. Jobcentre Plus staff tended to explain this perceived 'lack of flexibility' as resulting partly from different operational cultures between probation and Jobcentre Plus.

'There is a prescription [at Jobcentre Plus] if you like that we have to follow. We can't make exceptions to that or in, very, very exceptional cases we can make exceptions to the client going through the New Deal process. And it's just a government programme and we, we just have to follow it, we can't do anything about it. We do what we can for any of the clients.'

(Jobcentre Plus staff)

Improved communication between Jobcentre Plus and probation tended to increase the flexibility Jobcentre Plus were able and willing to provide offenders and improve coordination between services. As was described in Chapter 2, there was mixed evidence on the success of joint working and information sharing between probation and Jobcentre Plus.

I think predominantly probation are managing the risk and they're managing the individual, where we here, our primary aim is to help them get back into work and I'm not saying that's not an element of probation's work, but they have more of a focus on risk management.

(Jobcentre Plus staff)

4.6.2 Helping offenders into work

The research took place in a recession. Securing and sustaining work became more difficult than it had been for more than a decade. This was widely discussed and seen as a major barrier to paid work for offenders.

The fairly small group of offenders who were interviewed for this research tended to feel most encouraged and enthusiastic about job seeking following the successful acquisition of recognised 'high status' vocational qualification, that **directly** qualified an individual for a specific trade, a good example was an HGV licence. ETE providers generally shared this view, if an offender could earn a qualification that directly qualified them for something, that was a good route into paid work. Less expensive qualifications in fork lift truck driving, catering and building were also included in this perception. However, ETE providers reported that these 'high status' vocational qualifications that could lead immediately and directly to paid work were relatively expensive to deliver.

'...where we have access to European money...it was a terrific success because we weren't paid on outcomes, we drew down money to pilot and to try interventions that worked and we had great success with Railtrack, with construction skills, with fork-lift truck, with HGV training, lots of stuff that cost quite a bit of money, but people moved from offending into secure and sustainable employment, well paid sustainable employment in most cases, it worked, but it was very, very expensive and when the funding stream's exhausted, we can't continue.'

(ETE provider)

This was not a route for all offenders as some were not capable of achieving this level of qualification, just as others were capable of exceeding it.

For most of the respondents a major issue was that mainstream employers were reluctant to take on offenders. There was a widespread belief among offenders and ETE providers that many employers would simply bin an application from an offender.

'If you tell sometimes an employer, on an interview, you've got a criminal record, the interview's more or less finished before the end of the sentence.'

(Offender)

'There's a lot a competition, I've got a lot of competition against me, I mean there's people that are currently in work applying for posts, and I'm long-term unemployed, disabled, been to prison. I know I'm kicking myself around a bit here, but that's how I feel.'

(Offender)

'The key barrier I have found in my experience in London is this idea of employer engagement. In London, we are currently involved in a project which a specific organisation, a construction company...what they are doing is actually identifying job opportunities on the Olympic site and then engaging with some of our offenders to deliver specific training...the jobs are there, they are guaranteed if they get through it. But nationally we don't see many employers that are doing that.'

(Offender manager)

In this context, specialist ETE providers and offender managers emphasized the importance of realistic expectations for offenders on probation. Part of this realism was that it was demonstrably possible for offenders on probation to get work. At the same time, employer engagement was not uniformly achievable, offenders might face a long wait before they could get paid work and some employers might not be persuaded to take offenders on.

'Realistic expectations are very important. You get some with too low an expectation and some with too high an expectation. You get some that feel they'll never be able to work and others that feel they'll walk into a job next week. The reality is somewhere in between those two, but it's getting them to get that picture of where they're at, in terms of their expectations and their readiness to work, that is a key area.'

