Transforming Rehabilitation: The Reconfiguration of Risk within a Community Rehabilitation Company

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The thesis is submitted in partial fulfilment of the requirements for the award of the degree of Doctor of Philosophy of the University of Portsmouth

April 2018
Declaration

Whilst registered as a candidate for the above degree, I have not been registered for any other research award. The results and conclusions embodied in this thesis are the work of the named candidate and have not been submitted for any other academic award.

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Abstract

In recent decades Probation has been subject to increasing amounts of change, both structurally and in practice. Most notably it has seen a rise in a risk agenda with risk governing the ways in which offenders are worked with. Research has suggested that throughout these changes probation practitioners have been able to maintain a probation culture grounded in its philanthropic roots. Most recently probation has been subject to its greatest, most profound change through the Transforming Rehabilitation agenda which has culminated in the creation of twenty-one private Community Rehabilitation Companies that manage all offenders deemed as posing a low to medium risk of serious harm. Those offenders assessed as a high risk of serious harm now fall under the remit of the National Probation Service which remains within the public sector. Risk governs the allocation of offenders. This study seeks to discover how TR and privatisation have impacted upon the conceptualisations and application of risk within one Community Rehabilitation Company. It examines the modes by which risk is defined, assessed and managed. In addition to this it considers the relationship that has emerged between the Community Rehabilitation Company and National Probation Service and the process of risk escalations where an offender is considered to have crossed the high risk of serious harm threshold. Whilst doing so the study also considers the culture of the Community Rehabilitation Company and the practitioner identity. Based on these data, it would appear that risk has been reconfigured and is now predominantly viewed through a lens of profit affecting both the rehabilitative intent of the work undertaken and risk as a homogenous probation concept. Despite these changes there is evidence to suggest that practitioners are endeavouring to maintain old working practices but their capacity to continue to do so is limited. There are now new working practices in relation to culture and risk that are heterogenic to the Community Rehabilitation Company.

Thus, the research makes a significant contribution to knowledge by outlining the potential for risk as a ubiquitous probation concept to be compromised and corrupted through the creation of Community Rehabilitation Companies.
Acknowledgments

I would like to acknowledge and thank the following people: Professor Mike Nash who has supported, believed in and guided me for many years; my colleagues past and present; Sydney for always being pleased to see me; my dear friends who have been kind, patient and supportive throughout and my best friend who holds my hand. LTL, always. Finally, my parents who I dedicate this to. Thank you for everything.
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Abbreviations

BBR  Building Better Relationships Accredited Programme
CJA  Criminal Justice Act(s)
CRC  Community Rehabilitation Company
FDR  Fast Delivery Report
HMI  Her Majesty’s Inspectorate
HMPPS Her Majesty’s Prison and Probation Service
IPP  Imprisonment for Public Protection
MAPPA Multi Agency Public Protection Arrangements
MOJ  Ministry of Justice
MSRP My Solution Rehabilitation Programme Toolkit
NAPO National Association of Probation Officers
N-delius Case Management and Record System
NOMS National Offender Management Service
NPM New Public Management
NPS National Probation Service for England and Wales
OASys Offender Assessment System
OGRS Offender Group Reconviction Scale
OM Offender Manager
OMM Offender Management Model
PBR Payment by Results
PO Probation Officer
PSO Probation Service Officer
PSR Pre-Sentence Report
RAR Rehabilitation Activity Requirements
RMA Risk Management Authority
RSR Risk of Serious Recidivism Assessment Tool
SPO Senior Probation Officer
SFO Serious Further Offence
TR Transforming Rehabilitation
Chapter One: Introduction

The Transforming Rehabilitation (TR) agenda (Ministry of Justice, 2013a, 2013b) introduced under the Coalition government culminated in the partial privatisation of probation with low to medium risk of serious harm offenders being supervised by private Community Rehabilitation Companies (CRCs). Those deemed a high risk of serious harm now fall solely under the remit of the National Probation Service (NPS), which remains within the public sector. As such risk now determines whether offenders will be supervised within private or state probation organisations.

This research concerns the use of risk within one CRC. More specifically it is about the ways that risk is thought about and used within practice (its mentalities and rationalities) and the rationale of the changes that have occurred to it since privatisation. It explores the potentially fragmented and altered use of risk and the relationship that now exists between the NPS and the CRC, in particular when determining if an offender within the CRC meets the high risk of serious harm threshold and requires escalation to NPS. The research also considers the culture of the CRC and how this has changed since TR because this affects not only the everyday practices of practitioners but also their motivations for undertaking their work; the culture and ethos ultimately determines the nature and purpose of the work undertaken.

Therefore, the main aim of the research is to investigate how the significant change in probation culture, through its privatisation, impacts on how risk is understood (mentalities), conceptualised (thought about) and applied (rationalities) within a CRC.

Two objectives underpin this:

The primary objective is to investigate and identify the ways in which risk informs the assessment and subsequent supervision of offenders in the CRC, including the risk review escalation of cases to NPS.

The secondary objective is to investigate and identify how previous and current organisational cultural knowledge, practice and perspectives inform and/or change the conceptualisation and application of risk within a CRC (does an ontological reality of risk exist for practitioners?)

The field work for this study commenced in October 2015, nine months after the CRC commenced ownership and involved the use of focus groups and semi structured interviews with both probation officers (POs) and probation service officers (PSOs), who do not hold a degree level probation
qualification. The CRC researched is not part of a consortium but is owned by a single company, unlike the majority of CRCs, and has ownership of three geographical areas that previously formed two probation trusts. The NPS now compromises of seven geographical areas having also been merged through TR.

The Researcher’s Interest in Risk

In 2001 I joined the probation service as a PSO and six months later commenced training as a PO. At the time I joined probation had recently become nationalised and a new training qualification implemented that had removed the social work component. Therefore, most of the colleagues that guided me held a different qualification and a culture of social work was still prevalent. Throughout my time in probation risk became increasingly prominent and more focus was placed upon the high risk of serious harm offenders, a group that I worked with when I joined a public protection team which was responsible for the supervision of serious violent and sexual offenders (now the remit of NPS). My knowledge of these offending behaviours was somewhat limited and had not constituted a substantive part of my training, so I completed an MSc in Criminology and Criminal Justice which raised my interest in risk further and I used my dissertation to explore the use of dangerousness within legislation through the creation of Imprisonment for Public Protection sentences. Since leaving probation I have continued to research and specialise in risk and, given the complexities of it, consider it pertinent to consider it within a private probation company where they are able to develop new risk tools and modes of supervision.

Language Within the Study

When discussing the participants generally the word practitioner is used, there is no distinction made between their roles and qualification unless they are being referred to specifically (i.e. the data). Both roles undertake risk focused work. Additionally, the term offender is adopted. For some (UserVoice, 2015) this terminology is viewed as inappropriate and controversial because it identifies an offender by virtue of one aspect of their behaviour and this behaviour is ultimately something that probation is aiming to change. However, the term is universally sanctioned in the sense that it is in government (Ministry of Justice and HM Prison and Probation) and probation legislation, guidance and policy documents. When researching and formulating my research question it was evident that this term still dominates probation and practitioner rhetoric even though the CRC researched has changed it to servicer user, the rationale for which is discussed within the research.
The Rationale of the Study – Risk and Culture

Much has been written in relation to the definition and use of risk however, this has tended to focus on the predictability and accuracy of risk assessment tools. Therefore, there is a paucity of research and information regarding the risk practices that occur within probation – there exists a ‘governmentality gap’ (McNeil et al, 2009, p.421), where there is a chasm between the intricacies of government rationalities and technologies and the practices and discourses that make up the field. There is a lack of knowledge regarding the space between the ‘official’ and the ‘frontline’. Research is therefore needed in relation to how practitioners conceptualise, understand and use notions of ‘risk’ within their professional practice. Dean (1999, p.177) comments that the significance of risk does not lie within risk itself but ‘with what risk gets attached to.’ It is the knowledge behind it, the technologies used to govern it and the rationalities that deploy it that are significant. Within this research the knowledge, technology and rationalities of risk are considered within a governmentality, neo-liberal and socio-cultural framework.

With regards culture unremitting political changes have led to constant shifts within penal policy and a relentless restructuring of probation leading scholars to become increasingly focused on how practices within probation have been maintained. Subsequently, there has been an increasing amount of literature concerning the following areas: the practitioner perspective (Annison et al, 2008; Deering, 2010); occupational cultures (Deering 2011, Mawby and Worrall, 2013 and Deering and Feilzer, 2015); the use of targeted interventions and programmes (Raynor and Vanstone, 2007) and the rise of risk in assessment (Fitzgibbon, 2008; Kemshall, 2010). However, there remains few empirical studies that consider practice cultures and risk practices (Burke and Collett, 2011).

Grant (2016) notes that within the previous empirical studies there is evidence of an enduring commitment to welfare approaches and that a durable penal agent exists (2016, p.2) where practice is guided by factors outside of organisational goals and knowledge, rather they are affected by ‘inculcated values and principles.’ However, such assertions have predominantly been made prior to TR when probation was grounded within the public sector. Little research has been published since the CRCs physically took ownership. Therefore, this thesis offers empirical research to areas that need further consideration.
Contribution to Knowledge and Research

For the first time, the majority of probation has been placed under the remit of private organisations resulting in new organisational goals and objectives that contrast and potentially conflict with public sector probation and the culture of probation prior to TR. The originality of this study lies in the insights gained into a CRC’s new working practices. It provides unique data concerning the ways that the CRC’s owner has affected and altered the culture of probation and its risk practices. It also provides unique data regarding the creation of a new risk assessment tool and the interactions of a CRC with NPS. The thesis demonstrates that the changes that have occurred within the case study have the potential to be considered in a wider context and that risk has the potential to become heterogenous and contingent on each of the CRCs and NPS, thereby altering its function and purpose.

A Brief Context to Probation

Established by the 1907 Probation of Offenders Act the probation order was originally an alternative to a formal sentence and until the 1970s pursued a rehabilitative ideal, both at governmental and practitioner level. However, since the era of ‘nothing works’ where there was a lack of belief in rehabilitation as an effective means of addressing offending, the government’s aims and objectives for probation have been increasingly viewed through a lens of cost effectiveness whilst pursuing an agenda of public protection (Chui and Nellis, 2003; Newburn, 2003). The 1991 Criminal Justice Act made probation a formal sanction and began the process of rebranding it as a criminal justice agency that was tougher on crime and its perpetrators. At this time probation comprised of 54 separate services managed by local magistrates and committees who were, in the main, independent of central government and able to determine their own policies and practices. However, in 2001 the Labour government centralised probation by making it a national service consisting of 42 areas who were now controlled directly by the state. The rationale for this was that probation was still too lenient and soft on offenders, a notion shared by both Conservative and New Labour governments (Newburn, 2003) and such changes can be regarded as part of the new public management approach (NPM) to the public sector (Garland, 2001). In 2004 probation was partnered with prisons under the National Offender Management service (NOMS) and the notion of contestability and use of the private and voluntary sector first introduced. Alongside these changes the prison population had increased without having any significant impact on re-offending rates and the number of community sentences also rose at the expense of conditional discharges and fines (Deering, 2011).
Under the Labour government probation was to become increasingly under fire and altered with greater emphasis placed upon the public and the victim.

The Coalition government of 2010-2015, in the midst of a global recession, committed to a programme of public spending cuts and offered the promise of a Rehabilitation Revolution that would reduce both re-offending and public spending. The revolution would be provided by organisations outside of the public sector and its details were laid out within the Green Paper *Breaking the Cycle* (MOJ, 2010). The consultation period ended with the publication of *Transforming Rehabilitation: A strategy for reform* (MOJ, 2013) where the probation trusts formed under NOMS and the Criminal Justice Act 2003 were abolished, replaced by seven NPS and twenty-one regional CRCs that were ‘sold’ to new providers through a competitive process. The NPS were to be responsible for high risk of harm offenders and for giving guidance to courts though pre-sentence reports and would make the initial assessment of risk of serious harm, thereby allocating the case. CRCs were to hold the low to medium risk of serious harm offenders. In addition to this post release supervision was extended to all offenders subject to custody through the Offender Rehabilitation act 2014. By June 2014 probation trusts had ceased to exist and in October 2014 the winning bidders were announced, with contracts signed in December 2015. Probation staff were consequently allocated to either the NPS or a CRC with location determined by the case load that they held on a certain day. Through TR, probation within CRCs is now dependent on and driven by profit.

**A Brief Context to Risk in Probation**

Since the end of the twentieth century modern probation practice has become increasingly dominated by the concept of risk culminating in an increased use and reliance upon bureaucratic models of risk assessment and management (Fitzgibbon, 2007, 2013; Fitzgibbon & Lea, 2014; Nash, 1999, 2006; Nash and Williams, 2005). Risk’s prominence within probation has altered its traditional purpose from being one of rehabilitation and restoration to one that is governed by risk mentalities with the aim of ensuring public protection. Through the Criminal Justice Act 2003 the level of risk determined the level of resources and supervision that an offender was subject to and now dictates the provider of such interventions (CRC or NPS). The adoption of risk as the lens through which probation work and offenders are viewed has resulted in an increased use and reliance upon technology and actuarial risk assessments that calculate risks levels regarding both re-offending and risk of serious harm. For some this has undermined the probation practitioners’ ability and capacity to utilise professional knowledge and experience and formulate clinical assessments (Mair and Burke
2012; Fitzgibbon, 2008; Kemshall, 2003). With the partial privatisation of probation assessments, interventions and offenders have been commodified and there is the potential for new practices to be adopted where the risks being governed are fiscal. Consequently, the bifurcation of probation could result in the fragmentation and reconfiguration of what were homogeneous and ubiquitous definitions of risk.

Structure of the Thesis

The thesis begins with three chapters that draw on the existing literature setting the context for this study. Chapter Two considers the history and culture of probation up to TR. It considers how practitioners construct the purpose of probation and their own work and begins to consider whether TR and privatisation will result in a new ethos. Chapter Three considers risk and discusses why it has become so integral to the work of probation and how it is understood, used and applied. It also discusses how risk has altered the nature and practice of probation and the wider theories that can be used to explain its increasing prominence. Chapter Four considers TR and the political and economic context within which it has taken place. It considers the fundamental changes made to probation under the Coalition government and how privatisation has ultimately occurred, drawing upon neo-liberalism and public governance. Chapter Five describes the design of the research. It explains why the chosen approach was adopted as a suitable means to achieve the research objectives whilst discussing its strengths and limitations as well as some of the challenges that were encountered. Chapters Six, Seven, Eight and Nine present the findings of the study. Chapter Six discusses the practices that are taking place within the CRC and the new modes of working that have been adopted and how and why these utilise risk. Chapter Seven, focuses on the experience of the practitioner and the offender since the CRC took ownership and the ways that this has affected probation practitioners’ status and identity and their capacity to work in the ‘old’ ways. Chapter Eight considers risk more specifically, focusing on its rationalities and mentalities within the CRC and the adoption of new ways of categorising and assessing risk. Chapter Nine discusses the bifurcation of risk and how risk is understood and applied in relation to risk escalations to NPS. It also considers the communications between NPS and the CRC and a probation hierarchy. Finally, Chapter Ten concludes the thesis with a summary of the findings and a discussion of the wider implications before making recommendations for policy and further research.
Chapter Two: Probation, Culture and Identity

Probation now comprises of seven public sector divisions (NPS) and twenty-one private sector CRCs. This study considers how these changes have affected practitioners’ practice within a CRC specifically in relation to risk. To do this the history and chronology of probation prior to TR needs to be discussed and considered in relation to probation culture and identity because it is this that arguably has the greatest influence upon the ways in which practitioners think and act in relation to risk and the work that they undertake. It is the culture and ethos of the CRC that will ultimately determine the mentalities and rationalities practitioners adopt and the sustainability of a probation ‘ethos’.

From Philanthropic to Punishment

Probation’s history and roots are grounded in the philanthropic originally undertaken by court missionaries in the 1870’s who wished to save the souls of those that had digressed from societies moral code (Chui and Nellis, 2003). At its inception the primary driver was religion, however the purpose was reformation. In 1907 the Probation role was formally and legally introduced through the Probation of Offenders Act. It was here that the duty of a probation officer was first stipulated – ‘to advise, assist and befriend him, and, when necessary, to endeavour to find him suitable employment’, thereby providing the first legislative definition of what the probation service was to achieve (see Nellis, 1999). This was to remain its mantra until 1991. The Probation of Offenders Act 1907 introduced the probation order as an alternative to a formal sentence of the court and pursued the rehabilitative ideal that reducing reoffending required a humanistic approach.

As the century progressed, and in line with an emerging penal welfare system, society and government soon adopted a medical treatment approach towards offending based upon the treatment of individuals grounded in an acceptance and a sense of responsibility towards those less fortunate (Robinson, 2008). Social benefits were both a moral and social necessity and, until the 1960’s, the welfare state provided for those with fewer opportunities across social policy including those who had offended against society. Crime was not a taken for granted rational choice by those involved it was a symptom of offenders’ circumstances and thus the state had a duty of care towards them, as well as to society, by rehabilitating them (Garland, 2001). However, this consensus on criminality was to come under increased scrutiny by both politicians, media and society. The 1960’s brought pessimism and critique of a model that medicalised criminality and the emergence of the...
‘nothing works’ era of the 1970s and 1980s (McGuire 2001) led to a new agenda for probation, one that was to result in it having to fight for and demonstrate its legitimacy in a climate of cost effectiveness and public protection. Crime was no longer viewed as person centred and treatable but symptomatic of poor socialisation and a delinquent pathology. As such, treating criminality as an ailment was ineffective and for some overly intrusive (Burke and Collett, 2015; Deering, 2011). Alongside this was an increasing amount of research and evidence regarding the efficacy of rehabilitative methods and the professionals and experts that administered them. This ultimately led to the very nature and validity of clinical practitioner knowledge being questioned especially when asked to make decisions pertaining to sentencing based upon the likelihood of criminal behaviour in the future (Hudson, 2003).

Prior to the 1970s little attention was given to crime and disorder by government campaigns and political agendas. Crime was not a vote winner for general elections and yet it has become commonplace and at times integral in contemporary politics (Garland, 2001). Following the second world war there had been a tacit consensus in relation to how the state should respond to lawbreakers. As Downes and Morgan (1997, p.128) state this had been based upon ‘the non-partisan character of crime and on the merit of gradual shifts towards rehabilitative policies for its control’. However, the breakdown of this, the competing notions regarding how to address crime and criminality and, more widely, social issues resulted in it becoming an area that was portrayed as in dire need of greater, more restrictive and punitive measures that addressed a decline in morality and values. Inevitably the answer was not to be rooted in social policy and welfare reform but in the criminal justice system and the rethinking and reconstruction of rehabilitation (Cavadino, Dignan and Mair, 2013). During this time there was a need by political parties to become more distinct and to distance themselves from other major political parties and crime provided them with a platform to do this (Brown and Pratt, 2000). Penal welfarism and the ethos underpinning it was now ‘...an unworthy, even dangerous policy objective that was counterproductive in its effect and misguided in its objectives’ (Garland, 2001, p.8). No longer was it the state’s responsibility to provide for those on the margins and periphery of society. They were now a threat to society and rehabilitation was an outdated and ineffective means of protecting ‘us’ from ‘them’. Rehabilitation and professional experts were simply not transformative (see Brownlee 1998) and failing to turn offenders into law abiding citizens that were rational actors and responsible for their own actions. Garland (1996) refers to this time as being the beginning of ‘the crisis of penal modernism’ (1996, p.447), where the statutory pillars of criminal justice in the prison, borstal, sentencing, policing and probation were perceived as failing. Garland (1996) comments that the period after the late 1960’s saw the unravelling of the penal welfare approach exacerbated by the ‘Nothing Works’ mantra that was
prevalent during the 1970s and 1980s. For Garland the proposition that ‘nothing works’ to reduce criminality was a ‘somewhat hysterical and temporary symptom of a more sober and abiding sense of the limits of criminal justice, which has since become a part of criminological common sense’ (1996, p.448). The penal welfare strategy had been part of a sovereign state approach that augmented sovereign power through social control. The unsustainability of this had become apparent and for Garland (1996) the state had had to acknowledge its inability to deliver what was expected of them – to control criminality. For Pratt (2007) this shift was not just attributable to trying to solve the problem of crime rather crime was used for political expediency and as such a penal populist approach was taken, whereby crime policies were undertaken to placate both the media and society. As such crime was to be amplified for the government’s own political ends.

The crisis in penal modernism led to justice and interventions no longer being grounded in non-correctional objectives. It was to be administered within a framework of punitive penalty, where the identification of those who present a risk of criminality and a risk to society was to be achieved through increasing efficiency and effectiveness. The new penological philosophy was management (Feeley and Simon, 1994) and those that had previously designed, researched and delivered it (the practitioners and experts) were to be side-lined in all future crime policy (Garland, 2001). Probation was re-branded and re-purposed within a framework of managerialism and risk. Individuals and communities are now accountable and responsible for their own behaviour and their own welfare and economic growth (Garland, 2001). Offenders were to be provided less assistance and instead guided and encouraged into making the ‘correct decisions’ themselves achieved through the identification and management of those factors linked to their offending (Fitzgibbon, 2007). High crime rates and a generalized fear of victimisation led to crime no longer being considered as an aberration, rather crime came to be considered as a given and a part of everyday life (Garland, 2001). Furthermore, those committing crime were no longer thought of as being socio-economically deprived (where crime was predetermined) but as responsible for their actions as rational actors. Garland (1996) coins this new philosophy of crime as ‘the new criminologies of everyday life’, where crime is committed by people who make calculated decisions and take calculated risks. So, under the shadow of rising crime rates, economic austerity and a desire for NPM (further exacerbated by the high profile killing of a James Bulger by two children in 1993) the 1990s heralded a shift in probation practice, rhetoric and purpose. In short, responses to criminality were politically important and they needed toughening up and to be based upon deterrence. Importantly this shift also included ideas that highlighted the limitations of statutory agencies and promoted solutions that encouraged others to be co-opted do the state’s work thereby achieving greater expertise with increased value for money. An early Home Office discussion paper makes it clear that there was to be a significant
(arguably irrevocable) change in probation practice and that tasks were to be split and removed from probation. They were to work ‘…as managers of supervision programmes’ who must use ‘the skills and experience of the voluntary and private sector’ (Home Office 1990a, p.iii). Fitzgibbon and Lea (2014) discuss how during this period (the early 1990s) the use of partnership working actually allowed probation to revisit its origins in the voluntary. However, the removal of the social work qualification in 1997 coupled with a stronger presence and relationship with the courts and prison resulted in probation being firmly positioned within criminal justice and not social services and welfarism (Fitzgibbon and Lea, 2014, p.27).