(ETE provider)

The use of disclosure management arrangements to recruit and reassure mainstream employers was discussed in Chapter 2. As noted in that chapter, if employers could be persuaded to trust the working knowledge and professionalism of an offender manager or a specialist ETE provider, they could be persuaded to consider employing offenders. In addition to the use of disclosure management arrangements, the following techniques were also used to recruit mainstream employers:

- Emphasising the 'social duty' aspect of working with offenders, i.e. how engagement with offenders was directly important in reinforcing community safety, preventing recidivism and promoting the well being of an area and society in general.
- Emphasising the 'business case' for working with offenders, i.e. that they could be a trained, reliable and enthusiastic source of labour.
- Providing support services where this was appropriate to risk management and/or to meeting any care and support needs an individual offender might have.
- Given that mainstream employers knew that **any** employee was potentially problematic, probation or specialist ETE services offered something of a guarantee that a specific offender referred by them would probably **not** be problematic. Beyond this the positive 'distance travelled' by an offender since they had committed their offence could be emphasized, such as their commitment to reform, training and voluntary work achievements.

- Quite stark arguments were sometimes employed drawing on the general level of offending. For example, if an employer said it had a blanket policy not to work with offenders, it was told that in all probability it actually **was**, as around 40 per cent of adult men in the UK had some form of conviction. By starting a working relationship with probation, a specialist worker or agency, these employers could have a better sense of who it was they would be working with than they might with an ordinary citizen who simply applied for a job, sought a tenancy or joined a course.
- Direct payment on a short-term basis, i.e. a financial incentive to take on offenders, had occasionally been used.

The phrase which was used most frequently to describe these arrangements and working relationships was that business would respond best to a 'business case'. It had to make economic sense to employ offenders, it had to offer some advantage, in short, employers needed one or more **incentives**.

'It's like a scales thing we are talking about though isn't it? Because you've got someone with a criminal record and then all the other stuff. And the better other stuff is, the less important the criminal record becomes. So if you've got the risk assessment, the vocational training, the job readiness and all of that, that outweighs or starts to outweigh the record. So it's about saying this person isn't just that, these are all the good things about them.'

(ETE provider)

'You say to the employer, as a minimum, what do people need to have if they come to you looking for work? And, you know, we can set up courses, with the college and ETE provider about that pre-employment work, so it might be that they want them to have, you know, a food hygiene certificate or a first aid certificate...and we can do that...they're risk assessed, they're more job ready, vocationally they are more skilled and we can put that altogether as a package and present to an employer...What we want from an employer is a buy-in, that says, 'we're going to do all of this what we want from you is guaranteed interviews.'

(ETE provider)

'...I tell employers about how it makes business sense, I talk about how giving people a second chance can actually mean that they are more loyal employees than they otherwise would be, I talk about other employers and businesses who have recruited offenders who that employer can contact if they want some information about their experiences...I'm realistic, I don't tell them it's going to be perfect.'

(ETE provider)

The respondents clearly believed that these processes worked. Their perception was that recruiting employers, using disclosure management processes and the other ways to incentivize employers had produced paid work for offenders. This process was not confined to probation and specialist ETE services, in those areas in which Jobcentre Plus had established dedicated offender focused resources, such as prison based personal advisors, it had mirrored and extended these ideas. In one instance, albeit prior to the current recession, an employment fair had been held inside a prison, with major supermarkets directly recruiting from soon to be released offenders.

Skills had to be matched to what employers wanted, offenders had to look like good, dedicated employees, which meant evidence of practical success, ideally from other businesses in the same field, was crucial. It had to be clear that offenders on probation were being trained in the right things in the right way, or there would be disappointments.

'We need to train people for the jobs that are out there and not to sit back and say look what I've got a lovely qualification in whatever and it does not lead to anything.'

(Jobcentre Plus staff member)

Employers, like some landlords, were sometimes concerned that working with offenders would be leaked to the mass or local media with very damaging consequences. Employers would sometimes be uncertain about taking on offenders on probation not because of their own attitudes, but what they perceived as the popular attitudes surrounding them.