Running parallel to this reconfiguration of probation was consternation regarding the management of prisons most notably their overcrowding and ineffectiveness with high levels of re-offending (see Ludlow 2014). In 1992 the first private prison opened its gates and HMP Wolds became the first example of a private sector company being solely responsible for the delivery of justice and rehabilitation. Much like TR the privatisation was not based upon any supporting evidence or support from penal experts (Ludlow, 2014) and whilst initially opposed to prison privatisation the New Labour government (1997-2010) expanded this policy.

The need for a punitive edge to rehabilitation and for justice to be seen to deliver punishment can be understood within a neo-liberal framework but it can also be considered within a framework of governmental legitimacy. Under Thatcher government strategies became increasingly grounded in the economy and electorate and their new free market approach had little place for social welfare and a large, rigid public sector (see Bell 2011). Indications of streamlining and increasing government control of probation were soon apparent and initially set in motion through the implementation of National Statement of Objectives and Priorities (Home Office, 1984), which standardised probation practices according to the goals and objectives of the government. It was followed by the Criminal Justice Act 1991 which was to put probation firmly at the centre of punishment in the community. Probation became a statutory sentence and short-term prison sentences were discouraged and, in their place, came the notions of just-deserts and proportionality. Its aim was for a more transparent and consistent approach to sentencing and for probation to provide service delivery for the sentences imposed (Home Office 1990a, p.iii; Deering, 2011). Whilst it moved probation further away from its social work affiliations it did allow for the provision of other traditional forms of rehabilitation by allowing for sentences to be matched to the offenders and considerations of the offence and the offender themselves still informed the sentence. Whilst promising in this regard there are of course other areas worthy of further exploration and critique, especially in relation to the number of offenders that were to come into contact with and jurisdiction of probation. The
increased emphasis on community penalties as an alternative to prison resulted in far greater number of offenders being subject to probation supervision (Burke and Collett, 2015), with traditional fines being perceived as too lenient. In addition to this probation supervision through parole was no longer done by opting into the provision. Instead all prisoners sentenced to between twelve months and four years would be subject to supervision upon release, increasing probation contact with more violent offenders (Home Office, 1990b). Arguably the most significant aspect of the Act, in terms of future legislation and government priorities, was the implementation of a just deserts sentencing framework which promoted proportionality within sentencing. However, this approach was not to be implemented in all cases. Where offences of a violent and sexual nature were deemed ‘so serious’ as to warrant custody on the grounds of public protection imprisonment was to be imposed regardless of whether the offence warranted such a disposal. As such probation’s responsibility for the protection of the public was extended beyond parole supervision and now involved the risk assessment of future behaviour and harm to society, setting in motion ideas around the use of preventive sentencing which would eventually culminate in the introduction of indeterminate sentences through the 2003 Criminal Justice Act, discussed later. This twin track approach to the just deserts principle and the bifurcation of sentencing resulted in a somewhat dichotomous piece of legislation that aimed to keep most people out of prison through greater use of punishment-based community sentences whilst those that did require custody would serve longer sentences based on future risks of recidivism and not the nature of the offence that was before the court. As Garland observes (2001, p.9) a rhetoric that is grounded in punitiveness legitimises ‘explicitly retributive discourse’ and facilitates the enactment of ‘more draconian laws’. However, it was the 1991 Criminal Justice Act’s commitment to a more liberal approach to sentencing that was ironically to be its downfall. Viewed as too soft by the opposition, sentencers, the media and opinion poll (Burke and Collett, 2016) the notion of just deserts was soon over turned and supplanted with a policy of tougher sentences and a doctrine of ‘prison works’ where the key focus of probation was the protection of the public removing the focus of their work from being inwards (offender) to outwards (the public). For some the emphasis on public protection is meaningless if there is no ethical dimension. Without this there is the potential for the creation of an authoritarian service (Nellis, 1999; Nellis and Gelsthorpe, 2003) that will do whatever is required to protect the public (Robinson and McNeill, 2004). National Standards for the supervision of offenders were introduced in 1992 and Raynor and Vanstone (2007) note the impact that this had upon the practice of probation workers, especially regarding practitioner discretion, highlighting the pivotal role that it played in transforming probation from case work to offender management.
Labour Government and the Probation Marketplace

Despite attempts by the Conservatives to regain ground on law and order it was New Labour who convincingly secured electoral victory in 1997. Both parties focused on crime and punishment and both professed to be able to reduce crime through greater control of offenders. Labour was to create and implement policies that aimed to increase the use of the private and voluntary sectors through the mechanism of competition in a marketplace for probation delivery. The relationship between probation and the government and its responsibility for public protection was a key tenet in the changes that were to come, initiated by the renaming of community sentences through the Criminal Justice and Court Service Act 2000 the intention being to add a punitive tone to the sentences, and by default, to probation (Chui and Nellis, 2003). The Act also resulted in the creation of a National Probation Service which combined the 42 separate probation services into one centrally controlled criminal justice agency. Probation no longer had local autonomy. Its agenda and work were dictated by the government within a framework of targets and prescriptive guidelines. As Faulkner and Burnett (2012, p.550) comment ‘criminal justice was to be run in accordance with the principles of modern public management based on targets, markets, competition and contracts.’

It was Labour that laid the foundations for TR and ultimately the privatisation of a significant portion of probation work. The potential signs for this and the other significant changes to criminal justice that were to come have been identified within Faulkner and Burnett’s (2012, p.55) discussion of the 1997 Labour manifesto. Here they identified Labour’s key crime and justice concerns: sentencing was inconsistent and failing to protect the public; the delivery of sentences was poor and failed to yield results; crime detection was inadequate; youth crime was becoming uncontrollable and anti-social behaviour needed to become a focus of the criminal justice system. The impact that Labour had upon probation is considered by Burke and Collett (2016) in relation to the three terms that were served. The first term is referred to as a cause for optimism (2016, p.121), where the bifurcation of punitive measures was continued through the separation of those offenders classed as dangerous. Whilst many legislative changes occurred in relation to new offences and a greater emphasis was placed upon public protection there was still a clear distinction between offenders and it was the serious offenders that required the more punitive sanctions. Term two is classified as an obsession with reorganization (2016, p.122), which Burke and Collett relate to New Labour’s implementation of the recommendations proposed in the Carter Report 2003 which included an overhaul of probation through contestability. Finally phase three, Labour’s final term (2005-2010), the dagger in the heart (2016, p.122). These five years saw a plethora of scathing public attacks upon probation by the government for what were described as failures in public protection, notably the
murder of John Monckton by Hanson and White in 2006 and the murder of two French students by a
known offender Danno Sonnex in 2008, who were all at the time subject to probation supervision.
For Labour probation was not delivering and not just in terms of re-offending, they were portrayed
as ultimately not protecting law abiding citizens.

The nationalisation of probation in 2001 brought probation under strict, dictatorial government
control and, possibly more significantly, demonstrated and reinforced the notion that probation was
failing and required greater guidance and set targets to improve. This brought about a prescriptive
range of community orders and was a pivotal step in the move from clinical judgement to a more
actuarial mode of supervision. The de-professionalization of practitioners had begun and their
discretion constrained. The government had come to see probation (practitioner) autonomy as
detrimental and their approach ‘too soft’, with offenders not being breached enough due to a
culture that continued to espouse the original 1907 mantra (Newburn 2003). With nationalisation
came a New Choreography (2001, p.iv), which set the aims of the new NPS as being: protecting the
public, reducing re-offending, the proper punishment of offenders in the community, ensuring
offenders’ awareness of the effects of crime on the victims of crime and the public and finally the
rehabilitation of offenders. The fact that rehabilitation came last is clearly pertinent and could be
viewed as a by-product rather than an aim and part of the government’s agenda to make probation
more explicitly linked with punishment and criminal justice and not social work. What is also
pertinent is the fact that rehabilitation is not defined within the documentation.

Labour was also to reduce the role that the statutory public probation service was to play. It was no
longer to be the sole provider of rehabilitation and this was primarily achieved through the
implementation of CJA 2003 which included many of the Carter report recommendations. Carter
(2003) posited that prisons and probation had too many low-level offenders in their service resulting
in caseloads becoming silted up, thus sentencing needed to be more targeted. He advocated short
term prisoners being subject to probation supervision and the toughening up of community
sentences with an emphasis on end to end supervision where prisons and probation worked
together to ensure a seamless sentence and handover. Carter (2003) also proposed that probation
should be subject to contestability and competition from the private and voluntary sectors so that
services would be more effective, efficient and target led. Both Carter and Labour envisaged
probation as having the expertise to commission the private and voluntary sector to undertake core
areas of probation work. The proposals were for the most part approved and prisons and probation
were merged under the umbrella of the National Offender Management Service (NOMS) and a new
Ministry of Justice (MOJ) was created. For Stelman (2007, p.91) NOMS was a ‘Trojan Horse for “smuggling in” contestability to probation.’ The fact that this merger came so soon after nationalisation meant that probation had been unable to adjust and demonstrate their abilities within the time frame accorded them by government (see Mair and Burke, 2012). Of note is that in February 2017 the Justice Secretary announced NOMS would be replaced and in April 2017 it became Her Majesty’s Prison and Probation Service (HMPPS). The change came on the back of an Inspectorate report that stated that the Offender Management Model (OMM) of joined up working did not work in prisons. It stated that it was not only too complex but too costly to continue (see Dominey and Canton 2017). Subsequently prisons, not probation, are responsible for the work that occurs in custody. What this demonstrates is that some fourteen years after its inception NOMS failed to deliver what it espoused. It did not provide effective end to end management of offenders and yet the way that that the government decided to address and achieve more comprehensive supervision of offenders was to fragment probation through privatisation.

The Criminal Justice Act 2003 also introduced Imprisonment for Public Protection (IPP) prison sentences which were based upon preventative detention and firmly embedded risk as a probation and criminal justice priority. For the first time the notion of the ‘dangerous offender’ became a legislative term enforcing probation’s role as the protector of the public. Like their Conservative predecessors Labour promoted a neo-liberal agenda and the creation of a quasi-market in probation and extended prison privatisation, initiating the first moves towards a new funding model based upon payment by results. NPM had not only prevailed but had moved increasingly towards the forefront of public sector organisations. Whilst the creation of NOMS gave back a degree of autonomy to the new independent probation ‘trusts’ that were formed under CJA 2003, the rationale for this was to pave the way for Carter’s broader recommendations for outsourcing. Probation was to commission services from other sectors not provide them.

The 2003 Criminal Justice Act also introduced significant changes to probation rhetoric. Prior to this it had still been the norm amongst practitioners to refer to offenders as clients or cases in line with the social work training that probation officers undertook until 1997. Now language was to be firmly entrenched in criminogenic vocabulary. Offenders were offenders, enforcement was rigorous and breaches were to be dealt with by the imposition of additional punishments (Home Office, 2003). Probation was no longer just for offenders but for victims and the public and it was inevitable that many that worked within it saw this as increasingly punitive and turning against those it worked with, the offenders (Burke and Collett, 2015; Deering, 2014; Fitzgibbon, 2007). Details of the duties and processes probation was to undertake were published in 2006 in the form of an Offender
Management Model (OMM) (NOMS 2006). The model was important in setting the framework and premise that offenders no longer needed to be supervised by just one person. The model positioned probation officers at the centre as an offender manager (OM), responsible for the completion and compliance of orders whilst designing and delivering a sentence plan that would address the offending behaviour (NOMS 2006). For example, an OM would have overall responsibility for the order but an offender supervisor (non-qualified practitioner) could have the regular contact/supervision with the offender. The rationale for the division of roles was not inherently clear and could be argued as a layer of management with little obvious merit. For Faulkner (2008) the OMM is problematic because the value base of probation should be based upon a recognition of the fact that it is the relationship between offenders and practitioners that is most important and certainly more important than organisational structures. For Faulkner (2008) the relationship within the OMM is formalised and designed to conform to standards that are measurable and ultimately controlled by management.

Under the OMM the provision of ‘activity’ requirements on licences and community orders could now be undertaken by third parties paving the way for outsourcing. In addition to this the Act also saw the introduction of a formal tiering process that utilised risk as a means of allocation demonstrating a ‘new penology’ (Feeley and Simon 1992) where the OM was responsible for allocating the most resources to those assessed as a high risk of re-offending and risk of serious harm to the public. Tier one was for those offenders assessed as posing low risks without complex criminogenic needs, thus the role of the OM was to ensure that the Order was completed and to refer to resources outside of probation where applicable. Tier two cases required some help in the form of interventions, for example with gaining employment. Tier three cases required services that that were more transformative such as substance misuse. The fourth tier was for those who, in addition to what is required and provided in the three preceding tiers, required control and monitoring to ensure the protection of the public (NOMS, 2006). The system laid ever more foundations for the outsourcing of work and interventions, albeit with the utilisation of the voluntary and third sector, and removed probation practitioners further from the work that had been its underlying philosophy and purpose at its inception. Their work was now prioritised and primarily focused on the management of the high-risk offender - what the NPS is today.

Arguably Labour’s final death knell to probation was the implementation of the Offender Management Act 2007, which provided the legislative underpinning for the use of the private and voluntary sectors to bring innovation and improve effectiveness. As Deering and Fielzer (2015, p.9) note it ‘finally created the conditions for a privatised, market-led system by requiring only limited
services to the courts to be provided by probation and allowing all other functions to be commissioned by the secretary of state.’ Whilst it is easy to attribute the foundations of the TR agenda to these decisive and divisive Acts it is important to note that the seeds for such adaptations to probation were arguably sown through the adoption of government strategies encompassed by Garland’s (1996) *criminologies of everyday life* mentioned earlier. For it is here that the state sought more practical solutions and new techniques of government, many of which were addressed to apparatus beyond the state. This *responsibilisation* strategy aimed to garner action from businesses and voluntary organisations and promoted partnership, interagency working and community action. However, prior to Labour’s reforms Garland (1996) contends that responsibilisation was not about the privatisation or removal of state functions but that strategies were developed which effectively meant the state began ‘governing at a distance’ (Rose, 2000), diffusing government accountability as the protector of its citizens. Consequently, responsibility is devolved and TR is arguably the final, ultimate extension of this devolution of responsibility, the NPS notwithstanding.

The period between the Criminal Justice Act 2003 and the TR agenda of 2013 saw a complex interplay between neo-liberalism, managerialism and marketisation and a continued rebranding of rehabilitation as a punitive sanction that was grounded in effectiveness and ‘what works’. The changes to probation can be considered as part of late modernity where a ‘Risk Society’ (Beck 1992) now existed and a ‘new penology’ (Feeley and Simon 1992) took precedence, which promoted the classification and management of offenders rather than rehabilitation. Consequently, actuarial risk assessments became the primary means of allocating resources. Despite the trajectory for privatisation being clear to many the momentum by which probation was eventually commodified still took most by surprise and probation found itself having to adjust to new ownership and new identities within a very short period (Robinson, Burke and Millings, 2015; Deering and Feilzer, 2015). It is therefore no wonder that recent research has increasingly focused on how the continual overhaul of probation has affected the ways that probation practitioners conceptualise and deliver their work. Such research does not begin with the TR era and to understand practitioner responses to these changes and privatisation and the ways in which they affect their ethos it is first necessary to define what is meant by culture because this itself is a complex concept.
The Culture of Probation

Schein’s (2010, p.6) definition of culture is widely used within the social sciences and states that it is a ‘deeper level of basic assumptions and beliefs that are shared by all members of an organisation, that operate unconsciously and define in a basic taken-for-granted fashion an organisation’s view of itself and its environment’. This need for a common belief is something that will be discussed in more detail later. However, what is important to note here is that the changes that have occurred to probation have not been undertaken with staff, they have been imposed upon them and so a process of evolution has not occurred. Probation has not evolved into a commodified agency. For those that work within it it has for most of them been wrenched away from the altruistic goals and ethos of its origins without consultation (Deering and Feilzer, 2015; Robinson, 2013). Probation practitioners have found themselves in bed with the private sector and a cog in the wheels of profit generation (Deering and Feilzer, 2015). There are now two different cultures that make up CRCs and it is the gap in-between the official organisational culture and the values held individually by practitioners that will arguably become the identity of this new organisation. Schein (2010) notes that in situations such as these it is common for people within the organisation, collectively and individually, to develop different ways of working and modify their beliefs which in turn become a part of the new culture. In other words, people and organisations find a way to accommodate and combine the personal (views) with the official. It is helpful at this point to consider Bourdieu’s (1977) work on ‘habitus’ and ‘field’. Field are the rules by which public services are governed; the legislation, the policy and the formal processes. Habitus is the area that the individuals and people work within; it is their practices and their cultural perspective which comprises of previous knowledge and experience and previous and existing cultures that essentially govern the ways in which they work within the field when changes occur. According to this model the culture of old is never truly lost because it stays with the person and continues to influence their practice and identity and that of their colleagues. Any new cultures are absorbed through this filter and change from the original intention, making it possible for the habitus to also affect the field, changing the new or intended culture in order for it to be more representative of the habitus (Bourdieu, 1977).

With the passage of time practice catches up with top-level management directives. Clearly the privatisation of probation and the creation of CRCs is the largest change to have occurred to the field and habitus of probation but changes to habitus had been highlighted before the advent of CRC ownership. Robinson et al (2014) posit that the changing governance and objectives of probation clashed with its habitus in their research on staff views of quality with the research taking place prior to CRCs taking ownership. The homogenous views expressed in the research by practitioners centred
around a humanistic approach but senior management views were associated with timeliness. Robinson et al (2014) observed a probation habitus that resisted organisational change but also showed that practitioners’ consideration of the social context of offenders and the wider impact of offending had diminished. They suggest that this could be interpreted as a decline in the individual approach. It is a different habitus to the one previously grounded in a social work and a treatment approach where the individual is key. What is noteworthy here and will be discussed in more detail through the analysis, is when the habitus itself must change. The habitus of probation has always been grounded in an altruistic and humanitarian agenda (Burke and Collett, 2015) and the removal of probation from the public sector to the private, where the most important goal is to be not just economically viable but profitable, undermines the very essence of what practitioners have understood their role and function to be. In other words, the field has changed and now compromises of twenty-one distinct CRCs and seven NPS trusts. Additionally, the role of senior management (a significant factor in implementing change in Robinson et al’s research, 2014) will invariably increase in size and prominence.

Robinson et al (2015, p.1) note that the ‘privatisation journeys’ that have occurred within the police, courts and prisons have useful similarities when considering the path to privatisation for probation but for them it is the differences that are more important, in particular the differences between worker experiences where labour has involuntarily become part of the private sector. The areas highlighted as being fundamental to the process are occupational cultures and loyalties, the speed of the transitory process and the level of certainty regarding the outcomes (Robinson et al. 2015, p.1). In probation the process of transition has been both swift and prolonged. The recommendation, approval and legislation pertaining to such a monumental change to a core criminal justice agency was expedient. However, the transfer of the staff and offenders to the twenty-one CRCs was protracted and uncertain. The formal dissolution and subsequent re-allocating of some 9,000 staff began in September 2013 (Robinson et al. 2015, p.2) however, the CRCs ‘owners’ (preferred bidders) were not announced until October 2014 with ownership commencing in February 2015. For over twelve months staff effectively waited for an unknown quantity. Using Robinson et al’s (2015) privatisation journeys the road to CRCs was one that tested the loyalty of staff through its lack of consultation, quick legislative turnaround and protracted allocation of staff and preferred bidder.
Challenges to Occupational Identity and Professionalism

The 1991 Criminal Justice Act’s profound effect upon probation was to be the first of many significant legislative changes to probation and the catalyst and commencement of unrelenting government attention. The Act was the first step towards privatisation, albeit on a significantly smaller scale, through the wholesale private contracting of electronic monitoring despite high levels of consternation by probation regarding the surveillance nature of this form of supervision - surveillance being contrary to its traditional culture and values (Fitzgibbon and Lea, 2014). In 1992 National Standards for the supervision of offenders were introduced and Raynor and Vanstone (2007) note the impact that this had upon the practice of probation workers especially regarding practitioner discretion, highlighting the pivotal role that it played in transforming probation from case work to offender management. Williams (1995, p.20) however, maintained that, at this time, there was still the capacity and need for a ‘purposeful professional relationship’ that ‘facilitate change in clients.’ Research by Robinson and McNeill undertaken in 1999 (2004, p.286) demonstrated that practitioners were now identifying a ‘holy trinity’ of core values: public protection, rehabilitation that reduces reoffending and enforcement demonstrating a more punitive stance to probation that was less individually/treatment orientated. These assertions were viewed by the participants as being integral to their credibility with both the government and the public (see Robinson and McNeill, 2004).