'...the problem and the difficulty with some employers [is] that they will actually say, "yes, I am willing to recruit ex-offenders, but I only want to do it through you, so don't tell anyone else that I am recruiting ex-offenders and for goodness sake don't let the media get hold of the fact that I am recruiting ex-offenders".'

(ETE provider)

Employer engagement could sometimes seem incoherent if agencies were not properly coordinated. For example, if a dedicated probation staff member focused on employer engagement, Jobcentre Plus and specialist ETE services all approached the same employer without being aware of one another. This was avoided in areas where joint working was more developed.

If an employer had experience of working with offenders in the past, they reported as being more likely to avoid adopting a 'categorical' attitude to the presence of a criminal record. Although the offender's record was seen as a disadvantage, it was something that the potential employer was able and prepared to balance against the offender's other positive skills, attributes and experiences. There were some serious offenders, such as offenders in MAPPA arrangements, who were still almost certain to not be offered work by mainstream employers that would consider other offenders.

Some offenders reported being able to get employment – after they had been charged, convicted and sentenced for their crime, and served their sentence – from former employers, albeit sometimes at lower grades than they had previously achieved. In these cases, employers had enough previous experience and knowledge of the offender that they were able to balance the offender's criminal history against a range of more positive traits.

A small number of specialist service providers suggested that one of the most effective means of encouraging employers to consider applications from offenders was to employ offenders themselves. A few respondents reported that organisations that encouraged others to employ offenders, but which would not employ offenders themselves, were taken less seriously by mainstream employers. Clearly there are limits to the extent to which offenders can be employed by the services that are designed to help other offenders, but it was viewed as helpful in increasing credibility of the case they were making as well as directly benefitting those who were employed.

Direct payments were sometimes provided to employers willing to take on offenders for a 'trial' period, with a view to then offering or not offering employment to the offender. This allowed the opportunity for potential employers to make a more nuanced and comprehensive evaluation of the offender's aptitude as a potential employee, as well as to learn more about the offender as a multi-faceted and unique individual rather than as simply 'an offender'. Appropriately subsidised, these trial periods were often cost-neutral from the employer's perspective. These arrangements could be successful, but cost was again an issue.

'We gave them [financial] incentive to take on offenders. And we used that incentive as a proving ground to indicate to them that these issues that they believed existed around offenders... So we were able to get offenders in at very little or no cost to the employer for a limited period of time. And once they'd started they had the option of taking them on. That proved successful in eight out of ten cases, the employment was secured.'

(ETE provider)

4.7 Views on NI 144

Funding on a per-outcome basis was sometimes perceived to be a pressure on some ETE providers to concentrate resources on those who were easiest to help, rather than those with more acute needs. Supporting those offenders on probation who were unlikely to achieve the goal on which 'performance' was judged, i.e. a paid job, was seen as harder to 'justify'.

'Especially in the current downturn we are even more challenged by being paid according to job outcomes and learning outcomes, job outcomes are even harder now...we don't get any core funding, so even your staffing is at risk if you don't deliver those results, and certainly some of the contracts, you're paid to see an offender three times and then they want to see a job outcome. Well, it doesn't work like that, we've got evidence where we've had 25 interventions with clients and the funding model doesn't fit the needs of the client.'

(ETE Provider)

In particular, the existing measure of success, the achievement of paid work, was seen as not recognising the 'distance travelled' by offenders. Many service providers working in ETE reported feeling that, while they did not bring offenders to the point where they were job-ready, in work, or at least ready to job-search, they had brought them a lot closer to that position than they had been.

'...there's no recognition for clients that may have never worked in twenty years and we get them involved in a voluntary activity, you know, for someone that's not worked for 20 years...is a tremendous outcome for that person. But it's not recognised, on a lot of the contracts there's no recognition for what we would have termed as a soft outcome.'

(ETE provider)

LSC funding arrangements with colleges were identified by some specialist ETE providers as providing a **disincentive** for colleges to take on offenders, because they typically had low rates of course completion and achievement.

5 Conclusion and recommendations

5.1 Information sharing

Successful information sharing is, very clearly, based on trust. Trust existed where there was a shared understanding, a common purpose and within frameworks of data sharing protocols and free and informed consent gathering systems which all parties understood. Offenders understood and trusted these processes and so did the frontline staff using those processes.

Within joint working systems with protocols, the nature of information exchange took on a particular shape, which was the exchange of working knowledge on a case-by-case basis by professionals and workers. This meant focused, nuanced information was being exchanged. However, it also meant that large networked shared databases were not being developed, essentially because frontline staff in different organisations talked or wrote to each other about the offenders they were supporting. Both the existence of the formal record data sharing protocols and the shared culture and goals of the organisations in joint working with protocol arrangements, meant there was high confidence that information was not being shared inappropriately and would not be misused or misinterpreted.

However, networks of specialist organisations that exercised joint working with protocols could only develop where there was a sufficient critical mass of offenders to allow their development. The best examples of joint working and information sharing were all urban.

Outside the networks of probation and specialist education, training and employment services (ETE) and housing services for offenders, information sharing was more problematic. If a mainstream agency, such as an employer, landlord or college, found out that someone was an offender, they would be both ill-equipped to interpret that information and as a consequence would often simply 'bin' any application from an offender.

The answer that probation services had developed was simple and effective, the disclosure management processes that provided a trusted source of information on risk and accentuated the positive aspects of offenders, were demonstrably generating access to housing and work that otherwise would not have existed. However, these arrangements could be precariously funded and for every employer and landlord that could be brought on board, there still remained some who refused to contemplate working with offenders.

Equally, the mainstream elements of the welfare state, such as Jobcentre Plus and social housing landlords that were not part of joint working with protocols, could present real challenges in respect of information sharing. The lack of certainty as to what information could be shared was often coupled with a lack of mutual professional understanding, both of these issues being the result of generally poor joint working. As noted in Chapter 2, examples of poor joint working and of poor data sharing, existed in all areas. These problems existed as soon as agencies were outside the close joint working with protocols that characterised the relationships between probation and specialist ETE and housing support providers.

Geographical distance, particularly getting information on offenders returning to an area from prisons some way away, seemed to also create significant problems in coordination and information sharing. This was found to an extent in most areas, even those like London or Birmingham, where information sharing was most developed.

5.2 Issues in outcome monitoring

Two issues existed in respect of outcome monitoring:

- The highly developed systems that existed for frontline information sharing in the cities shared **working knowledge** (which included formal records alongside opinion and judgements) on a case-by-case basis, they were not building shared networked databases. This was in large part because the exchange of working knowledge was, from a **frontline** perspective, most useful, because of the focus, nuance and detail within working knowledge compared to formal record data. However, this meant that the formal record data, the source of data for outcome monitoring, could in some respects be an 'add-on', a **discrete** task performed for outcome monitoring at regional and national level.
- The metrics, i.e. the measures used by National Indicator (NI) 143 and NI 144, were thought to have limitations by some professionals, which raised questions about their efficacy. In the case of the housing indicator, the measure was thought to sometimes accept an **inadequate** level of security of tenure, particularly in respect of accommodation based housing support services. The employment indicator was thought to under represent the progress made by offenders towards employment.

A further issue is point of measurement. After probation supervision ends, outcomes might either improve or deteriorate. Without longitudinal monitoring it is difficult to be sure whether this is the case. A hard proxy, for example, a standardised rate of reconviction, could be tested against NI 143 and NI 144 to get a broad idea. However, without more detailed, longitudinal monitoring of housing and employment outcomes and delivery processes, it would be difficult to be confident about where and how strengths or weaknesses in delivering **sustainable** housing and work were influencing reconviction rates.