In 1997 the social work component to the qualification was removed and replaced by a criminal justice focused approach in 2000 altering the nature of the practice of probation at a grassroots level and de-professionalising the role in terms of it being grounded in humanitarian values (Chui and Nellis, 2003). Whilst the skill sets and characteristics of probation and social work are not dissimilar with both undertaking case management, multi-agency working and risk assessments the government decided that the values of social work were not compatible or appropriate (Canton, 2011) and neither was the Probation Offender Act 1907. Probation was not to advise, assist and befriend. The creation and increased use of ‘unqualified staff’ through the implementation of probation service officers (PSOs) shortly after was seen by many as further evidence of an attempt to de-professionalise the role by using cheaper unqualified staff to do the work (Robinson, Burke and Millings, 2016). Significantly the number of PSOs have outnumbered POs since 2002 (NAPO, 2015) and with CRCs able to determine how many qualified staff they employ this trend will undoubtedly continue (HM Inspectorate Probation, 2017). Mair and Burke (2012) note that these events have culminated in modern probation being defined by the decline of its traditions, culture
and roots. However, Mawby and Worrall’s (2013) research suggests a less fractured occupational identity. Their study identified three types of workers – lifers, second careerists and offender managers. Lifers are those workers whose careers in probation could be described as vocational and often long standing. Second careerists have joined probation from another job primarily from the health or social sector. Offender managers are those mostly recently recruited and tend to be more malleable and less concerned by change. The key assertion made by Mawby and Worrall (2013) is that whilst these three types of workers can comprise of a broad spectrum of people they found that the views held by most continued to centre around ‘a belief in the capacity of the individual to change for the better’ (2013, p.39). They contend that a probation habitus is not only still alive but actively being maintained through the selection and desire for likeminded individuals (Robinson et al. 2014, p.133). However, it should be noted that these studies took place either prior to or immediately after TR and the formation of CRCs and prior to CRC formal ownership so arguably only limited changes had been made to the ways in which practitioners were expected to work. It is important to also note that since the start of the TR process thirteen probation chief executives have resigned (Annison et al. 2014) and approximately 500 probation workers have left (The Guardian, 2015), weakening the ability and capacity for cultural ‘carriers’ (Clare, 2015) to take probation traditions forward and maintain habitus.

The Fragmentation of Probation Values and Culture

Unlike the privatisation of other public-sector agencies the process of privatisation of probation was not linear and only partially privatised probation, creating not only divisions but new processes for interactions that are based upon an NPS hierarchy, especially in relation to risk escalation (see Burke et al 2016). This complex nature and its implications have been borne out with the HM Inspectorate of Probation (2016) noting issues around communication and responsibilities demonstrating that CRCs and NPS now view themselves and work as separate agencies with very different responsibilities. The notion of boundaries and separation is fundamental when considering whether the heritage of probation can survive. It is not just the CRCs that have had their practices and purpose altered but also the NPS who now work with the most resource intensive offender groups and are responsible for all court assessments, breaches and oral hearings. They too have lost a core component of their work and now must navigate new working relationships and processes with numerous CRCs. The HMI Probation report of 2013 illustrated the problems that occurred when trying to engender a common goal and mode of practice in relation to the merger of prisons and probation through NOMS (Criminal Justice Act 2003). Prisons and probation have very different
cultures, procedures and training and the crossing of these boundaries has proved complex and problematic and it is possible that the split within probation has resulted in similar tensions as the CRC owners will bring with them different cultures and objectives.

The transition period that took place during TR can be considered within the context of ontological security (Ashworth, 2001) and liminality (Turner, 1967). The impact of an increasingly neo-liberal agenda and the changes associated with late modernity led practitioners to feel that they were working with an unknown quantity as the motivations and rationale that underpin their work and have been increasingly government led and prescribed. Practitioners have lost their ubiquitous working practices and understanding of probation potentially resulting in a loss of ontology in all areas of practice including risk. Liminality, the period when an organisation is between two boundaries (Turner, 1967), has only compounded this. Liminality does not just concern structural changes but also changes to mentalities, rationalities and identities. For over a year the organisational mentalities (or ethos) of the CRCs were not known. The impact of this upon staff was profound and is evidenced by research studies that took place during this time (Robinson et al 2014; Deering 2015). However, the work of Beech (2011) demonstrates that liminality does not always have to be negative. Beech (2011) proposes three phases of liminality; reflection, experimentation (the trying out of new identities) and finally recognition, which relates to a practitioner responding and adapting to an identity imposed upon them. The majority of research regarding TR, culture and practitioner identities took place during the transitory, liminality phase and thus primarily concerned the first two phases with many participants not feeling that they were able to enter ‘recognition’. They were still in the process of reflecting, possibly experimenting, and still subject to changes and adaptations in identity and practice.

Deering and Feilzer’s (2015) study explored the views of probation staff utilising online surveys with qualitative commentary. The response rate was impressive and potentially represents approximately 10% of the probation workforce at that time. The research collection took place in the spring of 2014, before the preferred bidders had been announced but after the split had occurred and so the responses need to be read and used within this context. The study demonstrates the pervasiveness of traditional probation values despite its privatisation, with the research highlighting that most of the participants had joined probation and carried out their roles in order to work with people and help them change, with no reference to wanting to be part of a punitive agency (2015, p.19). Within Deering and Feilzer’s (2015) study the commitment to transformative practice was clear regardless of who administered it (CRCs/NPS) but what is interesting is the perception that probation remains underpinned by values despite its partial commodification. Deering and Feilzer (2015) comment that
probation has been lacking formal values throughout its existence and the analyses of values have often occurred at specific times, when probation felt vulnerable due to ‘criminal justice policy posing threats to the assumed homogeneous values of probation’ (Deering and Feilzer, 2015, p.26). However, the lack of ‘formal’ values has not impeded a universal desire to facilitate change in offending behaviours and in their and the offender’s capacity to achieve this, albeit in the context of public protection rather than welfarism and more recently in the private and public sector (Mawby and Worrall, 2013; Deering and Feilzer, 2015).

Canton (2011, p.32) notes that values are ‘more than moral beliefs or ideas. They are prescriptive: they say how people should behave...their purpose is to prescribe certain kinds of conduct.’ The prescription of values within CRCs now come from private companies where the main aim is to achieve profitability. Canton (2011) makes the point that values are less about what people/organisations say but rather what they do. They stem from the practices within the organisation. The practices within CRCs are now bound more than ever with targets and completion rates that provide income. This is important because, as Canton notes:

Since values are intimately connected with actions in this way, practice and processes – how things are done – are no less important than outcomes and ‘ends’. Instrumental and managerial strategies – with their preferences for outputs, outcomes and auditable episodes – can be indifferent to this and this is among the ways in which this conception of criminal justice may lose sight of its moral character. (Canton, 2011, p. 32).

This further supports the need to consider the mentalities and rationalities of probation practices. Working with offenders often involves dealing with a myriad of behaviours and attitudes that are grounded within a complex moral framework. In 2006 NAPO stated that much of crime had its origins in social injustices and that many offenders ‘had their life opportunities curtailed by poverty, discrimination and social exclusion’ (2006, p.4). Because of this, coupled with the fact that the process also involves the administering of justice and the protection of the public, the values must be principled (Canton and Dominey, 2016), but what is considered ‘principled’ is subjective and will inevitably be contingent upon those providing the service and how they see their function and purpose.

Given the transformations that have occurred it is unsurprising that increasing attention has been given to if and how practitioners have sought to preserve their culture and the identity in spite of the changes made by government. Mawby and Worrall (2013, p.1) posit that the work of probation has become an agency ‘where it is necessary for practitioners to act as if they believe in the rules of
effectiveness of “risk-crazed governance” while using these rules in a way that achieves meaning.’ TR has no doubt accelerated this tension with the added dimension of privatisation. Now CRCs can impose an identity and culture that reflects their own organisation albeit in line with the directives of NOMS and the ability to achieve meaning is dependent on the new rules and procedures that are put into place. Deering and Feilzer’s study (2015) is important and contemporary for the purposes of this discussion and the salient points are those that consider the ways in which the changes will affect the actual practices (mentalities and rationalities) of practitioners. The vast majority of respondents within their research stated that they believed that working for CRCs would be worse believing that the probation ideal would only continue and exist within the public sector not the private (Deering and Feilzer, 2015, p.62). Some of this was attributed to discontent over the handling of the process, lack of consultation and the division of labour. Overwhelmingly the division/separation of probation was viewed as ‘arbitrary, artificial and permanent’ (2015, p.62). Some practitioners believed that working for the NPS would be too intense as they would be working solely with the high-risk offenders and responsible for all breaches and court reports. The division of probation services signifies a potential move away from Mawby and Worrall’s (2013) observations and the ability for practitioners to ‘work around the systems’ so that there is meaning. It may well signify an end to the optimism, desire and ability to maintain roles. The qualitative feedback in Deering and Feilzer’s (2015) research does reflect this but also highlights concerns around skills not just due to the loss of high risk work (for CRCs) but also the loss of medium to low risk work for the NPS, especially in relation to working with women offenders. There was also evidence that staff felt that CRCs might try to escalate risk in order to get them off their caseloads and that the NPS in turn may become ‘gatekeepers for CRC enforcement and risk assessments’ (Deering and Feilzer, 2015, p.66). Concerns were also expressed in relation to potential communication difficulties, most notably data protection and the sharing of information in a full and timely manner, evidenced by the HM Inspectorate (2017 and 2018). Finally, the fractured nature of probation under TR was perceived as a status division further exacerbating the split and allowing for the adoption of a ‘them and us’ environment, with the experts dealing with the dangerous cases thereby de-legitimising the professional knowledge and expertise of staff within CRCs.

A study by Burke, Millings and Robinson (2016) captured the transition (liminality) from the dissolution of one NPS trust to the allocation and relocation of staff to the new CRC trusts (before the bidders were announced). Within their discussion they note the relevance of the concept diaspora which concerns the movement of a group from their homeland and is a useful way of thinking about the recent changes. Home for probation was the public sector. Probation staff were public sector employees and offenders did not represent profit. The new environment of their work
was a prominent observation within this research and there was evidence that the participants felt displaced and in an unfamiliar and inappropriate setting. Waring and Bishop (2011) use their work on the public sector, in particular the NHS, to state that there are three areas from which identities emerge within a workforce: a sense of identity that comes from formal membership to an organisation (which often requires some bespoke training); identities are reinforced and played out by routine activities and organisational structures producing a sense of unity and acceptance; finally, the prevailing cultures and practices which reinforce or challenge practices. It has already been shown through Mawby and Worrall’s research (2013) that there has been resilience within probation regarding these and an indomitable desire to maintain the culture, values and purpose of probation. However, the creation of CRCs has led to a loss of formal membership to probation. Membership is now heterogenous to individual CRCs where there is in house training and no expectations regarding the employment of qualified probation officers. Additionally, the routine activities and organisational structures have altered dramatically reducing the capacity for unity. Finally, the prevailing cultures have been supplanted and replaced by the ethos of the private sector – profit. Canton (2011) has related the need for a continued probation culture to a moralistic belief about the practices undertaken by probation. So, whilst probation practitioners’ need for probation integrity is apparent within this and previous research and is for many reassuring there is doubt as to its sustainability. Within Burke et al’s study (2016) the key area of tension and discontent was probation being for profit and most of this fear correlated to the status of the respondents (probation workers). For example, they note that those in a senior role often saw it as a means for change and new opportunities that could focus on the needs of offenders. For probation officers the anxiety presented itself as concerns regarding the rationale and the potential loss of skills. The study noted many of the areas already identified within this chapter - the separation from NPS and the implications for this on probation ethos. Yet there was again optimism about being freed from the grip of NOMS, and a sense of hope that there would be more time with offenders and less prescriptive, administrative duties. However, the largest respondent group were the ‘ambivalent pragmatists’ (Burke et al, 2016, p.9), where it was just one of many changes made to probation and things would continue in much the same fashion. As before this research comes from a period of uncertainty and monumental change (liminality) and it is during times of uncertainty that anxieties and feelings are most profound and pronounced.

Collett (2016) discusses the role of commitment in maintaining a culture and purpose and research has shown that practitioners do have professional commitment to probation and rehabilitation (Deering and Feilzer, 2015; Mawby and Worrall, 2011; Robinson, 2013) but the capacity for this to translate into the ‘new’ organisation is not a given. Collett (2016) notes that post TR there appears
to have been a loss of commitment by probation workers to their previous organisation, possibly due to a sense of betrayal. As such CRCs face a huge challenge. Their staff may feel embittered as well as apprehensive or they may feel ready to embrace change and eager for new modes of working that may not be ready. Robinson (2013) comments that at the outset the CRCs will be largely populated by knowledgeable probation workers who have some loyalty to their job. However, there will overtime be an inevitable increasing separation from probation pre-TR and those that stay will ‘forge a stronger identification, distinguishing their new roles and identities from probation through co-creating narratives with other employees from non-probation backgrounds’ (Robinson, 2013, p.96).

The preservation of the old probation ways is contingent on the mentalities and rationalities of those governing and working within CRCs. Probation workers can only continue forward this heritage if the ways in which they are allowed to think, and act permits them to draw upon their probation knowledge and values. Cheliotis (2006) notes that practitioners bring a wide range of beliefs, values and idiosyncratic meaning to practice in a way that cannot be controlled when working in a hierarchical organisation where staff work with people ‘in everyday life’. The resistance exerted by practitioners may be large or small and can be hidden by the ways that management and staff communicate. There can be two scripts in use, the ‘public transcript’ used in meetings and formal situations, and the ‘hidden transcript’ used with peers where true feelings and attitudes are shared (Scott, 1990). It is the public transcript that demonstrates the hegemony of dominant values (those in power) and is more often present in the public sphere. The ‘hidden’ transcript is therefore less known. However, changes to probation prior to TR did not alter the hierarchy in such a profound way and as Lipsky (1980) comments there is a potential for practitioners or ‘street level bureaucrats’ to become moulded into conformity, through prevailing discourse and culture or by power that is inherent in organisations where there is hierarchy. CRCs bring with them new discourses and new hierarchies, both in terms of management and organisational goals and priorities.

Clare (2015) highlights that the TR agenda has the potential to be constructed by CRCs and practitioners as an opportunity for reinvigoration with probation officers acting as the ‘cultural carriers’ (2015, p.1). However, Clare (2015) also notes that this may be hindered by staff leaving, the increased use of agency staff and the removal of the mandatory probation qualification from the requirements of CRCs. She also acknowledges that the removal of key tasks has potentially paved the way for the recruitment of more affordable staff who will work within a profit-oriented framework that is potentially centred around short-term profit rather than long-term desistance. Yet, Clare (2015) posits that such a transition could provide important opportunities for responsive
work and a return to a ‘professional in action’ (2015, p.4). Professionalism could be set free and the
desire of practitioners to continue to do worthwhile work will, for Clare (2015), be the reason that
the probation heritage will be taken forward and continue to preside over that of the CRCs. The
reality of whether this has been the case within this research will be discussed within the analysis
chapters, but it is worth commenting that the capacity for practitioners to continue to work in the
old ways has been severely curtailed.

Mawby and Worrall identified four ways that probation workers found job satisfaction and a sense
of fulfilment in terms of the probation ethos:

By constructing themselves as professionals with a legitimate desire to be autonomous (though that desire is often perceived to be thwarted by the organisation)...by drawing on an institutional memory that values a golden age of probation when workers were autonomous (while at the same time acknowledging that not all autonomous practice was best practice)...by constructing for themselves moments of action when they are called upon to test out their professional skills in situations that are potentially chaotic or dangerous...by introducing into their work a creativity (or departure from the script) that they believe the organisation prohibits but which the organisation is implicitly dependent upon.(Mawby and Worrall, 2011, p. 24).

These traits are certainly not being minimised or questioned within this research but there are
reasons that this should perhaps be re-considered and reconfigured in contemporary probation. The
memory of probation has been severely affected by the loss of staff, recruitment of new staff and
the process of separation. With the passage of time it is inevitable that the memory will simply be
recalibrated to one that is not grounded in the altruistic past. In addition to this the means by which
practitioners are challenged and tested have also been reconstructed. CRCs are removed from many
of the areas that may be considered the most dangerous or chaotic. That is not to say that low to
medium risk offenders are not challenging but CRCS now work with risk in a different context and
there is the potential for a loss/lack of professional knowledge regarding the tenets of high risk of
serious harm behaviours. Finally, much has been said about the potential, ability and need for
creativity within probation work and there is evidence that this is occurring (HM Inspectorate
Probation, 2017), but it is nonetheless prescribed by the CRC trust ‘owners’ rather than through
practitioner autonomy or discretion. The question is whether autonomy can occur in a for profit,
target bound organisation and thus whether the culture of probation can be maintained.
The Fragmentation of Sentencing and Supervision

The changes to probation have of course not just affected the identity of practitioners and the ways in which they think about and perform their role but also the ways in which their role is perceived by those that they work with. For most offenders the process has not been highly visible with the office locations remaining the same at the start and their supervision requirements being unchanged. However, research has noted the importance of legitimacy within supervision (UserVoice, 2015). Dominey (2016) undertook research between November 2012 and March 2013 (prior to the abolition of probation trusts) and her findings raise important questions. It was shown that legitimacy was grounded in the relationship between the court and the supervisor stating that ‘the close identification of the probation supervisor with the sentencing court limited the extent to which the legitimacy of the community order could ebb away’ (2016, p.138). This legitimacy was from both the perspective of the supervisor and the offender. Through TR the CRCs probation workers no longer have any direct communication with the court. The sentencing recommendations, reports and input from probation comes from the NPS as do any breach hearings. Whilst the CRC will (should) provide the NPS with relevant information where possible they are now removed from what has been identified as an integral part of the process. Again, this further distances them from their previous status and de-professionalises their role and remit. Such a process also means that there can be a loss of important information. Should an offender come to court having already been subject to supervision with a CRC there is no way that the CRC will have knowledge that they have re-offended and offer key assessments unless the NPS contacts them. Despite the Ministry of Justice encouraging co-location since the CRCs took ownership there has been a move towards physical separation removing basic opportunities to talk things through. The lack of opportunity to present vital knowledge to the court direct removes an integral layer of communication in the sentencing of offenders. Dominey (2016, p.140) discusses the relationship in anticipation of the changes and comments that it is necessary for CRCs to have some working relationships with the courts and that staff fully understand the criminal justice process. Whilst this is undoubtedly true, in today’s climate CRCs staff can only observe the process from the public gallery.

The complexities of communication are not just limited to the NPs and CRC. Probation in all its forms works within a multi-agency context. The research by Robinson et al (2015) demonstrated that some probation staff were concerned that they would be viewed differently now that they were working for a for profit organisation and that the NPS would become the superior agency. The creation of CRCs has had a massive impact on how information is and can be shared. They are not allowed
access to NPS database even if the case is known to them. They are still responsible for inputting, managing and holding very personal and private information but being a private company means that there are many more restrictions and concerns as to how it is used (HMI Probation, 2017). Other agencies may well become reticent to share information with a non-public sector organisation, one that could, in theory, be a competitor. A final point is the impact upon the CRC providers themselves. At the core of probation is the understanding of and ability to work with involuntary ‘clients’. This is a challenging, sometimes frustrating, diverse area of practice (Trotter, 2006). All 21 CRCs have a private sector company as part of the consortium and 19 have a public, voluntary or third sector organisation. Therefore, whilst the private sector may not have direct experience of working with people that are not with them by choice, their partners will. However, two of the CRCs are owned solely by one private sector company, this case study being one, so it is important to remember that it is not only the probation worker but the CRC themselves that have to adapt to a new way of working having come into a culture that is complicated and engrained in a complex set of values. The hybridity of these is not only dependent upon the CRC and their background and objectives but on the ways in which probation staff work with them whilst trying to retain their own habitus.

Summary

This chapter has considered the history of probation and the provided the context to TR. It has also considered the perspectives of practitioners in relation to the work that they do and the changes and challenges they face and considered the culture of probation. The importance of trying to understand and gauge the values and culture of probation is perhaps best expressed by Canton (2011, p.46) who states that ‘criminal justice and probation practice are not just ways of dealing with criminals, but ways of doing justice. They are therefore irreducibly moral activities.’ This chapter has discussed how probation practitioners have endeavoured to maintain probation culture and values through the adoption of a pragmatic approach that allows them to adopt new practices and structural changes whilst undertaking their role in the ‘probation’ way. It has noted how practitioners have endeavoured to hold onto their probation status and the desire/need for them to continue to work with offenders to facilitate change, albeit within a context of new penal priorities. It has highlighted the possibility that NPS and CRCs may become distinct and hierarchical and how TR could result in the creation of new cultures and practices. However, for some there is the potential for CRC practitioners to become culture carriers allowing for the continuance of probation habitus, albeit in a new field. Ultimately, the field will no doubt be the determining factor in relation to its
culture, goals and practices and with CRCs primary aim being to make a profit there is the potential for practices to become governed by fiscal concerns.
Chapter Three: Risk within Criminal Justice

This chapter will consider how and why the concept and practice of risk within criminal justice is an area that has gained increasing prominence, scrutiny and critique. Since the 1990s risk has become firmly embedded within probation practice (CJA 1991; CJA 2003). It forms an integral part of sentencing and informs the ways in which cases are managed as well as the restrictions and requirements imposed. The TR agenda has resulted in the division of offender supervision (allocation) based upon this one area – high risk of serious harm offenders are supervised by NPS and the low to medium by CRCs, the rationale being that the NPS are the risk experts (MOJ, 2012b). With CRCs now responsible for working with the majority of offenders it is important that their understanding of risk remains embedded in the risk definitions used by NPS and that risk remains a homogenous probation concept. Risk within probation takes two primary forms – risk assessment and risk management. ‘Risk assessment is the assessment of the likelihood and impact or harm of (re)offending; risk management is the reduction of the likelihood and/or impact of the risk or re-offending.’ (Kemshall, 2008, p.274). Whilst both are clearly linked and interdependent in terms of achieving the overall goal of there being no re-offending, they are not as synonymous as they appear unless they are treated as being inextricably linked. There is the potential for the fragmentation of probation based upon risk to lead to an assumption that those offenders under the remit of CRCs are not ‘risky’. Additionally, the CRC’s primary payment method is through PBR which lends itself to focusing predominantly on the reoffending and not the risk of serious harm, potentially culminating in a reduced and narrowed risk assessment.