5.3 Delivering suitable and settled accommodation

The Private Rented Sector (PRS) has many advantages, in that it can be relatively quick and simple to access and can provide good housing solutions. The chief disadvantage is that the affordable PRS submarkets including those open to benefit claimants, which most offenders on initially probation are, can be quite small.

Housing support services for offenders can be excellent, but they may not be viable in all areas. They need a sufficient throughput of offenders in order to justify their existence and fixed site. Supported housing services can also 'silt up', becoming effectively inaccessible, in areas where it is difficult to move offenders on into ordinary housing.

The findings in respect of the homelessness legislation are unsurprising in the light of other research. There do appear to be limitations in the extent to which the housing needs of ex-offenders can be met, for any but the most vulnerable individual offenders, via the legislation.

A key finding is the degree of innovation and flexibility being employed, particularly in the areas of the highest housing stress like London. The response to scarcity in affordable housing is often both imaginative and effective, a good example being the use of disclosure management processes to recruit private sector landlords.

5.4 Delivering employment

The research findings suggest that getting employment is sometimes only possible after soft skills have developed that make an offender either 'work ready' or 'ready to learn' and able to acquire basic skills. Targeting training in high value vocational qualifications, such as acquiring an Heavy Goods Vehicle (HGV) licence, can be effective in securing work, but has cost implications. In a situation in which there are many applicants per job, as at the time of writing, an offender with only basic skills may not be shortlisted.

Recruitment of mainstream employers, through a combination of disclosure management processes and by making a clear business case, was a demonstrably effective means of getting offenders into paid work. Again, probation and specialist ETE agencies had responded innovatively and flexibly to overcoming the problem

of employer attitudes to offenders, which until the recent recession had been the main barrier to work. As was the case with mainstream landlords providing housing, employers could be brought on board and could provide the work that offenders needed.

5.5 Recommendations

5.5.1 Main recommendations

- Information sharing about offenders routinely occurs at the frontline level between organisations. However, there is evidence of failures of information sharing in some key areas. There is a case for considering the development of formal, accessible guidance for information sharing between prisons and probation, between probation and housing support services and between probation, specialist education and training services and Jobcentre Plus. Such guidance would need to be produced through cooperation by National Offender Management Service (NOMS), Ministry of Justice (MoJ), Communities and Local Government (CLG), Department for Work and Pensions (DWP), Jobcentre Plus and the Information Commissioner's Office (ICO) at national level.
- The information sharing that does occur does not automatically produce consistent data that would enable more **detailed** outcome monitoring. There is a case for developing specific guidance on establishing a minimum outcome data set that would **enrich** the data available on housing and employment outcomes. This would again need to involve the key agencies at national level, including the ICO.
- There is good practice in 'recruiting' mainstream landlords and employers to work with offenders on probation. Both jobs and housing for offenders are secured through this route. There is a case for developing specific, accessible guidance on how best to achieve this, as the presence of a criminal record is a major barrier to housing and employment.
- There are questions about the robustness of the NI 143 and NI 144 indicators that might support a case for review. These centre on the suitability of the housing indicator, which some professionals view as reporting some inherently **insecure** housing settings as 'suitable and settled', and the employment indicator making no allowance for the 'distance travelled' towards employment by offenders on probation with the highest support needs (though it is difficult to envisage a system that could measure this on a collective basis). More generally, there are questions about the absence of a longitudinal element from outcome monitoring.