Risk Comes to the Fore

The twentieth century saw increasing levels of fear (Giddens, 1999; Beck, 1992; Clift, 2010, 2012) and a need for society to protect itself coupled with an increasing trend to try to predict and calculate the probability of risk (the rise in science, see Kemshall, 2003). During this period, such attempts remained largely confined to the experts and it was not until the end of the century and the onset of post modernity, that society and the state began to question the efficacy and application of risk within criminal justice (see Beck, 1992 and Garland, 2002). Compounding these concerns, the emergence of research and the ‘nothing works’ era led to the very nature of rehabilitation being called into question resulting in increasing ambivalence towards the professionals responsible for it. Probation expertise, knowledge and its role were fundamentally called into question. This attack upon probation, the public sector and other criminal justice agencies
(police, social services) was not just empirically based it was also ethically and theoretically challenged, as Garland notes:

In the course of a few years, the orthodoxies of rehabilitative faith collapsed in virtually all of the developed countries, as reformers and academics, politicians and policy-makers, and finally practitioners and institutional managers came to dissociate themselves from its tenets. (Garland, 2001, p.54).

The premise that offenders could become law abiding individuals through professionally led treatment was no longer accepted and the later part of the twentieth century saw not only a decline in the treatment model but also in the belief of the capacity of change in both the probation workers’ skills/capacity and in the people they worked with. The dramatic rise in crime in the 1970s provided a backdrop to the empirical evidence that was to seal the fate of both penal welfarism and the treatment model. Perhaps the most significant evidence was that of Robert Martinson (1974), which studied over 200 rehabilitative interventions and provided the following, albeit broad, conclusion that there is:

Very little reason to hope that we have in fact found a sure way of reducing recidivism through rehabilitation...education or...psychotherapy which at its best cannot overcome, or appreciably reduce, the powerful tendency for offenders to continue in criminal behaviour. (Martinson, 1974, p.2).

Further research such as Brody (1976), supported this need for rehabilitative efforts to be reappraised. As Gough (2012) notes, the resultant pessimism did not just relate to a crisis in rehabilitation legitimacy and the capacity for offenders to become law abiding but reflected a more fundamental change to political and economic ideologies. The role of welfarism as a means of effecting a reduction in criminal activity had lost legitimacy in fact it was now seen as a contributing factor in crime by allowing people within society to live off the state for nothing. The welfare society had advocated collective citizenship and its decline and belief in it as an effective ideology brought about new ways of constructing society. Notions of shared responsibility were replaced with the individual, self-responsibility and responsibilisation (Lea, 2002). Rose (1999, 2000) considers risk theorization in terms of governance and control and how contemporary (advanced liberal) societies now govern at a distance through subtle, dispersed techniques. These micro systems of power encourage and promote self-regulation and conformity resulting in governing by responsibilisation.

Here, the previously soft actions of the welfare agencies to facilitate change are replaced by risk management at an individual level aimed at facilitating the site of the risk management (the offender/deviant) to live according to pre-set prudential rules of advanced liberal societies (Kemshall, 2003; Giddens, 1998). The 1980s saw a new way of thinking where penality was to take centre stage and public protection became the primary aim of probation interventions and practice.
The offenders themselves were no longer the primary beneficiaries and were to be assessed in relation to the risks that they posed to others and not their own needs in order to ensure the security of those that they could offend against (Garland, 2001).

Giddens (1991) and other social theorists have discussed how late modern society exists within a climate of profound risk where risk is ‘ubiquitous, pervasive, diverse and global’ (Kemshall, 2003, p.6). This pervasiveness of risk has culminated in what Beck (1992) characterises as the ‘Risk Society’. No longer is there welfarist solidarity but rather fear and anxiety and as such there has been a multiplication and ‘increased democratization of risks’ (Kemshall, 2003, p.9). For Beck the loss and deterioration of bonds traditionally held within class structures and the family have had a significant impact on the individual. The self now must navigate the social world where risks are individualised. It is the individual who is responsible for assessing risks and for the decisions that they ultimately make (Beck, 1992). The risks here are negative for they are defensive and concern risk avoidance and whilst the risks have perhaps always existed it is the preoccupation with them that is the central feature of the risk society. O’Malley (1999) discusses how the ‘risk society’ is also defined by the ways in which it attempts to manage risks and the need for stability through scientific measures that allow for the measurement and the prediction of future behaviour.

According to Giddens:

Risk is not, as such, the same as hazard or danger. A risk society is not intrinsically more dangerous or hazardous that pre-existing forms of social order...Life in the Middle Ages was hazardous; but there was no notion of risk and there doesn’t seem in fact to be a notion of risk in any traditional culture. The reason for that is that dangers experienced are a given. Either they come from God, or they come simply from a world which one takes for granted. The idea of risk is bound up with the aspiration to control and particularly with the idea of controlling the future. (Giddens, 1998, p.26).

The state, as part of a neo-liberal NPM agenda (and due to a fiscal crisis), withdrew from social planning and building conceding much of it to the free market or other non-statutory agencies allowing it to re-focus on issues around coercion and constraint and the management of ‘problems’ (Crawford, 2006). For Giddens (1988) the pervasiveness of risk has resulted in modern society being synonymous with risk society because modernity has led to a desire and belief that the future can be managed controlled and, wherever possible, risks need to be eradicated (1998, p.27). In contrast to this O’Malley (2000), whilst seeing risk as influential, does not see ‘risk society’ as part of late modernity but as the basis for modern capitalism, noting that risk has been pervasive since the nineteenth century. Therefore, it was the pessimism and loss of faith in the welfare state (including probation) that prompted a neo-liberal risk-oriented approach.
At a time when rehabilitation was considered inadequate and inappropriate ‘scientific’ risk assessments provided tangible numbers, statistics and certainties and thus outputs became prioritised over outcomes. The move from social work training demonstrates the replacement of an offender centred approach that was rehabilitative in function and purpose for one of risk monitoring with a need to determine future risks of offending and harm to others. Rose (2000) and Bauman (2000b) have discussed how this deployment of risk has culminated in a bifurcated criminal justice system, whereby the high-risk offenders are excluded with the rest (the low risk) being either funnelled into various means of reform or simply tolerated with caution. When considering this in relation to TR the NPS has become the exclusionary probation agency and CRCs the means of reform. Garland (2001, p.12) contends that this public protection goal and ethos is linked to the risk societies’ risk averse public and their intent focus on the ‘risk of depredation by unrestrained criminals.’ However, as discussed later there is the potential for such an approach to be pre-emptive rather than transformative.

This shift in paradigm is perhaps most notable in the works of Feeley and Simon (1992, 1994). They posit that the new risk-based strategies that have superseded the individual ‘treatment’ approach of the old penology which sought to punish and rehabilitate and reintegrate (Feeley and Simon, 1992, p.457), are cost-effective and based upon the statistical aggregate applied to populations in order to manage unruly groups. They note a fundamental shift in the perception of crime, that it is no longer symptomatic of problems within the infrastructure of society but is instead a normal, taken for granted part of society. Therefore, this New Penology aims to manage the inevitability of crime not to eradicate it by social provisions through controlling techniques aimed at specific risk factors. With such a stance comes a new way of thinking about punishment -the rising prison rates are no longer constructed as a failure to prevent crime but as a success in the management of it through incapacitation and control. Rose (2000) comments that this penality shift has resulted in risk supplanting rehabilitation and welfare needs have now come to represent the belief that control and exclusion are more appropriate than inclusion and reform through social means (Garland, 2001).

Annison (2015) notes that new penology practices are often implemented under the umbrella of public protection and lack a transformative objective. With TR, there is the assertion/intent by government that the new risk practices adopted will rehabilitate offenders, it will be a rehabilitation revolution. Thus, critics such as O’Malley (1999) comment on a need to consider the political forces governing the rationales as well as the actual changes themselves.
A Brief Chronology of Risk Within Probation

The new risk agenda was arguably first felt within probation through the introduction of the CJA 1991 which, as already discussed, aimed to re-brand probation and community punishments as tougher and more punitive. Alongside this the introduction of National Standards (1992) saw new risk assessment criteria for pre-sentence reports further influencing sentencers in relation to the bifurcatory approach that the act took. The changes were government led and not only demonstrated a growing emphasis on risk but also a desire for conformity amongst probation staff. The creation of the NPS by New Labour in 2001 pushed risk further to the fore by stating that number one of its five aims was the protection of the public through the identification and management of offenders based upon their risk (Home Office, 2001). For practitioners to do this they were provided with a new assessment tool the Offender Assessment System (OASys), an actuarial and clinical third generation tool that identified both the risk of re-offending and the risk of serious harm. The adoption of such a tool is, to Kemshall, evidence of risk operating at a higher level and a ‘pragmatic adaptation to the new penalty of the New Right’ (2003, p.92) by probation. For Gough (2012, p.82) practitioners prior to TR were able to successfully hybrid rehabilitative measures and intent with risk. Risk and rehabilitation were not binary. Through the Criminal Justice and Court Services Act 2000 probation was also required to develop and expand their risk practice through the creation of Multi Agency Public Protection Panels (MAPPP) and attend and inform Multi Agency Public Protection Arrangements (MAPPA), designed to assess and manage risks posed by violent and sexual offenders, replacing what had previously been informal non-statutory provisions. Finally, New Labour were to create NOMS and an Offender Management Model (OMM) (NOMS 2005; NOMS, 2006) with offenders being classified within four tiers based upon their risk. It was this tiering that was to cement the premise that resources follow risk. The risk need principle determines who should be worked with and to what extent/level. It is a means of targeting resources to those who are most likely to reoffend and those that pose the most serious risk of harm (tier four) and there is evidence that intensive work with lower risk offenders/offending can be counterproductive and may increase the risk of further offending (Andrews, Bonta and Hoge, 1990). The adoption of a tiering model assigns individuals to categories and this for Peay (1982) is an act of ascription as much as description. Through TR the classification of offenders now has far reaching consequences, for it is the NPS that has the resources and alleged expertise to manage high risk of serious harm such as multi agency working. Additionally, the capacity for risk levels to change has diminished, hindered by the bifurcation of probation. For example it is not possible for a tier four case to become a tier three case and be supervised by the CRCs.
With NOMS also came a singular definition of risk of serious harm – ‘an offence that would be life-threatening and/or traumatic, and from which, recovery, whether physical or psychological, can be expected to be difficult or impossible’ (NOMS, 2014, p.2). The level of risk of serious harm is determined by imminence and likelihood and not by the harm that may occur. For the NPS it is the high to very high risk of serious harm offenders that come under their remit, where the risk could happen at any time or imminently and the impact would be serious (NOMS, 2001). With medium risk of serious harm (CRC cases) the offender is assessed as having the potential to cause serious harm but is deemed unlikely to do so unless there is a change in circumstances. With low risk of serious harm there is no evidence currently present to indicate likelihood of causing serious harm, therefore an act of serious harm is considered unlikely (NOMS, 2014). It has been argued that probation has always worked with risk and that these changes simply add a new layer of bureaucracy and formality (see Burnett et al 2007), but such rigid and prescriptive risk measures have in turn brought a new level of accountability and led to the expectation that risk assessments are not only needed but accurate. There is an expectation that probation can get it right. Kemshall (2003) argues that, at the outset of these new practices and legislative developments, clinical assessment and discretion continued to hold weight over the actuarial and thus the changes to practices were not as monumental as they may have been or are as viewed as within academic theory. However, she does acknowledge that the welfarist origins of probation were being succeeded by the ‘economic rationality of crime management and a risk driven agenda’ (2003, p.99), which in light of TR could be seen as somewhat prophetic.

Risk Assessment and the Narrowing of ‘Needs’

Prins (2010, p.19) provides a succinct and helpful starting point in the definition of risk by defining it as ‘the probability of an event occurring’ reflecting its origins in the unknown and the role of fate within everyday life. When thinking about risk as a means of analysis Douglas (2010) comments that this is about risk being an attempt to turn uncertainties into probabilities and in this context Prins (2010) acknowledges the 1983 Royal Society report which asserts that risk is related to the probability ‘that a particular adverse event occurs during a stated period of time, or results from a particular challenge’ (2010, p.19). In order to achieve such a calculation there has been an increasing reliance on scientific tools and it is through the adoption of such static generators that risk’s dominance has increased, both in prevalence and ‘accuracy’. Whilst other actuarial methods were used prior to 1996 the implementation of the Offender Group Reconviction Scale (OGRS) was the first tool to place risk scores in the foreground of probation practice by providing a numerical
percentage regarding offenders’ likelihood of reconviction (not reoffending) for a particular offender group, not the individual (Clift, 2012). The tool has only ever utilised static risk factors leading some to question its accuracy and ethical appropriateness in its use as a supervisory tool (Mair and Burke, 2012). The tool is currently in its third iteration and remains a staple within the risk assessment process and feeds into the Offender Assessment System (OASys). The risk score that is generated within OASys is not a numerical one, but rather it places the offender within a category of risk of serious harm – low, medium, high and very high risk, whilst considering certain groups of potential victims: unknown and known adults, unknown and known children, the public and members of staff (NOMS, 2005). Because OASys uses dynamic factors it is also used to measure change and as such should be updated on a regular basis to ensure that it is relevant and accurate (Tuddenham, 2000). Risk assessment tools such as OASys ‘offered an alternative to the “subjective” clinical interview, a method increasingly discredited in political circles. By utilising scientific methods, it was suggested that the assessment would be more accurate and less likely to be influenced by professionals’ subjective feelings and experience’ (Nash, 2005, p.22). However, Beck (1996, p.12) argues that such tools have placed an emphasis upon individual control which has led to difficulties in predicting a person’s life course with any degree of accuracy.

The dominance of risk and the thesis of New Penology has led to debate as to whether, with the adoption of such tools, there remains the opportunity and capacity for transformative work to be undertaken. The rise in risk in practice has for some resulted in offenders becoming ‘transformative risk subjects’ (Hannah-Moffat, 2005) subjected to actuarial risk assessments based upon their criminogenic needs (those deemed to cause offending) that are calculated using third-generation tools which are defined narrowly and applied wholesale to people that are diverse and often not represented within the aggregate such as females and black and minority offenders. For Hannah-Moffat (2005, p.34) this has resulted in only the risks deemed manageable being recognised through an ‘efficient, rational calculations of need,’ resulting in a ‘slippage’ between risk and needs (welfare). The need (welfare) is transformed into non-criminogenic and non-manageable problems that do not need addressing. It has also led to a new form of professionalism that is susceptible to far greater levels of accountability. For O’Malley (2001) it is the offenders who, already disadvantaged by virtue of their own needs, have experienced the sharp end of risk-based penalty where disadvantages and exclusion are ‘reframed as matters of choice and not of structural processes, crime itself becomes a matter of irrational and imprudent choices’ (Kemshall, 2003, p.19).
Governmental, Socio-Cultural and Technico-Scientific Approaches to Risk

The rise of risk can be considered from a governmental perspective which is based upon the work of Foucault. It explores risk within the context of the regulation of populations and is therefore concerned with the nexus of power and knowledge. The focus is upon the ways that disciplinary institutions create risk knowledge and how they are both collectively and individually managed (Alaszewski, 2009). For a broad and useful definition the work of Valverde (2017) on Foucault is helpful. Here Valverde considers sovereignty and discipline to be fundamental to understanding governmentality. Sovereignty refers to top down power, only affecting certain people at certain times and relies on public punishment whereas discipline and disciplinary actions are continuous and involve fluid forms of power involving knowledge techniques (or normalisation). Governmentality, in turn, is more sophisticated and concerns the modern uses of power when the government no longer looks at the individual but at populations and their characteristics which become calculable within aggregate data and take the form of statistics and calculations of probability. Governmentality approaches to risk rely on the acquisition of knowledge, and risk assessments and actuarialism lends itself to such data collection. Risk is a means of ordering reality, making it calculable and governable through the use distinct and specific techniques to achieve specific goals (Dean, 2010). However, such an approach also lends itself to an impersonal relationship with the subject because it is the collection of the data that its paramount.

Governmentality is less of a grand theory, focusing instead on specific or pivotal points within politics and policy where ‘the prominence of risk appears as something emerging out of a variety of developments that follow no course set out by some motor of history such as the forces and relations of production, or that appears as the effect of a grand transformation of modernity such as Beck envisages’ (O’Malley, 2010, p.13). Governmentality thus allows us to consider risk in a broader sense. It looks at the ways in which people are shaped and changed by government programmes and how the government shapes conduct. For Dean (2010, p.206):

The significance of risk lies not with risk itself but with what risk gets attached to. Risk, to put it in Kantain terms, is a category of our understanding rather intuition or sensibility...the critique of risk will investigate the different modes of calculation of risk and the moral and political technologies within which such calculations are to be found...What is important about risk is not risk itself. Rather it is: the forms of knowledge that make it thinkable, such as statistics... the techniques that discover it, from the calculus of probabilities to the interview; the technologies that seek to govern it, including risk screening, case management... and the political rationalities and programmes that deploy it.(Dean, 2010, p.206).
With TR there are now new rationalities and programmes that create forms of knowledge and forms of risk technologies, therefore adopting such an approach allows for consideration of how risk is changing and why. As O’Malley (2010, p.15) comments ‘governmentality may be useful as a way of rendering intelligible the risky rationalities deployed by such individuals and groups, and the ambiguities of their relations with other rationalities such as neo-liberalism as developed in parliamentary contexts.’ When considering neo-liberalism, neo-liberal governance expects individuals to take responsibility for and manage their own risks and ‘entails shifting the responsibility for social risks such as illness, unemployment, poverty, etc., and for life in society into the domain for which the individual is responsible and transforming it into a process of “self-care”’ (Lemke, 2001, p.201). Within CRCs the new providers have the opportunity to consider what areas are pertinent to an offender’s risk of re-offending and serious harm and will be in a position to make the distinction between welfare, self-regulation and offending needs and direct resources accordingly.

In contrast to governmentality a cultural theory approach to risk, which is most closely associated with the work of Lupton (1999) and Douglas (1992), takes the perspective that risk should be considered in relation to diverse meanings and the ways in which risk is perceived or regarded by individuals and groups. Here Alaszewski comments that ‘risk is equated with dangers that threaten individual collective and security and existence’ (2009, p.488). Within cultural risk theory there is the premise that the dominant economic approach to risk, which is based on the belief that individuals are rational actors and self-motivated and self-interested, does not shed light upon the question of why individuals vary in their response to risks. Risk here is a cultural product and therefore it is inevitable and imperative that it is viewed as inexorably bound with the notion of values. Whilst governmentality is concerned with risk from the programmers’ perspective (those that set the rules such as the state), a cultural perspective considers how it is experienced and encourages people to not think about risk from a pervasive ‘risk society’ approach but at an individual level – to think about what is selected as a risk. Here, the selection of the risk and ‘the activities associated with the management of risk, are central to ordering, function and individual and cultural identity’ (Lupton, 1999, p.14). Whilst the rise in risk can for the most part be attributed to a rise in fear and concern it is important that a cultural approach is considered and such an approach must extend to the culture of those working with risk because their values and conceptualisations will affect how risk affects their practice and ultimately who, how and why someone is selected as ‘risky’. A cultural perspective allows us to consider the ways in which people make sense of crime and risk (O’Malley, 2010, p.17) and allows consideration of where the risk knowledge comes from.
At the other end of the spectrum is the technico-scientific approach to risk which is centred around probabilities and the identification of likely outcomes through calculations. The essential component here is that science is being used to determine hazards, dangers and potential consequences. The critique regarding this approach has unsurprisingly centred around its lack of human consideration within risk classifications - causal models have little capacity to include inclusive information beyond static factors. As Lupton notes (1999, p.18) such an approach is predicated on the premise that certain social or criminal facts exist which can be identified and calculated by risk experts whose ‘understandings of risk are presented as neutral and unbiased’ (Lupton: 1999, p.19). The adoption of crime facts means the risks that they identity and create will be pre-existing so what is required is a means of measuring them. Such an approach is, according to Lupton (1999), based on many taken for granted attitudes and conceptualisations where risk is viewed as a construct of inappropriate responses to certain situations. Additionally, it is also somewhat deterministic and arguably results in a more punitive, less holistic view of offending behaviour – if the facts of criminal behaviour are already known and you offend then you have deviated from the norm further enforcing the notion that offenders are responsible for their own criminality. Such tools are also used for specific offender groups such as sexual offenders (through risk matrix 2000) and domestic abuse perpetrators (spousal assault risk assessment) and the existence of such tools could lead to an inflated risk level. This move to managing risky populations has arguably resulted in the creation of the ‘monstrous other’ (Appleton, 2010), where offenders are inherently different from us the law-abiding citizens. If offenders are shown to possess negative and dangerous qualities they automatically become a threat to others and are dealt with under a risk minimisation agenda. The abandonment of the individual has led to the adoption of a risk rationality that is inextricably linked with actuarial assessments, further demonstrating a realist approach to crime – that crime and risk facts exist (Lupton, 1999). The classification of offenders to NPS and CRC could be viewed as an extension of this as offenders are placed within risk categories determined by the offence and actuarial tools such as the Risk of Serious Recidivism (RSR).

The ideological consideration of risk can be broken down further by using the perspectives of the realist and the constructionist. The realist perspective is based upon the epistemological position of risk as an objective hazard, something that exists and as such needs to be managed and rectified using cognitive techniques thereby a technico-scientific approach is appropriate. Conversely, a constructionist approach (most notably the governmentality thesis) purports risk does not exist, it is not something that is tangible rather it is what we think of as being a risk that is fundamentally important – the process by which societally, culturally and politically a risk came to be constructed as such. The ‘risk society’ is, according to Lupton (1999), a weaker form of constructionism because
within it there is an objective risk/danger in existence (as with the realist approach) but the role of
the media and social and cultural processes are not acknowledged and explored. The socio-cultural
perspective lays between the weak and the strong constructionist epistemology, considering risk as
a cultural phenomenon that seeks to analyse and determine why some things are deemed to be risks
and others are not (Lupton, 1999).

Despite such variance in these approaches it is important to note that they all have some common
features:

The three most dominant approaches to risk – risk society, governmentality
and socio-cultural, whilst different in some respects do share three essential
viewpoints: risk has become an increasingly pervasive concept of human
existence in western societies; risk is a central aspect of human subjectivity;
and risk is associated with notions of choice, responsibility and blame.(Lupton,
1999, p.25).

The implication of this consensus is that risk is both calculable and accurate.

Risk Expertise and Accuracy

The theories and concepts discussed within this chapter place great importance on the expert
(Giddens, 1991). However, there is according to Kemshall (2010) a debate/divide regarding the role
of the expert and lay knowledge. The divide is grounded within the realist approach to risk which
highlights the dichotomy between the subjective and the objective. Here Kemshall (2010 )notes that
there are those that espouse that lay actors do not just offer irrational and meditating competing
knowledges regarding risk, but they are in fact generating and administering their own risk
knowledges. Risk therefore becomes bound with individual values, attitudes and perceptions rather
than in knowledge and experience. With TR comes the departure for CRC) from NOMS risk
assessment tools and interventions, which may lead to an increased use of lay knowledge
administered by non-experts or staff not subject to probation training outside of those provided in
house and the creation of new risk practices by private companies with limited experience and
knowledge of risk. The use of expertise is deeply rooted within historic advances in science but it is
the current context that plays the key role in risk practices. For example, with CRCs risk is now
arguably synonymous with lack of payment and profit. When risk assessments are linked to payment
and evidential practice the context of it alters.

The efficacy of risk assessment tools has been the subject of much debate, evaluation and criticism
and, whilst most would note the importance and place for clinical assessments, it is the actuarial
that are statistically more accurate. Monahan and Steadman (1994) state that when clinical assessment is used as a means of prediction they are wrong 95% of the time and that actuarial methods remain the most accurate form of risk assessment. However, as noted previously, actuarial methods are based upon aggregate information (OGRS, RSR). Such wholesale importing of risk should be treated with caution. Floud and Young (1981, p.21) argue the assessment of risk that a person presents must not ‘rest only on the propensity to cause wilful harm, but the evidence must be specific to him and this precludes the determination of dangerousness by purely actuarial methods’ (emphasis added). The reliance on actuarial risks could therefore lead to the warehousing of particular ‘risk’ groups (see Fitzgibbon, 2007, p.93) and may lead to predictive schemes without moral content (Mathiesen, 1998) used simply as an instrument of risk control as evidenced by the increasing use of recall for breaches of licence (see Padfield and Maruna 2006). However, for some the concerns associated with this type of assessment have been overstated on two grounds. Firstly, that penal policy and practice has not actually radically changed (Garland, 1996) and secondly that the use and reliance on actuarial justice has been inflated and that frontline practice has not been drastically transformed by risk calculations (Kemshall and Maguire, 2001). Since Floud and Young’s statement the use of actuarialism within risk assessments has increased however the tools have arguably become more sophisticated and grounded in evidence-based practice. Bonta and Wormith (2008) discuss how actuarial predictions measure the characteristics of the offender and their situation that research as shown to be predictive of criminal behaviour. There are four generations of risk assessment. The first is risk assessment that is non-actuarial and therefore based upon professional judgement and research has shown this to be less reliable and accurate as actuarial methods (Maden, 2011; Barnett and Mann, 2011). Here the assessor would report on what they considered to be relevant based upon their experience and such assessments are clearly subjective and open to bias. Second generation risk assessments show reasonable predictive accuracy but comprise mainly of static risk factors such as age, criminal convictions and whilst useful provide little in terms of reducing risks and static risks will always remain. Maden (2011) discusses how actuarial assessments such as thee can provide systematic assessments whilst eliminating variation between individual practitioners and exclude bias, but again notes that such calculations are based upon populations and not individuals warning of the risks of assuming that an offender that falls into a group likely to reoffend does not mean reoffending should be treated as inevitable. Barnett and Mann (2011) highlight that the scales/groups used are selected purely based on how well they predict reconviction within large data sets, disregarding theoretical and clinical value. However, they also acknowledge that instruments like these have been ‘honed and tested across numerous studies, and it is clear that they outperform clinical judgment and sometimes demonstrate an impressive
level of accuracy in discriminating between those who offend and those who do not’ (Barnett and Mann, 2011, p.140). Third generation risk assessments utilise both static factors and dynamic risks which can change allowing for a risk needs approach to be taken in assessment. These dynamic risks are often referred to as criminogenic needs (Bonta and Wormith, 2008). The use of dynamic risk allows practitioners to gain an insight into what interventions should be utilised and compensate for a lack of satisfaction felt by practitioners in using second generation methods where no direction is provided about what to address in treatment and an inability to re-evaluate risk in light of any interventions or treatment (Barnett and Mann, 2011). Finally, fourth generation tools include this risk need approach but the assessment is integrated into a case management plan. In relation to probation the two primary risk assessment tools are OGRS3 and OASys. The Risk Management Authority (RMA, 2018) describes OGRS3 as one that is used in conjunction with OASys to inform and improve the static/dynamic predictions. It is a second-generation risk assessment that considers static factors such as age, gender, prior criminal history and assesses how likely a person is to reoffend through the generation of a probability of reconviction. The RMA deems its strengths as it being able to provide a short-term prediction of risk and a gendered estimate of risk, calculating it differently for males and females (RMA, 2018). It also has the potential to act as a prompt for further assessments in relation to risk of re-offending. According to RMA OGRS3 is grounded in extensive Home Office Research and its validity has been tested across different offender groups. OASys is arguably a fourth-generation risk assessment as it links risks to case management and still allows for some professional discretion and judgment though this has been reduced in each of its iterations. It comprises of 14 subsections and generates a summary risk score to assessed likelihood of re-offending and risk of serious harm to self and others. Since 2009 it has included a General offending Predictor and a Violence Predictor both of which utilise static and dynamic risk factors (third generation). Since 2009 it has adopted a layered approach whereby basic, standard and full assessments are available and are of similar structure but differ in length (RMA, 2018). The RMA (2018) deems the strengths of OASys to be the inclusion of a section dedicated to assessing the suitability of interventions and a self-assessment component that allows offenders to record their own views regarding their own risks and needs. In addition to this the RMA (2018) states OASys is grounded in the what works evidence base and can contribute to risk management plans for complex cases. Again, there is supporting empirical research noted concerning its validity. Consequently, the fears around actuarialism and predictive assessments could to a certain extent be dismissed however, it is still important to acknowledge that their very existence and mandatory use has two fundamental consequences. Firstly, it individualizes the offender through responsibilisation, thereby weakening social bonds and secondly it groups and objectifies thereby reducing the
offender to a risk inventory (see Kemshall, 2003). Fitzgibbon adds to Kemshall’s (2003) discussion of how risk has become conceptualised by considering ‘actuarial fallacy’ (Fitzgibbon, 2007) where tools that utilise actuarial methods both enable and encourage those working with them to simply produce collections of data. They do not consider or provide a historical perspective or a complete context of the offence and the offender making it almost impossible to determine where individuals fall within large aggregated actuarial data. Without the context the data becomes disparate and removed from the essential details and the behaviours lose their meaning. In addition to this any additional risky behaviours, now disembodied from the context, have the potential to be viewed as being additional risk factors as they become more signs of deviant behaviour (Fitzgibbon, 2007).

**Dangerousness and the Conflation of Risk**

Floud and Young (1981, p.6) highlight that ‘fear converts risk into danger and it tends to be inversely proportional to time and distance’. This allows partial understanding of the reasons for the changing nature of risk and those deemed to pose the most danger (e.g. property offenders to sex offenders, Pratt, 1997; Clift, 2012) and why it is often used in relation to dangerous outcomes. The 1970s saw the gaze of political attention firmly focused on law and order and heralded a new era of politics where the bipartisan approach to crime was increasingly abandoned (Pratt, 2007). The effect was to perpetuate the fear of crime and those that committed it. This approach to crime has altered little and it continues to garner government attention and policy which aims to resolve intractable problems with the expectation that probation can get ‘risk’ right. Consequently, offenders have been positioned within a network of factors drawn from the observations of others and ‘the implication of this rationalised discourse [being] that risk is ultimately controllable, as long as expert knowledge can be properly brought to bear upon it’ (Lupton, 1999, p.5). The use of risk assessment and risk management are clearly integral to the work of probation but the reliance on group aggregates and actuarial tools can result in the crime ‘facts’ (Lupton, 1998) being conflated with high risk of serious harm or dangerousness. There can be an ecological fallacy:

The ecological fallacy, well known to statisticians, observes that the characteristics of individuals cannot be inferred from the characteristics of the areas or groups. In risk analysis there is thus the very real possibility of an actuarial fallacy, whereby the behaviour of the individual is spuriously inferred from the behaviour of groups. The result is a tendency towards inflation, taking the form of over prediction of dangerousness of individuals, such dangerousness being conflated with the risk characteristics of the group to which the individual has been allocated. (Fitzgibbon, 2007, p.91).
The inflation of risk clearly has implications for offenders and Moore (1996) discusses the need for such interventions to be balanced against the cost of getting it wrong to those involved. Assessments do not just involve the generation of data they require the interpretation of information and an awareness of its implications (meanings) and limitations (Fitzgibbon, 2007; Kemshall, 2003, 2008), especially when making predictions of future behaviour. However, despite this probation has been increasingly required to make such calculations especially in relation to dangerousness. Notions of dangerousness, as with all social constructs, have altered and changed over time and as Figgis and Simpson (1997, p.1) observed is dependent upon what ‘one is prepared to put up with.’ Nash (1999, p.21) notes the key characteristics of dangerousness are ‘the unpredictability of the behaviour and the potential for causing harm’, demonstrating the difficulties that exist when making such determinations. Despite this it became a core component within sentencing most notably through the CJA 2003 and the introduction of the Imprisonment for Public Protection (IPP) sentence. The Act was a large and significant piece of legislation and followed the legislative trend of the 1990s (Pratt, 2007) in its aim to focus on public protection at both ends of the criminal justice process by implementing longer initial sentences and increased restrictions upon release for those offenders deemed dangerous. A ‘dangerous’ offender was one that had been convicted of a ‘specified’ violent or sexual offence listed within the 153 in schedule 15 of the Criminal Justice Act and has a maximum sentence of ten years imprisonment (it is a serious offence). If the offender had a previous conviction for a schedule 15 offence the judge was compelled to impose an IPP. The numbers made subject to the sentence far exceeded government expectation (Bridges and Owers, 2010) prompting the creation of Dangerous Offender guidance in 2007, revised again in 2008 (Home Office, 2008; Sentencing Guidelines Council, 2008), with the aim of ensuring that only those deemed dangerous would receive the sentence. Annison (2015) notes that despite these measures the IPP population continued to rise amidst increasing criticism in relation to the ethical implications and its impact on criminal justice resources. The need to demonstrate that an offender was no longer a risk to the public was difficult to achieve in a climate of under resourced prisons and increased accountability for Parole Boards (see Annison, 2015, p.9). In 2008 the Criminal Justice and Immigration Act removed the mandatory nature of the sentence and Schedule 15A was introduced, which reduced the number of specified offences and introduced a minimum prison sentence of two years. Jacobson and Hough (2010) in their research paper Unjust deserts: Imprisonment for Public Protection stated that the creation of these sentences resulted in the threshold for what was considered dangerous being dramatically reduced and illustrates an example of ‘net widening’ associated with ‘precautionary logic’ (Hebenton and Seddon, 2009, p.347-8). Annison (2015, p.36) discusses how the adoption of risk assessments tools allowed for such a
sentence to be introduced, noting that ‘extant risk technologies were perceived by policy makers to serve as the ‘enabling tools’ for the IPP sentence. (Minister). Developments in risk assessment were considered to mean that selective incapacitation of the ‘dangerous’ was entirely feasible.’ Annison (2015) goes on to note that when the means exists there is an evitable ‘must’ for systems that remove the dangerous from society to be implemented. Such reflections can be found within the work of Giddens (1998, p.29), who comments that when someone, be it the government official, an expert in science or lay person gives risk credence, they must ‘proclaim it.’ It must be publicly acknowledged and the public must be persuaded of it. If such risks are proven to be unreal or minimal then those involved become scaremongers. He goes on to posit that:

The emergence of manufactured risk presumes a new politics because it presumes a reorientation of values and the strategies relevant to pursuing them. There is no risk which can even be described without reference to value. That value may be simply the preservation of human life, although it is usually more complex. When there is a clash of the different types of risk, there is a clash of values and a directly political set of questions. (Giddens, 1998, p.30)

With IPPs (and indeed other modes of governing the high risk and dangerous) the value that is proclaimed is public protection and the removal and incapacitation of those that may cause harm to others, but ultimately it was the values of proportionality and the IPP’S precautionary logic that would clash with this primary aim and lead to its repeal, exacerbated by the increase to prison population. For an offender to meet the threshold for this sentence an assessment was required in relation to future behaviour and predicted harm rather than previous behaviour, which had hitherto been the norm (see Henman, 2003). However, Morris (1994, p.239) states that ‘diagnoses of dangerousness should be thought of as statements about the offender’s present condition, rather than as predictions of future conduct.’ The HMI Probation and Prisons report (Bridges and Owers, 2010) pertaining to IPPs highlighted the disparities in the assessment of risks prior to sentencing noting that the language used in respect of risk of serious harm and dangerousness was ‘convoluted and lacked clarity’ (2010, p.19). With such tensions, it is unsurprising that the use of these sentences was inconsistent especially as any decisions regarding it were ultimately down to the Judge’s conceptualisation of risk (Bridges and Owers, 2010).

Whilst IPPs have since been abolished under the Coalition government the impact upon the work of probation cannot be underestimated because it required practitioners to work with risk in a manner that had not occurred before. Legislatively it introduced dangerousness as a definable and predictable concept/behaviour and the legacy of this remains with the supervision of those still
subject to the IPP sentence, for whilst the use of it as a sentence was abolished for those already subject to an IPP there were no provisions made for a change to their sentence. They remain subject to the same release conditions related to IPPs. It could be argued that such developments are largely inconsequential for CRCs who work with low-medium risk offenders. However, the blurring of risk distinctions and the move towards risk-based penalty continues to have implications and consequences for their practice, most notably in determining those that they should no longer be working with or require a referral to NPS on the basis of a risk escalation. The observations made by Dean (2010) regarding the significance of what risk is attached to is also pertinent to the work of CRCs who are now designing, implementing and working with their own risk assessment tools and with staff that are potentially less experienced.

There exists a debate that perhaps risk as a concept should be abandoned in its entirety when working with individuals. Dowie (1991) comments that it is unhelpful and conflates the knowledges needed to make good decisions especially when they concern the valuation of outcomes and estimations of probabilities. He states that instead this confusion could be negated by the adoption of a clear level of understanding of the different knowledges needed to ensure rational decision making. Again, of note here is the knowledge required and in terms of this research whether such knowledge exists or will be maintained by CRCs. Floud and Young (1981) demonstrated that the use of risk assessments as a method for determining dangerousness was either too restrictive that it failed to identify many who were dangerous or was too inclusive and so brought in many who were not. Here, this is a potential for NPS cases to become conflated with dangerous offenders. Many NPS cases will not be assessed as high risk of harm but will have been sentenced to an offence that warrants NPS supervision and as such their risks may become inflated by virtue of their supervising organisation.

Neo-liberalism and Net Widening

Garland (2001) and Lea (2002) posit that the re-purposing and branding of probation has led to policy that simply combats crime through crime control and that, with the decline of the welfare state, social policy has also become focused upon crime control as a form of security and protection replacing social citizenship. This erosion and replacement of social citizenship in favour of responsibilisation is not just evident for the so-called dangerous offenders but across all forms of behaviours that are deemed anti-social (Squires and Stephen, 2005; Squires, 2006). These behaviours, whilst minor, have now become the precursors to more serious crimes and increasingly
the state has intervened in an attempt to curtail criminal activity (Squires, 2006). Such approaches have led to a preoccupation with pre-crimes that warrant coercion and control (Zedner, 2007) and risk assessment has been central to this development as a means of identifying these risky populations (Fitzgibbon, 2004). The attempt to control risk has the capacity to envelop more amorphous, nebulous groups. There is the potential for dangerousness to become conjoined with behaviours that are considered anti-social or wrong thus those that were once nuisance behaviours become conflated with predatory actions (O’Malley, 2001). Such observations are important because for Douglas (2010, p.5) ‘the public perception of any policy for risks will depend on standardized public ideas about justice. It is often held that perception of risk is directed by issues of fairness. The more that institutions depend upon personal commitment rather than upon coercion, the more explicitly they are monitored for fairness’. As Feeley and Simon noted in 1992, penalty has become less concerned with moral sensibilities and treatment based upon a diagnosis; rather it is concerned with techniques used to identify and manage groupings. However, it should be noted that they do not contend that this inevitably leads to increasing punitiveness but rather it can be a bureaucratic process where rehabilitation is replaced by neutralisation. As Garland comments:

There are two contrasting visions at work in contemporary criminal justice – the passionate, morally toned desire to punish and the administrative, rationalistic, normalizing concern to manage. These visions clash in many important respects, but both are deeply embedded within the [modern] social practice of punishing. (Garland, 1990, p.180).

The ways in which risk controls have developed is discussed by Pratt (2007), who comments that they have coalesced certain behaviours, of both individuals and groups, that are viewed as posing a risk to the community. He posits that

This range of risk control measures is more in keeping with the emergence of what might be termed ‘the limited liability state’, the product of post 1980s economic and social restructuring and the new obligations and reciprocities between state and citizen that this has brought. (Pratt, 2007, p.2).

Where risks are considered to be beyond the power of the individual to prevent the state continues to take responsibility and it is this that has led to an increasing use of risk management, albeit in a limited and narrow fashion with a loss of welfraism, culminating in new and ‘innovative’ penal practices that follow a NPM trajectory. The managerialist, neo-liberal climate in which probation now operates has resulted in a culture that is governed and measured by targets. As accountability and performance indicators have increased so has the move towards practitioners becoming
auditors (Munro, 2004). The operationalised risk tools can be viewed as key part of a managerialist strategy offering the inspectorate a collection of data that is easily monitored. However, data does not allow for consideration of the behaviours and attitudes easily (Kemshall, 2003). Robinson (2003) has provided arguments for why such risk assessments could in fact be a positive development; they allow for assessments to be structured enabling greater consistency providing probation with legitimacy by utilising evidence-based tools. However, with the advent of privatisation there are new concerns about the ways in which probation works with offenders. Fitzgibbon and Lea (2014) discuss the potential for PBR to lead to CRCs working with risk in a less labour intensive, cheaper fashion where the more ‘skilled, and inevitably labour intensive, traditional forms of rehabilitation through community re-integration will be beyond its capacity without massive and costly corporate reorganisation’ (2014, p.29). They remind us that previous outsourcing by the state have shown this and draw parallels with the management of prisons, children’s homes and the supervision and enforcement of curfews (2014, p.29). Fitzgibbon and Lea (2014) argue that the previous decade paved the way for such events with the adoption and use of tick box assessments coupled with an increased reliance on technology. For Robinson (2002), the focus on public protection has resulted in two modes of practice – the high risk and the mainstream or put in a contemporary framework the work of NPS and the work of CRCs. The implications of this are that CRCs may come to believe that the work of public protection and risk assessments are the remit of NPS and that there focus falls primarily outside of the gaze of risk.

The increased prominence and emphasis upon success and getting risk ‘right’ inevitably increases the spectre of blame for failures, what Douglas refers to as ‘the forensic functions’ of risk (1992, p.27). For Douglas, within a cultural theory perspective the shift in contemporary uses of risk reflect a move from prediction to the accordance of blame when things go wrong. Probation has long been held to account through inspections and audits but the penalties for deviations and failures now affect a private sector company. To ensure that CRCs are performing and ‘earning their keep’ the use of audits will be essential and have the potential to create yet more formalised actuarial assessments further replacing the judgment of the individual and clinical expertise. For Kemshall, audit has come to replace trust and ‘accountability has replaced unquestionable expertise’ (2010, p.146). Kemshall warns ‘audit and formalised risk assessment systems also bring with them a particular epistemological framing of risk and a severe challenge to the risk knowledges of practitioners in their daily practice with risk’ (2010, p.146). Such observations have become more salient with TR. CRCs are now in a position to generate their own risk assessment tools and risk practices and as such a new epistemology may be imposed upon practitioners. Returning to neoliberalism, Shaw (1996) considers the increased regulation and use of formalised risk assessments as
a means for government and managers to ‘cover their backs’. With this in mind it is perhaps more prudent and important than ever that the mentalities and rationalities of those devising and using such mechanisms be considered.