5.5.2 Recommendations for information sharing

- In the current climate it is problematic to recommend any additional staffing to support information sharing within probation or other agencies. If funding can be found, there is a case for dedicating at least some funded staff time to help develop and maintain information sharing protocols. Some form of cost-benefit analysis would be necessary before any new arrangements could be adopted. Continuity of funding would allow for more effective medium to long-term planning.
- Joint working and information sharing with Jobcentre Plus worked best when Jobcentre Plus had dedicated specific resources to offenders. The capacity to construct and maintain teams of personal advisors that are offender focused will always be limited by cost considerations, such specialist adaptation is difficult to justify when there is not a 'critical mass' of offenders. However, in those areas where Jobcentre Plus offices are dealing with a significant number of offenders (and ex-offenders), the possibility of developing a specific response should not be ruled out.
- Joint working is both hard to establish and difficult to maintain in respect of agencies that do not routinely share significant numbers of cases. However, in those areas in which developing full joint working can be problematic, the model of disclosure management processes used with mainstream employers, landlords or colleges can be adapted. It is not difficult to imagine a disclosure management process that informed Jobcentre Plus of an offender's status (with their free and informed consent), for example.
- Agencies with an interest in the delivery of Public Service Agreement (PSA) 16 should consider producing guidance, including a tested protocol, to allow prisons, probation services and specialist ETE and housing support providers that are physically remote to share personal and sensitive data on a case-by-case basis to improve coordination and outcomes. ICO participation should be sought in generating this guidance.
- There is still confusion about the legislation in those circumstances in which information sharing protocols are not in place. There is a case for specific guidance on sharing information about offenders, perhaps produced by DWP, NOMS, CLG and ICO, that provides a very simple overview of the Data Protection Act (DPA) and provides a working, tested example of a information sharing protocol. This should, insofar as possible, also deal with the less clear areas, particularly the circumstances in which the vital interest clauses apply.

5.5.3 Recommendations for outcome monitoring

- Frontline information sharing does **not** necessarily involve the combination of databases. This means that data merging, in the sense central government understands it, i.e. large administrative datasets being networked together, is often **not occurring at local level**; instead information sharing tends to happen on a case-by-case basis.

- If outcome monitoring on housing and employment for offenders is to be **enhanced**, there is a need to ensure that a standardised set of additional data are collected. This standard would contain a number of comparable formal record data including those fields necessary to measure progress towards PSA 16 for offenders in more detail; and also contain clauses specifying that such data should be shared upwards for strategic purposes. It is suggested that to minimise data protection concerns only anonymised, aggregated data would be shared for strategic purposes. Guidance and support would be required, which it would probably be logical to arrange at national level, e.g. a website and helpline.
- Highlight that effective operational-level databases are necessary for making **strategic** level argument for why a particular organisation should continue to receive funding, and that high quality operational data allows the strategic level argument to be made more effectively.
- Within any enrichment of existing outcome measurement, consider the development of longitudinal monitoring to ensure that it is clear whether housing and employment outcomes are sustained and/or improve or deteriorate after probation. Where there is a need for longitudinal data **consent** should be sought from an offender for data about him or her to be retained, specifically, for long-term strategic and potential future operational purposes.

5.5.4 Recommendations for improving housing outcomes

- There is good practice in establishing networks of specialist housing support services that work closely with probation in most major cities. This is best pursued, as is currently the case, by probation working closely with local strategic partnerships to ensure the right service mix is developed.
- The development of networks of specialist housing support services for offenders is more difficult outside the cities. However, proper strategic planning can ensure that generalist homelessness and other services are at least broadly equipped to meet the needs of offenders. Local Strategic Partnerships should ensure probation services have a central role in housing support planning in any area in which this is not the case.
- There is existing good practice in recruiting private sector landlords through a combination of disclosure management processes and making a clear business case to landlords. There is a case for producing detailed guidance with good practice examples to these models.
- More generally, the imaginative and flexible responses of probation and specialist housing services to relative shortages of suitable affordable housing could be disseminated. A key message is the capacity to use multiple possible routes to house offenders in housing need.

5.5.5 Recommendations for improving employment outcomes

- As is the case with housing support services, there is good practice in establishing networks of specialist education and training services that work closely with probation in most major cities. This is best pursued, as is currently the case, by probation services working closely with local education and training commissioners and providers to ensure the right service mix is in place.
- There is existing good practice in recruiting employers through a combination of disclosure management processes and making a clear business case to employers. There is a case for producing detailed guidance with good practice examples to these models.