TR - Accountability and Rehabilitation

With privatisation bringing an increased focus on accountability and performance at an organisational level there are inevitably also more tensions and issues at the individual level when working with risk that can have far reaching and profound repercussions for both the practitioner and offenders. With risk being so complex and interwoven with predictions and calculations of probabilities it is an area that is easily prone to difficulties. Precautionary logic (Hebenton and Seddon, 2009) has already been mentioned regarding dangerousness but such logic can also dominate and thrive in a culture where there is defensive practice and a climate of fear. Here, the inflation of risk provides security. With CRCs now working with low to medium risk offenders their new high-risk offenders are the medium risk of serious harms, as such it is possible that this group may become inflated. When such cases exhibit changes there is the potential that defensive practice will be adopted through fear, individually and organisationally. Kemshall (1997) notes that for informed and defensible (rather than defensive where risks are increased due to accountability concerns rather than thorough risk assessments) there needs to be:

- Appropriate levels of knowledge and skill
- Appropriate use of information
- Risk assessment that is grounded in evidence
- Communication with other relevant people
- Risk management plans that are linked to risks and risk levels
- Information collected and thoroughly evaluated

(from Kemshall, 1997)

Practitioners require the availability of all relevant information but with the CRCs unable to access any NPS data and data from other CRCs readily there is a potential vacuum in information sharing leading to incomplete assessments, what Kemshall refers to as the ‘explanation gap’ (2008, p.51). She goes on to posit that the ‘fragmentation of work across specialisms and high-risk teams common…. in criminal justice agencies can exacerbate this problem leaving staff working in functional silos and failing to take a joined-up approach to risk’ (Kemshall, 2008, p.54). Ironically the
very nature of TR has done this despite it being grounded in risk to determine appropriate supervision. Shared understandings of risk are core to risk assessment and management but NPS is now a separate entity and each CRC now have their own ways of working, thus there is the potential for a loss of shared meaning and effective communication. With these issues in mind it is perhaps the *Representational bias* and the *Availability bias* (Kemshall, 2008) that are most relevant and helpful when considering CRCs and risk. The *Representational bias* concerns practitioners assuming that cases are similar, so a case becomes representative of others because of superficial or common characteristics (e.g. the offence). This bias is most influential during initial risk assessments. Given that the NPS now complete all court reports that assess risk factors and provide an offence analysis with the aim of suggesting a sentencing disposal, it may well be that the assumption is made that the assessment has been completed by experts therefore there is no need for it to be updated, confirmed or reviewed. Risk could lose its dynamic nature. The *Availability bias* pertains to assessments based solely upon the information that has or can be obtained. Here key events or experiences alter risk and allow for low risk to become inflated (for example previous cases with the same offence where there have been issues), resulting in high-risk behaviours becoming synonymous to similar cases. This is compounded when the behaviours are considered particularly taboo (Kemshall, 2008, pp.57-58). These biases will be discussed within the analysis chapters but it is worth highlighting that the intrinsic devolution of low-medium risk offenders to the ‘non-risk experts’ has the potential to result in an already difficult process becoming even more convoluted and precarious.

The repercussions of getting risk wrong have far reaching implications for offenders and can result in false positives and false negatives. A false positive is created when an offender has been given the status of being a high risk mainly through risk assessments, but the risk label is unwarranted (Nash and Williams, 2008). Their risk has been over assessed, possibly due to the adoption of defensive rather than defensible practice. Outcomes of this can result in unnecessarily stringent control measures or even longer periods in custody than required. However, proving the inaccuracy of such assessments is nigh on impossible as any lack of re-offending or harmful behaviour could be attributed to the measures adopted having worked. A false negative is the reverse. Here an offender is assessed as being a low risk and but goes on to commit a very serious crime. It is this group that is of course the mainstay of serious further offences (SFOs) which often culminate in media and public outrages (Nash and Williams, 2008).

As already discussed, the division of probation into the private and public sector was predicated on notions of risk. What has been illustrated thus far is that the nature of risk is complex and fraught
with tensions at every step of the process. Perhaps the most concerning aspect of the TR agenda though is how it has ultimately conceived risk as being ‘clear cut’ - binary and easily categorised. Under TR the high-risk offenders pose the highest risk to the public and therefore must remain the remit of the state through NPS. By default, the low to medium risk offenders can be managed by CRCs because with these cases there is a lower risk of harm to the public. Of course, such cases can be responsibly managed by experienced staff, but it has already been shown that there is less experience within CRCs and that there is no expectation for them to recruit or train qualified probation officers. As Clare notes (2015, p.18) ‘it is essential that probation officers be found on both sides of the division of services imposed by TR.’ The nature of risk is that it is dynamic and can change (Kemshall and Pritchard, 1995) and whilst there are provisions for cases to be referred to NPS should they be deemed high risk, such decisions must be grounded in a thorough appreciation of what are often complex and intricate behaviours. It is widely known amongst practitioners and academics that serious further offences are not often committed by those already labelled as such. Craissiti and Sindall’s research (2009, p.9) found that in fact there are ‘no clear identifying features of this sample of offenders (committing serious further offences) which seemed to differentiate them from a much wider sample of the probation caseload.’ Highly developed skills are required if a practitioner is to notice and recognise changes that can signify the imminence or likelihood of a further offence. In 2006 Ansbro undertook a study of serious further offences and stated that ‘what is quite clear is that Serious Incident Reports are not triggered exclusively, or even predominantly by those assessed as high-risk offenders...we can achieve a certain degree of accuracy in predicting risk of harm but no more’ (2006, p.64). The study showed that the limitations with predicting risk tend not to be with practitioners but with the nature of harm itself. There needs to be an aetiology of risk that permeates both NPS and CRCS. If this is to be achieved, then effective communication and consistency in risk understandings are essential. However, it has been noted that a fractured relationship now exists between the two. Compounding this is the very process of risk escalation itself which is sought through written protocols which could result in a ‘drift away from original intentions or an obsession with literal ‘compliance’ that generates massive bureaucratic processes and misses the original point of the contract’ (Clare, 2015, p.8). The opportunities for missing risk escalation and the potential loss of a probation, rehabilitative intent are not the only causes for concern. There is also the potential for offenders to have their risk raised inappropriately, be it through a desire to remove a non-compliant offender from the caseload (cherry picking in a for profit context) or an NPS rejection that is unwarranted. Conversely high risk of serious harm offenders may remain with the CRC due its lack of familiarity with high risk of serious harm, which
could lead to CRC practitioners not working with offenders and risk appropriately at a time when they require consistency, support and greater the most.

Summary

The current changes imposed upon probation have been based upon risk classification and knowledge with NPS being the risk experts. Risk has been presented as something that can be readily defined, measurable and accurate. However, Rose (1999, p.xiii) in this context, sees knowledge as:

‘resources used in the service of power, driven and shaped by political and professional interests, serving to legitimate and mask the manipulation of human beings for the ends of social order and private profit: their involvement with power inevitably compromised their claims to truth.’

This chapter has discussed the tensions and issues associated with the use of risk within probation and the complexities in determining it especially when attempting to predict future risks. The ways in which risk is conceptualised and used has been shown to be dependent upon several factors - the political climate, the goals of the governing agency and the knowledge and experience of those applying it through actuarial tools and professional discretion. For CRCs and the NPS it is essential that risk remains a constant, homogenous concept and that its definitions, understandings, assessment and management continue to be aligned with NPS risk practices. However, with CRCs being able and responsible for the generation and use of their own risk assessment tool to replace OASys there is a danger that the new rationalities and mentalities regarding risk will be bound up in the culture and aims of each CRC. There is the potential for risk to become heterogenous and governed by the CRC’s agenda and values. As Kekes (1989, p.28) reflects any risk-based decision in relation to another person is ‘value based.’ Now the agenda and values of the CRC inform risk decisions.
Chapter Four: Probation and TR - A New Take on Punishment

This chapter will note the key phases that have occurred to probation politically since the Coalition government came into power (see appendix A for TR chronology). Whilst doing so the underlying neo-liberalist political and economic agenda (Bell, 2011; Burke and Collett 2015) will be discussed together with the rationale and rhetoric of those that implemented reform and the criticisms that have been levied against it. Finally, this chapter will address why it has been deemed both appropriate and necessary that probation be commodified and highlight some of the issues that have subsequently arisen.

The Coalition Government and the Road to Marketisation

As with the previous general election crime and disorder were a key priority for each party in the 2010 general election and the legacy of the need and desire for increased accountability and effectiveness would no longer be ‘a phoney war’ (Burke and Collett 2016, p.121). Fortuitously for the neo-liberal NPM agenda this period saw a global recession and financial crisis that demanded greater cuts to government spending and the need for value for money had never been higher on the political agenda. Garside and Ford (2015) note that the Coalition government’s subsequent programme of public spending cuts provided the context for criminal justice developments across several discrete jurisdictions with marketisation in England and Wales proceeding in various ways and at various speeds with the overarching aims being to ‘introduce price-competitive tendering for criminal legal aid and to consolidate the market of provider; payment-by-results in prison-and crime probation-related work’ (Garside and Ford, 2015, p.4).

In 2011 the riots in England and Wales were depicted as symptomatic of a broken penal system, perpetrated by the criminal masses unaffected by their sentences (Burke and Collett 2016, p.123), allowing the Coalition government to highlight their concerns with crime and law and order with the disturbances portrayed as evidence for their proposed Rehabilitation Revolution which had already been announced, most notably through the Green Paper Breaking the Cycle (MOJ 2010b). Here a commitment was made to reduce reoffending and save money. Garside and Ford (2015) note that the Coalition government’s term comprised of four periods and that period two, which occurred between 21 June 2011 to 3 September 2012, was one that heralded the beginning of a shift in both criminal justice policy and rhetoric (2015, p.6). Indeed, it was during this period that subsequent papers (An Introduction to NOMS Offender Services Commissioning, 2011b, NOMS Commissioning
Intentions 2012-2013, 2012b) were published outlining the commissioning process all of which were possible due to the Offender Management Act 2007, adding flesh to what had been a somewhat sketchy Green Paper that proposed greater integration between prisons and probation who would work more effectively with other agencies so as to deliver improved outcomes. Under this ‘rehabilitation revolution’ those organisations involved/responsible would be rewarded for successes in reducing reoffending placing outcomes much more at the forefront. Within these papers it was purported that probation delivery should be localised and allow for greater professional discretion in determining services and targets, consequently probation would be ‘owned’ much more by the service provider themselves. This was somewhat of an ironic move given how the previous thirty years had been characterised by increasing centralisation and the removal of local and professional autonomy. It was not just the punishment and management of offenders that were to be subject to competition, legal aid was also to made subject to price competitive tendering and local Police Crime Commissioners were to be responsible for policing budgets and the procurement of crime related services (see Garside and Ford, 2015).

In March 2012 the government published a consultation paper Punishment and Reform: Effective Probation Services where there would be a devolution in the commissioning of the day to day work of the locally based Probation Trusts, of which there were to be 35. The Trusts would keep hold of the functions that were deemed to be in the public interest (such as advice to courts) and retain the management of high-risk offenders. All other probation activities would be competed for with the Probation Trusts acting as commissioners, not dissimilar to the changes proposed by the Carter Report under Labour. However, the third period of the Coalition government saw a revising and arguably an overhaul of these proposed changes. Rather than diversifying the market place the government instead proposed creating one. The revised plan was entitled Transforming Rehabilitation and was published in January 2013. It continued the proposed split between the national management of higher risk offenders and the local delivery of of routine probation activities, but the 35 Probation trusts were to be abolished. It was now the Ministry of Justice that were to commission services through 21 CRCs who would be responsible for the routine probation activities. Fox and Marsh (2016) note the implications of this decision reversal. Originally the retaining of the 35 probation trusts was couched in the opportunities for innovation where front-line professionals could work innovatively with their offenders within a mixed economy with contributions coming from social entrepreneurs in local communities. However, Fox and Marsh (2016) highlight that under TR and CRCs the scope and rhetoric around innovation was narrowed. They highlight that there was now a mere one reference to frontline professionals innovating but five references relating to the setting up of conditions that allowed commissioned service providers...
to innovate. Therefore, the references assume that innovation would be undertaken solely by the CRCs and not the NPS. Additionally, the innovation was now entrenched in new technology coupled with a focus on outcomes, social entrepreneurs and local communities were now not referred to at all.

It is also pertinent to highlight that the commissioning of CRCs was a bold move given NOMS’ lack of experience in commissioning on a large scale. Ludlow (2014) demonstrates that whilst NOMS had experience in commissioning within prisons prior to TR the largest example of NOMS undertaking simultaneous competition took place in 2009-2011 and involved a mere four prisons, three of which had an existing workforce. TR involved simultaneous competition across 21 CRCs that had only just been transferred from 35 probation trusts. Ludlow (2014) also highlights that even if sound contracts are then put in place the competition in prisons demonstrates both the importance of and difficulty in ensuring providers are held to account for their performance through careful monitoring. Ludlow (2014) highlights that competition is more complex and technical than portrayed by government policy, often with significant deficiencies in the procurement practices of public sector commissioners warning that the process of competition alone may damage a public service and, perhaps more pertinently, that there is no evidence that competition is a driver for improvements.

Given the profoundness of these changes it is worth considering whether probation was failing. Was the creation of a market place really the only way to improve probation delivery, if indeed it required changing? TR has been rationalised through high offending rates and ineffective delivery where competition would improve service delivery. However, this was seemingly just an assumption because there was no tangible evidence for such a rationale. According to Probation Trust performance data commissioned by the National Offender Management Service (NOMS), in 2012-2013 the performance of all Probation Trusts was either ‘good’ or ‘exceptional’ at a cost to the taxpayer of around only 12 pence in every pound of criminal justice expenditure (NOMS, 2013). Probation was therefore providing quality services whilst being value for money making the implementation of TR not only questionable in relation to its rationale but also precarious in terms of it being able to be ‘even better’.

The Justice minister Jeremy Wright, when discussing a planned National Association of Probation Officers (NAPO) strike, said the strike showed that probation was in favour of a status quo in relation to high reoffending stating that: ‘more than 600,000 offences were committed last year by those who had broken the law before, despite spending £4bn a year on prisons and probation. The public deserves better and we are committed to introducing out important reforms, which were widely consulted on’ (BBC news online, 25th October 2013). However, Webster (2013) notes that in recent
years the caseload of probation has increasingly comprised of offenders posing a high risk of re-offending thus comparing historical reoffending data is problematic. As such it is the actual reoffending against predicted reoffending rates that is more useful and when this is done the reoffending rates of those supervised by probation saw a 5% reduction which would have easily enabled them to secure a PBR bonus. The offenders that have the highest reoffending rates are those that have served under 12 months in custody and these offenders have only been subject to probation supervision since the inception of TR (see Calder and Goodman, 2013) through the 2014 Offender Rehabilitation Act therefore such assertions of failure by MOJ seem unfounded. Many of the statistics used to construct a narrative of probation failure have also referred to other offenders not subject to probation supervision such as those that received a fine, conditional discharge or caution.

TR – An Opportunity for Rehabilitation
The Coalition government presented their Rehabilitation Revolution in a way that was not solely grounded in free market economics. It was to innovate and make supervision local. The ‘revolution’ in offender rehabilitation could have returned probation to its voluntary roots by utilising their knowledge and expertise whilst ensuring that those commissioned to provide rehabilitation services provided evidence of suitability and legitimacy. Whilst the ideology behind it proclaims that it will achieve innovation whilst saving on costs it was always a monumental leap to believe that privatisation would inevitably lead to improved standards and services. Unlike the privatisation of prisons probation has a complex and wide-reaching level of communication with other agencies that needs to be sustained. Ludlow (2014, p.68) highlights that the adoption of a pro-market approach to probation is even more difficult than when applied to prisons or any other public service noting that it is ‘inherently governmental’ due to it constituting government’s law and order capability whilst fulfilling the government’s duty of public protection.

In theory the commissioning process was deemed to be a level playing field and not to the exclusion of local voluntary agencies who were actively encouraged to become part of the process. With a payment by results financial structure the incentive to implement strategies that worked appealed to both local organisations and larger companies whose resources far outstretched many of the voluntary and charity based organisations, though their legitimacy and evidence for providing proven interventions was arguably more tenuous in comparison to those whose history had shown an ability and desire to work with a group of people known to have a diverse range of social and economic needs. The voluntary and charity sectors varied considerably in their resources. Mills et al
(2011) noted fundamental differences regarding their size, use of paid and voluntary staff, knowledge and experience of working with the public sector and criminal justice and their capacity for what would inevitably require considerable expansion of their remit and work, logistically and principally. They were not all in a position to make a case. It is, though, worth highlighting that many of the voluntary sector organisations would have traditionally been used by probation for many years prior and thus it could be argued that they were also part of the ‘failed’ welfare agenda. For some the voluntary services are not ideologically and practically compatible with organisations that are profit driven and have been commissioned to deliver set requirements. Large organisations tend to work independently to maximise profits and income (see Dominey and Canton, 2017).

The purpose and rationale for TR were couched within the concept of The Big Society, where the third sector were active citizens and, as Fitzgibbon and Lea (2016, p.30) comment ‘a key part of the neo-liberal agenda of self-reliance and the responsibility of individuals and communities’ and an extension of Labour’s commitment to communitarianism. However, the potential for TR and the Big Society being an opportunity to return local probation autonomy in partnership with charities and the voluntary sector did not come to fruition and the Big Society as a concept lost momentum.

Burke and Collett (2016, p.131) are clear that the deconstruction of probation lies in ‘the ideological imperatives of neo-liberalism’ and the creation of a probation marketplace. The removal from the local and the abandonment of the Big Society concept is therefore an important step to achieving this. Strengthening the Big Society required funding and a recession, coupled with huge budgetary deficits, meant that the TR process took place during a time of austerity. Instead of TR being a product of and flagship for the Big Society vision of the Coalition Government it ‘instead took advantage of economic circumstances to continue to push further the interests of a neo-liberal economy’ (Burke and Collett, 2015, p.64. See also Fitzgibbon and Lea, 2016). For Burke and Collett (2015) a neo-liberal approach to rehabilitation exacerbates the disadvantages and exclusion of those already on the periphery of society. Without a welfare and community perspective rehabilitation does not permit offenders to be viewed as people who require support. They are people that have failed to comply with societal expectations culminating in a neo-classicist approach to both crime and punishment. TR achieved substantive commodification by fundamentally changing the purpose and the methods used by probation (McCulloch and McNeill, 2007). Offenders are no longer in receipt of a singular (homogenous) probation service but are part of the process of commodification and have been ‘rebranded as an object of risk-reducing intervention’ (McCulloch and McNeill 2007:232). Rehabilitation is now a commodity as are offenders. Crook and Wood (2014, p.64) highlight that in a consumerist society and in a climate of PBR offenders being reduced to commodities could lead to a product mentality, where offenders are selected or managed in order
to obtain the largest profit. As Garland (2001, p.201) comments ‘...in the individualistic culture of consumer capitalism, the law more and more relies upon identifications of an individual kind. Justice, like the other public goods of the post-welfare society, in increasingly rendered in the currency of consumer society, increasingly adapted to an individual demand.’

Offenders are arguably now people that have failed to comply with societal expectations culminating in a neo-classicist approach to both crime and punishment. As Skinns (2016, p.203) comments the Coalition government ‘has shaped the penal landscape in a more punitive and managerialized form, despite the ostensible emphasis on rehabilitation’.

A Commodified Probation

Via the Green Paper *Breaking the Cycle* (MOJ 2010b) and a series of consultation papers it soon became clear how ‘risk’ was integral to the ways in which this would be undertaken, most notably in relation to who was responsible for what. The *Punishment and Reform: Effective Probation Services* paper (Ministry of Justice 2012a) stated that the public sector would still have a significant role because the key priority was public protection and they were to supervise those offenders deemed the greatest risk of serious harm. It would be the ‘management of low risk offenders’ (MOJ, 2012a, p.3) that were open to the market. In fact, it was to be the low-medium risk of harm offenders that came under non-public sector supervision. The paper also stated that the public sector was to retain responsibility in the case of all offenders for taking certain public interest decisions including initially assessing levels of risk, resolving action where sentences are breached, and decisions on the recall of offenders to prison. Our proposals also exclude probation advice to court from competition. This advice is principally concerned with identification of the most appropriate sentences for offenders and prosecuting their breaches – which must remain reserved to the public sector. (Ministry of Justice 2012, p.3).

This distinction is somewhat of a dichotomy. The separation of provisions based on what is deemed a public-sector duty implies that the delivery of sentences and arguably the delivery of justice can be administered by those with a business interest and suggests that the offender has for the most part been separated from the ‘public’. Where there is a public interest (i.e. court proceedings, sentencing, risk assessment and allocation) the public sector serves, but for the low-medium risk offender their sentence become the remit of a free market. That is until the public interest is again at risk and of concern (breach, recall, escalation in risk, all of which come under the banner of public protection and NPS). There is also the obvious implication that NPS are the true experts in relation to risk. They assess all levels of risk at the outset and retain those considered high whilst remaining
solely accountable for Multi Agency Public Protection Arrangements (MAPPA) which manages all serious violent and sexual offenders. Such an approach has been criticised for its lack of appreciation of the dynamic nature and fluidity of risk (Howard League 2012) and the resultant fragmentation of probation that would likely lead to a lack of consistency and continuity for offenders whilst arguably compromising public protection (Dobson 2012, Skinns, 2016). The distinction between public interest tasks has also resulted in another division and separation, it has removed the CRCs and their probation practitioners from the court who now have no direct relationship with those within the private sector realm. This separation was highlighted as problematic prior to implementation by both probation and court staff. Dominey (2016) discusses how the fragmentation of probation work could lead to issues regarding legitimacy and enforcement. This legitimacy is not just in the eyes of the court workers but the offender with Dominey’s research showing that offenders found legitimacy in their sentence due to the relationship between the probation staff and the sentencing court (2016, p.138). With a lack of CRC and court relations the legitimacy of community sentences could be compromised, and subsequent reports have demonstrated a reluctance by courts to give community penalties as they would have prior to TR and a greater demand placed upon probation in relation to providing court reports:

‘National Probation Service advice to the courts, through pre-sentence reports, has been increasingly under pressure, with more and more oral reports. That has meant that the relationship between CRCs, the National Probation Service and sentencers has simply not matured in the way in which it needs to’. (Jenkins, Interserve Justice, Justice Select Committee, 21st March 2017).

There has been an apparent loss of faith in community sentences since TR, with the first Early Implementation Report Early Implementation (December 2014) – An independent inspection setting out the operational impacts, challenges and necessary actions highlighting a decline in the number of offenders being given accredited programme requirements which was viewed as compromising the reduction of risks, especially for those who had committed domestic abuse.

Annison (2015, p.60) when discussing the implementation of IPPs comments that officials involved in policy developments in criminal justice are not risk experts stating that ‘for them, as with all legislation, the work of the IPP was treated as an abstract, technical exercise in “lawcraft.” The question of how (well) it would work in practice was treated as something of a separate, secondary issue’. Arguably TR and its use of risk as a determining factor is another such exercise, where the how it could and would work in practice has been shown to be more complex than anticipated.
Garside and Ford (2015) comment that the determining factor in the changes was the need for probation to be market ready rather than the suitability of such changes, noting that TR ‘is a testament to the power ideas play in politics, even in the absence of a clear plan for implementation’ (2015, p.23). As already noted, having first sought to adapt the market to probation it was ultimately the adaptation of probation to suit the market that allowed this to be achieved. Furthermore, privatisation has culminated in a ‘penal industrial complex’ (Garland, 1996, p.462), a network of ‘commercial and capitalist interests which surrounds and feeds off the contemporary penal system, just as the armaments industry feeds off warfare.’

When considering this creation of a market place through the separation of NPS and CRCs it was noted that the distinction between the public and the private sectors could result in serious issues that would undermine the work of both. The plurality of providers would, for Fitzgibbon (2013), have Implications for risk management and the leakage of sensitive data concerning both offenders and victims. Inefficient passing of information could also lead to ineffective risk assessments and when private companies are used their focus will be predominantly be on the contract renewal criteria which could culminate in a reticence to share data. Here PBR acts as a disincentive.

In 2013 the Ministry of Justice published the final paper outlining the reforms, *Transforming Rehabilitation: A Strategy for Reform*, which confirmed the supervision of all post custodial offenders by way of a ‘through the prison gate’ resettlement service provided by the supervising CRC. It also stated that there would be ‘new rehabilitation providers, so that we get the best out of the public, voluntary and private sectors, at the local as well as national level’ (Ministry of Justice 2013, p.7). Part of the CRC contracts would include their creating and providing specialist services through the use of the third sector that would then also be purchased by NPS following the decision to abolish the 35 probation trusts. However, in April 2018 the HM Inspectorate of Probation published *Probation Supply Chain A thematic inspection*, which commences with the following statement:

The voluntary sector has long delivered specialist services to people under probation supervision, but with the government’s 2014 Transforming Rehabilitation initiative came a new expectation: that the third sector would play a key role in probation services. Almost four years on, this expectation has not been realised. It seems that the third sector is less involved than ever in probation services, despite its best efforts; yet, many under probation supervision need the sector’s specialist help, to turn their lives around. (HM Inspectorate Probation, 2018, p.5).

The inspection goes on to the note that TR gave immense freedoms to CRCs through ‘black box’ contracts which allow them to decide what specialist services they use. However, the inspection shows that there is an insufficient range of services on offer. As the NPS is dependent on these
specialist services through purchasing them from CRCs, there is subsequently less on offer to the NPS which is further exacerbated by the NPS being noted as being uncomfortable with the notion of being a ‘purchaser’ fearing poor quality within the commissioned CRC services. The inspection believes that the paucity of such services is in part due to the contracts that come with ‘hefty’ fines, exacerbated by profit insecurity and that those who provide specialist services (for example the voluntary sector) often wish to do more than the CRC will permit.

The Transforming Rehabilitation: A Strategy for Reform paper also provided the rationale for the privatisation and payment of these new rehabilitation providers, through payment incentives that allow market providers to ‘focus on reforming offenders, giving providers flexibility to do what works and freedom from bureaucracy, by only paying them in full for real reductions in offending’ (Ministry of Justice 2013, p.7). Whilst a somewhat pragmatic description it meant that each successful bidder was to have the means and capacity to use innovative methods free from the centralised constraints that had been imposed over the previous thirty years. Of further note is that the ‘real reductions’ that result in payment by results were to be limited to reductions in re-offending and an absence of another conviction in a twelve-month period and not the usual two-year period used in crime statistics currently. When thinking in neo-liberal terms this privatisation is clear evidence of NPM ideology in practice. Fitzgibbon and Lea (2014, p.29) assert that the probation privatisation is ‘neo-privatisation since it involves major initiatives both of privatisation and stronger state control rather than a reduction in state control’. Despite the optimism of the papers both in terms of opportunities for offenders and the work that its undertaken with them post TR reports and inspections have highlighted issues with the services being offered. There is in short, a distinct lack of innovation within CRCS. Fox and Marsh (2013) consider whether the criminal justice system is an appropriate place for innovation noting that ‘the requirements of justice evoke concepts such as certainty, control, consistency and adherence to well defined processes, not ideas that are necessarily compatible with innovation’ (2013, p.172). They highlight that the natural location for innovation is in ‘the local’ and that the abolishment of the 35 probation trusts and subsequent centralised commissioning of 21 CRCs negated the possibility for innovation. The fifth HM Inspectorate report Early Implementation 5 – An independent inspection of the arrangements for offender supervision (HM Inspectorate, 2016b) raises concerns that very little was being offered to offenders, most notably in relation to accommodation and employment. It suggests that this could be attributed the CRCs focusing on implementation rather than the day to day workings of the organisation leading to a lack of focus on quality assurance. The pressure and of focus on the completion of targets rather than the meaningfulness of the work is highlighted as a key cause of concern. Such observations are also within the National Audit Office Report Transforming Rehabilitation 26th April 2016, which
points out that CRCs are paid primarily for completing the specified activities dispensed by the courts and not for reducing re-offending (PBR) which has subsequently hindered the creation and adoption of innovative interventions.

The result of the Transforming Rehabilitation: A Strategy for Reform was a bidding process with interested parties invited to submit tenders and in October 2014 the twenty-one successful Community Rehabilitation Companies (CRCs) were announced, the new separate NPS having already been formally established in June of the same year and now comprising of seven divisions (Ministry of Justice 2014a). In February 2015, the CRCs took ownership. For some (see Burke and Collett, 2015) the results of the bids demonstrated the fears of many, that private sector companies were indeed the primary beneficiaries with only one successful bidder not involving a private sector company. The use of the private sector was to allow for and promote innovation and value for money but also espoused the need for services to be local and delivered by those in the know. Indeed, during this time of uncertainty the government emphasised the diversity of the competition pronouncing that for every trust area there were approximately four bidders and that it had allowed for partnerships to occur between multinational companies and smaller charities (Robinson et al, 2015) but the preferred bidders were predominantly the former. This was not only a time of uncertainty for the existing CRC staff but for those companies that could potentially win because they too were working with an unknown quantity – the location, size and number of areas they could come to own. It is unsurprising then that when ownership handovers did occur the process of putting the owner’s ‘stamp’ on the trust was slow and often uncertain. The primary winners were Sodexo Justice Services who joined with the voluntary sector agency NACRO and secured six CRCs and Purple Futures, a consortium led by Interserve with voluntary organisations Shelter, P3 and Addaction (who were to withdraw two months after the contracts were signed due to irreconcilable differences) who secured five. What is noteworthy is that Sodexo had already run private prisons and Interserve had been involved in the building of new prisons (Deering and Feilzer, 2015). It is hardly surprising that large corporations such as these found the proposition of becoming a CRC attractive, the contracts were estimated to be worth between £5 billion and £20 billion over ten years (Sinns, 2016, p.156). In addition to this the consumers of their services (offenders) were, in theory, obliged by law to co-operate and comply and the numbers of those accessing their service were about to increase significantly through the statutory supervision of all released prisoners. This indeed looked like a profitable and sustainable business. However, the realities of TR were to in fact be markedly different for all the CRCS. Profit was to be barely achievable let alone sustainable. There are a number of factors that various inspections attribute to this. The first thematic report by the HM Inspectorate Early Implementation (December 2014) – An independent inspection setting out the...
operational impacts, challenges and necessary actions found that the CRCs offender population did not have an equal split in risk numbers. Over two thirds of their cases were medium risk thus requiring more resources than the government and the CRCs had anticipated. Additionally, the National Audit Office highlights that the CRC volumes (number of cases/orders) are much lower than anticipated thus there has been a reduced income which has affected the ability of the CRCs to transform their businesses. This is attributed to there being more high-risk offenders than foreseen as well as a reduction in CRC community sentences (NAO, 2016:9). These factors, coupled with the NPS and CRCs competing for staff and a lack of new IT systems (Justice Gateway) culminated in the CRCs being unable to make a profit with some CRCs threatening to withdraw due to it being unsustainable. As such the MOJ adjusted contracts and payments in August 2017. In December 2017 the NAO projected that the additional costs required by the MOJ to rectify deficiencies and meet the new contracts would be £342 million by the end of 2018. The most recent additional payment was £22 million for 2017-2018, received by 14 CRCs. Therefore, it is important to note that CRCs are subject to significant financial concerns and constraints. Without these additional cash injections the NAO projected that CRCs as a whole would lose £443 million from 2016/17 to 2021/22 (NAO, 2017, p.4). However, the failure of CRCs to secure profit was potentially foreseeable. The mechanism of PBR is new to the field of criminal justice and as Hedderman (2013) notes there was next to no empirical evidence to support such a radical policy shift. Additionally, the question is asked whether enough is known about reducing re-offending. ‘…helping offenders to reduce reoffending is difficult, complex and based on an imperfect knowledge base’ (Hedderman, 2013, p.46). With private companies the transfer of knowledge and ‘what works becomes a profit driven decision.

The announcement of the successful bidders and the signing of the contract did not however mean that all the fine details had been ironed out. In fact, there was a considerable amount of uncertainty remaining. Deering (2015, p.11) highlights that the transfer of staff to the private sector the previous year (May 2014) had caused considerable consternation and whilst the government secured seven-month protection from redundancy for staff and the protection of the terms and conditions of employment for three years the nature of their employment and future working conditions remained a grey area. This was exacerbated by the actual process by which staff were allocated to a CRC or the National Probation Service. In brief this culminated in each practitioner’s case load being reviewed on one day to ascertain what level of risk they were working with (see Burke 2014). Risk was, once again, perceived as rigid and non-dynamic. The result was that many staff were to work for a private, profit driven organisation and would no longer be part of a public-sector agency with the values that underpin it. Their new culture and working practices would be dependent on and relative to the CRC that they found themselves working for. Probation was no longer homogenous.
Since the inception of TR there have been other changes to probation practice for CRCs and the NPS, most notably the Offender Rehabilitation Act 2014. As already highlighted this extended post release supervision of short-term prisoners in line with the TR agenda and whilst probation was not given the opportunity to take this work on before it was privatised it was in the main welcomed (Burke and Collett, 2015; Deering and Feilzer, 2015). In theory prisoners were to be located near to home and the CRCs were to work with the prisoner and the prison throughout the sentence and provide services that the TR proposals had anticipated that the voluntary sector would deliver (HM Inspectorate of Probation and HM Inspectorate of Prisons, 2016). In reality the prisons were never going to be able to locate offenders in local prisons and, as already outlined, not all CRCs have voluntary agencies within them and have been reticent to outsource (Justice Select Committee, March 2017). The CRCs are now expected to adopt a ‘through the gate’ approach, ensuring that the prisoner’s needs are met both in and out of prison (HM Inspectorate of Probation and HM Inspectorate of Prisons, 2016). It is worth highlighting once more that NOMS was dissolved because of the inabilities of prisons and probation to work collaboratively whilst offenders were in prison. Now the prisons are working with a variety of independent CRCs.

The extension of statutory post-release supervision brings with it sanctions for non-compliance including recall to prison. As Dominey and Canton (2017, p.232) observe ‘here we have an inversion of the principle of normalisation: instead of prison regimes aspiring to be like life in the community, the conditions of post-release supervision strive to be prison-like’. It also adds a further layer of targets, payments and fines for CRCs who now manage a ‘brand new’ group of offenders. Since implemented the number of recalls to prisons has increased, most notably with women offenders (HM Inspectorate of Probation, 2017).

Summary

This chapter has considered the TR agenda and the process that led to the partial privatisation of probation. It has shown the complex relationship that exists between the economy, society, the government and its politics and how the adoption of a neo-liberal agenda has produced a climate of marketisation and a need for modernisation which was achieved by the creation of a probation free-market, finally implemented through the TR reforms. Whilst originally embedded in the concept of the Big Society this marketisation has distanced probation further away from the local with large corporations securing the majority of contracts and smaller voluntary agencies being out bid due to a lack of resources. Those voluntary agencies that have been successful have had to form a
consortium with a private company, and as such are a ‘for profit’ Community Rehabilitation Company (only one of the twenty-one CRCs is not for profit). However, the opportunities afforded to the voluntary sector through TR also pose potential pitfalls, because the nature of their work and their very ethos could become compromised through the process of competition with them becoming increasingly part of the system of punishment. Whilst they could be seen a saving grace for the preservation of the probation ideal the culture of probation faces its biggest ever challenge. The government’s ideological commitment has been to reduce the state’s responsibility by creating a competitive, profit driven climate which, unlike most other probation reforms that have occurred; is in direct contrast and opposition to the humanitarian principles and moral/value-based approaches that have been the golden thread throughout probation history. Recent reports and inspections of TR have demonstrated that the restructuring of probation has led to CRCs and NPS being criticised for having a lack of focus and understanding of risk and that the range of services on offer are more limited than ever and that there is no real justification for TR beyond an ideological one.
Chapter Five: Methodology

The research undertaken for this thesis was qualitative in nature and involved the use of focus groups and semi structured interviews with practitioners from one CRC. No quantitative data was sought or obtained. This chapter will outline the approach that was taken to the research and provide the rationale for the research methods that were adopted. It will discuss the practical and ethical issues that were faced and addressed and provide some description and insight into what occurred and how the approach developed as well as the obstacles that were faced. The chapter examines the strengths of the research methodology as well as its potential limitations. The overall research aim is: To investigate how the significant change in probation culture through its privatisation impacts on the conceptualisation and application of ‘risk’ within a Community Rehabilitation Company (CRC).

Epistemology and Research Strategy

The thesis explores practitioners’ mentalities and rationalities in relation to risk and how the culture (or purpose) of probation has been affected through TR. As such the epistemology adopted is interpretivist and the ontology constructionist. The practices undertaken probation can be understood as located within the interactions (habitus) of the practitioner, the policy makers and the CRCs thus such a methodology is both appropriate and required in order to fully address the research aim. In relation to the data analysis and conclusions drawn an inductive approach was adopted allowing for themes to emerge naturally without the presence or influence of other research of a similar nature, which is at best limited given the lack of empirical studies on CRCs. The research strategy is flexible due to it concerning attitudes and understandings rather than effectiveness.

Achieving Quality in Qualitative Probation Research

A number of factors are integral to criminological research if it is to be valid and useful. It has to be rigorous, systematic and sensitive with respect to content and context whilst taking external factors into consideration. There must be a relationship between the theoretical and the empirical and of course the research must be ethically obtained (Arksey and Knight, 1999; Mason, 1996). Two important considerations within any research methodology are validity and generalisability and only good quality research can obtain these. Validity concerns, in qualitative research, the truth and
credibility of the research findings. Generalisability concerns the extent to which the findings can be used beyond the environment in which the research took place - whether they can be said to have a broader usefulness in terms of policy and wider practice. However, obtaining these thresholds is a dual process. As Mason (1996) notes the research needs to be satisfactory for the researcher and for the audience or beneficiaries, thus addressing questions pertaining to ‘reliability and accuracy of method; validity of data; and generalizability of analyses’ is essential (1996, p.145).

Reliability is dependent upon the methods that have been chosen to undertake the research and whether these are appropriate to the subject (the research question) and whether they have been applied throughout. However, given the diverse nature of research and the range of methods that can be applied there is not always consensus about which methods provide the best quality data within the social sciences. Social science is concerned with social phenomena most of which are social constructs and unique to individuals. Validity can therefore be twofold: internal and external. Lewis and Ritchie (2003) distinguish the two by stating that external validity relates to the ability to replicate findings and research and internal reliability concerns the research outcomes and whether these are agreed by others within the field of study. Both these forms of validity require the assessment of whether a piece of research is achieving its stated aims (Mason 1996, p.146). Validity ‘refers to the extent that the construct actually measures or reflects the phenomenon we have conceptualized, or the finding accurately represents what is, in some sense “really there”’ (King and Wincup 2008, p.36). To ensure this the researcher must review their methods at each stage of the process. If this is achieved then the analysis of the data and the findings will have credibility (Hammersley 1992). Pole and Lampard (2002) raise concerns relating to questions of relativism i.e. that the data that is collected could be interpreted in numerous ways by different researchers. To overcome this as much as is possible the design employed is clearly discussed in the Themes and Thematic Network section below, which demonstrates and ensures that the analysis is ‘embedded in the data’ (Pole and Lampard, 2002, pp.206-209).

Generalisability refers to the ways in which the research findings can inform beyond the setting in which they were undertaken. For Maxwell (1992) generalisability is a marker for validity within qualitative research. However, according to Robson (2011, p.91) this external validity can be inversely related to the internal validity ‘in the sense that the various controls imposed to bolster interval validity often fight against generalizability.’ For Robson (2011, p.91) there are four key threats to generalizability: selection and the findings being specific to group studied; setting where findings are specific or dependent upon the place (context) where the research took place; history where there is a specific history that determine the findings and construct effects where the
constructs studied are again specific to that group. Lewis and Ritchie (2003) note that generalizability is in fact understood in various ways and that there are three interlinking elements: theoretical, representational and inferential generalisation. Theoretical generalisation concerns the application of the findings to wider existing concepts. Representational generalisation relates to the extent that findings can be used in relation to a wider population and not just that research group. Finally, inferential generalisation refers to the ability for findings to be transferred to other relevant contexts. Referring to this research, theoretical generalisation concerns the consideration of probation practice in relation to risk and the implications this has to analytical and theoretical concepts such as the new penology, governmentality and the risk society. Representational generalisation leads to questions as to whether the findings can be applied across the case study or whether they simply represent those interviewed. The inferential generalisation concerns the relevance in relation to the policies and governing practices of the CRCs and government.

This chapter will now outline the steps and methods that were taken at the various stages of the research process and demonstrate the ways in which it was designed and how it was undertaken in a rigorous and systematic way (Silverman 2001).

The Approach Taken to Research

The research is exploratory in nature as it attempts to find out what is happening in the reconfigured field of probation and ask pertinent questions as to the place of risk within a CRC (Robson, 2008, p.59). The asking of questions is fundamental to all research but with this study there is the opportunity for new knowledge to be obtained as it is a new area for empirical research and a unique opportunity to explore a privatised probation organisation or CRC. As such the analysis of research data has been an inductive process with the themes emerging naturally without the presence of similar studies on CRC’s and risk influencing the research findings (Braun and Clarke, 2005). The research is concerned with practitioners’ subjective understandings and attitudes in a probation field marked by rapid change rather than questions about effectiveness, so it has taken the form of a flexible research strategy (Robson, 2008:81). Therefore, the detailed framework emerged during the study with the various activities associated with real world qualitative studies occurring at the same time. With the data concerning knowledge and qualitative data, the epistemology adopted is interpretivist and the ontological stance constructionist (Bryman, 2008).

As already noted, the concept of governmentality is appropriate to this research and it is worth noting that such an approach can be advanced through constructionism. Governmentality examines
the changing rationales and the practices of liberal governance allowing analysis of governance policy and practice, here in combination with other theoretical perspectives. Lippert and Stenson (2010) note that while governmentality and construction can appear somewhat incongruous as a mixed method approach they both share ‘a retreat from the various ways social scientist had attempted to study “real” social relations and practices and reflected the broader turn to language in social enquiry where language is deemed to be neither a reflection nor ideological distortion of reality but is instead constitutive’ (2010, p.474). Both theoretical perspectives demonstrate the adoption of reflexive knowledge forms in late modernity and acknowledge the plurality of truth. By using constructionism with governmentality Lippert and Stenson (2010) purport that governmentality is released from the usual over reliance on policy and text and allows the researcher to not be shackled by an over emphasis on the state and the commercial governance sites from above. Here governance is considered as a process of interactions between the above and below. Governmentality ‘from above’ and ‘from below’ can shed light not only on how risk is constructed and used by government in the probation field but also how such risk-based thinking and practices are received, understood, adopted or ignored by those practitioners at the front line of CRC work. Constructionism looks at how problems come about whilst governmentality looks at the control but both consider the constitution of the problem, one through the construction and the other through the governance ‘thus, constructionist and governmentality programmes equally assume the plurality and temporality of subject matters’ (Lippert and Stenson, 2010, p.479).

The objectives for this research involve the exploration of practitioners’ understandings - their mentalities and rationalities in their use of risk within a CRC. In view of this they are identified and addressed by using a qualitative research methodology. Whilst the study did not take a realist approach in a pure sense, there was acknowledgement that the research involved social phenomena and so there was some appreciation that there are social phenomena that fall outside of the research: ‘denying that we have direct access to those phenomena, in accepting that we always rely on cultural assumptions and in denying that our aim is to reproduce social phenomena in some way that is uniquely appropriate to them’ (Hammersley, 1992, p.52). As such there is some influence of what Hammersley and Atkinson (1995) refer to as ‘subtle realism’, which conceives there to be some level of an objective world whilst recognising that social research can go only so far towards revealing that world.
Ethical Considerations

All research requires rigorous consideration of ethics at the outset and at every stage thereafter. To be able to undertake my research I had to obtain ethical approval from the University of Portsmouth’s postgraduate research centre and the Institute of Criminal Justice’s ethical committee (appendix two). The permissions obtained relate to the fieldwork, focus groups and semi-structured interviews that were completed and demonstrate that I had obtained informed consent from the organisation and from those participating in the research study (appendix one). It also demonstrated how I would ensure and maintain anonymity of those participating and the confidentiality of their contribution. In addition, part of the ethical review involved the consideration given to any potential harm that the research could cause. The issue of harm was deemed low because the interviews concerned practitioners’ working practices and knowledge and did not involve any personal information outside of their role and length of time in post. It was therefore unlikely that the questions would provoke an adverse reaction or response, though I was conscious that the research took place at a time of professional turmoil when there was the potential for discord about the changes that had been made to professional identities and practices. However, this was again a professional perspective and not a personal one (their opinion was sought in relation to the ways that they work). Had additional support or guidance been needed by participants then I would have referred them to their employee support services.

Informed consent was assured by the provision of information regarding the study (appendix one), most notably what it concerned, why the research was being undertaken and what would be asked of anyone who agreed to take part. In addition to this consent was sought and obtained by all those who took part and both the participants and I retained a copy (consent form in appendix one). The consent form made it clear that there was no obligation for them to take part and that their participation was completely voluntary. This was to ensure that respondents did not feel that there was any expectation of them to become involved as the research was being used, administered and undertaken for the purposes of a PhD and not as a managerial tool or form of enquiry by their organisation. There was also an ‘opt out’ of research option included allowing for participants to reflect on their decision after the interview.

An integral part of the information given to participants was how the data would be used and stored. The confidentiality and anonymity of those partaking was assured through statements such as ‘Any information that you provide will be anonymised, including your name and office location through coding and you will not be named within any of the documentation (transcripts will not
contain personal details).’ Because the participants were CRC staff and the context and content of the questions was their profession there were no identifiable issues regarding the disclosure of information that would require a referral to another agency (e.g., disclosure of an offence or intention to commit an offence). Participants were given fictitious initials when analysing the data and no one has been identified in the research. The locations of the workplace were not identified to minimise the identification of individuals on this basis because the research does discuss their role and level of experience. Any references made to locality and structure are not person specific but made within the context of organisational practice.

Obtaining Access

This study looks at the ways in which the privatisation of probation has affected the ways in which practitioners think about and work with risk in light of recent probation reforms and therefore the research needed to be conducted within a CRC. The research therefore takes the form of a single case study because the research is located within one organisation and, as a result of TR, each CRC will have the opportunities to work with risk in their own specific ways. A case study design concerns itself with ‘the complexities and nature of one organisation, the emphasis tends to be on an intensive examination of one setting’ (Bryman 2008, p.52). Ordinarily such studies are interested in the case (here it concerns one CRC and the ways in which it works with risk) however there is a need to place it within a wider setting such as government directives and legislation. This is not to remove focus from the single case or to broaden the findings to other CRCs per se but to appreciate how they have reacted to the new parameters that they have been set by government. The CRC case study provided me with easy access due to its location but also offered the opportunity to look at a CRC where there was one single stakeholder because the CRC is not in partnership with any other agency and therefore it is a private organisation with no charitable or third sector partnerships or delivery chain. This allowed for a unique opportunity to look at a CRC that had significant power and autonomy over the ways in which it worked with offenders. The CRC comprises of three counties and therefore focus groups and interviews took place in each of these so that there was representation from all the outgoing Probation Trusts (one of the counties was previously an independent trust so had to ‘merge’ with the other two). Through my professional network I was made aware that the CRC may have been amenable to outside research and it was this that led me to contact the Chief Executive. Given that the fieldwork took place at a time where there were still significant transitions to organisation structure and practice being made that the gatekeeper was in a position to make an informed decision and able to facilitate the organisation’s involvement by
endorsing it to staff as something that was approved. Following several meetings access was granted and formal permission provided to the researcher. Initial contact with the Chief Executive took place in August 2015 with formal access being granted in October 2015 and the field work commencing in December 2015. Following the approval of the CEO I was provided with details of another member of senior staff who acted as a gatekeeper in relation to accessing resources pertaining to risk. For example, I had sight of the new risk assessment tool and made observations of a training event. I met with this person several times and was able to get some understanding of what was being used and why and of what was being developed (a new risk assessment tool). This provided me with some context before the interviews took place. A senior administrator was allocated to help me communicate with the organisation (by forwarding emails to staff) and assisted me with booking venues and offices enabling staff to remain within their office whilst participating and thereby not impacting upon their working day.

Sample Selection

The research utilises non-probability, purposive sampling (Silverman, 2001) in that the participants were selected on the basis that their role was relevant to the objectives of the study. The initial aim was to obtain data from three focus groups (one in each county) and interviews with approximately twenty probation workers. The number of interviews undertaken reflected an appreciation that the changes which had occurred had led to a certain amount of uncertainty and suspicion amongst staff. Indeed, it was acknowledged by the gatekeepers that staff were at the time of the fieldwork feeling overworked partly as a result of staff vacancies. The CRC was also in the process of rolling out new practice tools to use with offenders and a new risk assessment tool was being created, about which staff were being consulted. These concerns regarding such fluidity and uncertainty in the case study were unfortunately borne out in the take up rate for interviews, which is discussed later in this chapter. Those who took part did not need to be part of a specific team and so the objective in terms of suitability was that the participants worked with offenders. Following the formation of the CRC and division from NPS and high-risk offenders the CRC in question comprised of three core teams – assessment, rehabilitation and resettlement and participants were sought from all.

At the time of the fieldwork there was disparity in both staffing levels and caseloads across the offices and regions, with one in particular experiencing high levels of staff vacancies and subsequent high levels of cases and so it was anticipated that there could be issues with recruitment. An email was sent to all staff that included the information sheet, a copy of the consent form (that were given
as hard copies and signed at the interview/focus group) and my contact details. The participants were asked to get in touch with me directly. When I could get a sense of where people were based I was able to book rooms and dates that participants could choose and if they were not suitable were altered accordingly. The email encouraged people to ask questions should they have any concerns prior to agreeing so that they felt comfortable and assured about what would take place beforehand.

My decision not to discriminate based on qualification and length of service and experience was deliberate. Having spoken to the gatekeeper and my professional network I determined that there was potentially no real distinction existing between probation officers and probation service officers (unlike in the NPS). It was also known that there had been high levels of staff leaving prior to the transfer and as such new staff had been recruited and it was important that their knowledge was incorporated. I therefore obtained data from those with a diverse range of experience and length of service, for example I was able to note that there were differences in approaches and understandings of roles between the new and ‘old’ (NPS) staff. The approach was thoughtful and systematic (Lewis and Ritchie 2003; Mason 1996) which aided the validity of the research by ensuring that those that took part had the required role and experience pertinent to the research objectives and included a good range of personal characteristics (such as gender) and approaches (new and old, qualified and unqualified). As such the research was based upon professionals who worked with the specific tools and practices that were being considered (risk assessments, interventions) allowing for validity in their observations as it is based upon direct experiences and therefore has legitimacy. The systematic approach also ensured that the knowledges of those involved were balanced alongside their level of seniority and their level of training through the collation of information regarding their positions past and present and the roles that they undertook currently and previously.

Language and Terms of Reference

With arguably relentless amounts of policy and legislative changes being aimed at probation it is unsurprising that there have also been changes to the language used within the field. Whilst I had a detailed knowledge of professional ‘speak’ in relation to terms and acronyms etc. there were important new changes that had occurred at a national level and a local level which were specific to the CRC environment. For example, the CRC employed both probation officers and probation service officers and there was no formal distinction made between them. All staff that worked with
offenders were considered by the CRC to be responsible officers. Whilst some participants were happy with this others refused to acknowledge the lack of distinction between professional roles and referred to themselves by their qualification or previous title (PO or PSO). For the purposes of the research I referred to them as probation workers during the interviews and focus groups and as participant in the documentation. Such a term was used by Mawby and Worrall (2011) because, whilst neutral, it is still adequately descriptive of the variety of roles and tasks. I did make a note of their qualification and length of service. In terms of describing their cases there were again some discrepancies. The CRC had advised their staff that the offenders that they worked with were no longer to be referred to as ‘offenders’. Rather those subject to probation supervision should be considered as service users. However, this construction of those subject to penal punishment was relatively new and specific to the CRC and previous research (Deering, 2011; Mawby and Worrall, 2013) and current policy and MOJ policy and documentation has demonstrated that offender is the primary, dominant term used. I therefore adopted this but asked the participants how they referred to their cases and how they felt about the two terms and whether it has altered their practices.

Focus Groups

The research obtained data from focus groups and semi-structured interviews. The focus groups were undertaken first with one group being held in each of the three counties. The reason for undertaking these first was that they were to be the initial phase of the research that would enable me to prepare more appropriately and adequately for the semi structured interviews. They acted as a precursor to the semi structured interviews by uncovering key themes for further exploration. The focus group is often used within social sciences when research involves examining how ‘people in conjunction with one another construe the general topic in which the researcher is interested’ (Bryman 2008, p.475). Given that the creation of CRCs had led to a huge shift in organisational practice and ‘ownership’ and the merger of an additional probation area/trust it was important that the research commenced with a method that enabled me to gain an appreciation of how people were making sense of it. The focus group promotes greater understanding and knowledge for the researcher offering important data as to the relative strength or commonality in responses. As Bryman (2008) notes the focus group offers the opportunity for others to probe people’s answers and feelings, something that this not as easy in a single face to face interview. Other advantages noted by Bryman (2008, pp.475-6) include:
● An opportunity for participants to bring to the fore issues that they consider important, that may not have been considered by the researcher themselves.

● They provide an opportunity for the participants to be challenged – other participants are more likely and able to note discrepancies or inconsistencies and have the chance to challenge the views of others. This can lead to the researcher obtaining a more real understanding as participants are required to reconsider or even revise their opinions.

● Focus groups provide the researcher with an opportunity to research how individuals/staff ‘make sense’ of an event collectively and what meanings they create or attach to it. In this way focus groups, can be seen as a reflection of the processes by which something is given meaning in everyday life. It allows us to see the construction of meaning.

As already discussed, to facilitate the focus groups emails were sent to all staff inviting potential respondents to participate and a room was booked in each of the areas at a central office or a location where most staff that wished to take part were located. There is no hard and fast rule regarding how many participants should take part in each focus group and it was my intention that each group would comprise of between five and ten people to allow for a good level of representation whilst maintaining the ability for those involved an opportunity to speak and be heard (Bryman, 2008; Robson 2011). It would also allow me, as the moderator, the ability to both control and react to what was being said. As the moderator my role was twofold – to moderate in the purest sense of the word and to facilitate the running of the session by helping it to run smoothly and effectively. As Robson notes such a role is difficult and complex often involving the moderator to be both active and passive (2008, p.296). Due to the professional knowledge that I had it was important that I did not lead the group or influence their responses in any way. The discussion must be relevant but the participants must be able to speak freely to it. I generated a list of topics that I wanted to cover as a guide to ensure that there was a focus to the focus group discussions though I allowed for some degree of movement from this when I considered it pertinent to the topic (appendix two). Bryman (2008) refers to this approach as providing more structure and acknowledges that they can remain general and offer ‘some comparability between the focus group sessions in terms of gauging participants’ reactions’ (2008, p.483) and it was important that for a case study this conformity was maintained. Having provided the participants with information sheets and consent forms to sign I began the session by noting some ‘ground rules’ (Bryman, 2008) (appendix one) to ensure that everyone understood that each person had a right to speak, that if they had not spoken much that I may ask them to and that they needed to be respectful of each other’s opinion. It also reiterated that the content that was discussed should not leave the room
(they needed to respect each other’s confidentiality) and would be digitally recorded using a Dictaphone. Following this I asked each person to give their name and role as an engagement question. Throughout the session I made additional written notes and made participants aware that this would happen. I ensured that the Dictaphone had a conference room setting as I was aware that focus groups can be very difficult to record clearly (Robson, 2011). Subsequently the audio content was clear allowing for the sessions in their entirety to be transcribed and analysed.

The research employed three focus groups to both test and possibly generate new initial themes for future semi structured interviews. The first focus group comprised of five participants, the second of five and the third of four. However, whilst the focus groups were not as large in number as I had hoped for, it was in fact somewhat beneficial as those that did participate were very keen to speak and offer their views and there was a good level of discussion within each of the sessions and having a smaller number meant that, whilst not as representative, the views that were obtained had the space and time to speak in more depth and they ‘bounced’ off each other throughout. As such the focus groups were extremely useful in the research methodology to both test the researcher’s key questions and listen for areas of discussion that were new thereby adopting an inductive approach to the research.

Whilst advantageous in many ways there are of course limitations and potential issues with focus groups. The skills of the moderator are essential, as outlined, but they must not be of such an influence that they inhibit discussion or lead the participants. In the research I tried to make sure that I listened to all the views and only spoke when I required clarification (for example of acronyms or tasks that I was unfamiliar with) or to introduce the next topic/question. With hindsight, I could have been more authoritative or active at times as there were occasions where the conversation had strayed from the topic too far and I was too worried about inhibiting discussion. I was also aware of the potential for a ‘group effect’ where participants were reluctant to speak or overly keen to speak leading to disparities of input representativeness, so the ground rules noted that I would call on quieter people to speak and I tried to ensure that there was not a dominant voice by reflecting the questions or views back to the others with questions such as ‘and what do you think about this’. The final concern was that the views expressed would be ‘cultural expressions’ (Bryman, 2008, p.489). However, the participants were professional practitioners that did not present as conforming to a script or expectations. It was though something that I was mindful of both whilst collating and analysing the data.

Another methodological issue that can arise is the ability to infer collective responses, both individually and more broadly (Robson 2011; Bryman 2008). They represent collective phenomena
that does not present a consensus but can demonstrate what concerns participants the most (what they wanted to talk about the most). I used them for this very reason but understood that they could not be used in isolation. They provided a collective response with all the benefits outlined but were followed with semi structured interviews.

**Semi Structured Interviews**

With the research being qualitative in nature the second means of obtaining data was semi-structured interviews, used widely within the social sciences (Arksey and Knight 1999; Kind and Wincup, 2008). Interviews allow participants to discuss their views and perceptions in more depth and offer the researcher a means of determining key areas of significance and an opportunity to explore meanings. Robinson and Svensson (2013) note that their use has come to dominate research into probation. As Bryman (2008, p.280) notes interviews allow for researchers to find out about what people do, think and act and given the objectives of this research study this was of course fundamental. Using semi structured interviews for this purpose resulted in my adopting a strategy that used questions concerned with ‘facts, with behaviour, and with beliefs or attitudes’ (Robson 2008, p.284, author’s emphasis). Within semi structured (sometimes referred to as qualitative interviews), there is the capacity to find out what concerns the participant and the researcher can divert from a schedule should they need allowing for follow up questions to replies. As such there is the ability to obtain in depth, rich data (Bryman 2008, p.437). Whilst I used a schedule of topics (appendix one) and questions as a guide the interviews were still flexible and I was able where necessary to deviate from this in response to the participant enabling me to find out how the participant understood things - not just what they knew but how they applied their knowledge. The focus groups had allowed me to glean a more in-depth understanding before these took place allowing for the schedule to further support the objectives of the research. The questions posed to both the focus groups and individual participants were designed to be clear and unambiguous so that the possibility of differential interpretation was minimised thereby ensuring that responses that differed did so due to differences in viewpoints rather than in interpretations (Gomm, 2004; May, 2001).

Before commencing the interviews I reviewed the data from the focus groups and noted the themes that were emerging and the areas that were most discussed by the participants. When formulating a schedule for interview I was conscious of the need to ensure that they were appropriate and that the focus groups had not led to me formulating new objectives and thus I concerned myself with the
question of what I was looking to find out – what was the puzzle that I wanted to solve (see Bryman 2008). This allowed me to be responsive but not at the expense of the research aims. It is important that the researcher does not start out with too many preconceptions and so I went to the semi structured interviews with a continued open mind by continuing to ask open questions that were not leading the participant in anyway.

The guide for interviews ‘serves as a framework for the main body of a semi-structured interview and is based on the key questions that the study is addressing’ (Arksey and Wright 1999, p.97). When compiling them I not only considered the topic but also gave due thought and attention to how I was framing them. I avoided the use of long, convoluted questions and avoided using jargon that could be inaccessible or alienating to the participant. I also tried to avoid leading questions or ones that assumed a certain viewpoint (Robson 2011, p.282). In short, I endeavoured to keep it simple and neutral. King and Wincup (2008, p.31) highlight that the qualitative research interview can, on the face of it, look straightforward and ‘may seem deceptively simple but can involve considerable skills’. I had some, albeit limited experience, of research interviews but considerable experience in interviewing in the guise of a probation officer and whilst this was invaluable it was also a hindrance. The probation officer training and professional experience helped me with the use of probes (where you require a participant to expand). However, I was not interviewing as a probation officer but as an academic and there were times when I heard or responded to answers with the ‘wrong hat’ on. Whilst this was often appreciated by the participant and may have enabled them to talk more there is the possibility that I may have lost or hindered some valuable research themes in the process. However, I was able to cover each of the topics with each of the participants and this aided consistency and validity.

Analysing the Data

Qualitative data can be analysed in various ways reflecting the variety of differences in how data is understood and the diverse nature of the form that it can take. This study has adopted a grounded theory approach (Corbin and Strauss, 2015). Here the data does not speak for itself rather the concepts are developed from it. Grounded theory allows the researcher to be perceptive to concepts that may emerge. Such an approach also allows for the research to adopt a social constructionist perspective and for adaptivity and flexibility to take place. The theories that have emerged via the analysis of the data were also modified and examined against my own preconceived theoretical stance. The literature within this thesis have considered probation and the changes that have
occurred within the context of theories associated with neo-liberalism (Mudge, 2008),
governmentality (Dean, 2010) and socio-cultural theories of risk (Douglas, 2010) whereby a climate
of austerity, intolerance of offenders/offending and increasing preoccupation with risk and
effectiveness exists.

In this study the simultaneous data collection and analysis was undertaken using data coding,
categorisation and comparison. The data was analysed from the outset and throughout with the
findings being used to refine further data obtained. This process continues until there is saturation
and new data no longer results in additional theory being generated (Corbin and Strauss, 2015).
However, whilst the analysis did take place from the beginning it continued after the fieldwork had
been completed and therefore there was not an opportunity for the data themes to be tested again.
The findings therefore culminate from an inductive research process where patterns and themes
were sought within the data. An adaptive approach to the findings was then adopted so that the
emergent themes were analysed and studies in relation to pre-existing theories and concepts.

Whilst this study involved the consideration of probation discourse this research is not considered to
be a piece of discourse analysis. The focus has been on the content and any analysis without
consideration of meaning and context would have resulted in a positivistic outcome of limited value.
The positivistic principle, according to Walklate and Jacobsen (2017) reduces reality to simply that
which exists and to what can be analysed using conventional social science methods. As such they
advocate a more transgressive criminological approach (the umbrella term being liquid criminology,
see Bauman, 2000a). They state that ‘such a sociology...demands two imaginations: the
epistemological and the democratic’. These principles encourage us to think about knowledge and
the knowledge production process as being ‘diverse, complex and relational’ (Walklate and
Jacobsen, 2017, p.5). Linearity and positivism is challenged. They purport that a positivist approach
to knowledge and how it is formed and produced denies this. Instead Carlen (2017) advocates
making links between what may be viewed as disparate historical and contemporary social
phenomena so that new knowledge of how they are related are produced; ‘it is more important to
account for social phenomena than it is to count them’ (Carlen, 2017, p.20).

I chose to analyse the data with the aid of an NVivo software programme. I used NVivo 11, as this
was the one available to me at my university. Using computer software within analysis has some
potential issues, for example it can result in a process that is less rigorous and detailed with thought
and analysis being substituted by data inputting. However, if the tool is used well and the researcher
maintains control and plays an active role in the research analysis process it can allow for data to be
worked with in a structured and potentially more complex way (Bazeley and Jackson 2013).
The benefits accorded by NVivo included the ability to upload all my data (transcribed recordings of all the interviews) and documents (inspection reports etc) into a secure location. I was able to annotate and derive links between the resources and the audio function enabled me the ability to also listen to my recordings easily. NVivo is an effective tool when coding qualitative data and allowed me to generate several layers of themes and comparisons in a level of detail that would have been hard to achieve on paper copies. Analysis involves developing ‘nodes’ which conceptualise ideas, theories and beliefs about the data collected. Sections of the data in the form of quotations are coded to the nodes and links are then made between them (Bazeley and Jackson 2013).

The fact that themes could easily be viewed and re-coded was incredibly beneficial during the interpretation stage. I was able to quickly and easily search for keywords within the interviews and note the prevalence of words too. The use of this software facilitates systematic examination of the data and data can easily be manipulated allowing for links between the variables to be made. This meant that throughout the analysis I was able to stay close with my data and the research process. The research has followed an adaptive (inductive) approach and so the coding commenced with the creation of themes that were already noted in wider literature. For example, the words ‘rehabilitation’ and ‘risk management’ were concepts that aided the orientation of the analysis and nodes were created around these. Following this, additional themes (for example ‘targets’ ‘risk allocation’ and ‘payment’) were created and continued to be throughout the analysis.

**Themes and Thematic Networks**

Qualitative approaches to research are incredibly varied and can be convoluted. It is for this reason that Braun and Clarke (2008) advocate the adoption of thematic analysis especially with the creation of themes. They state that ‘through its theoretical freedom, thematic analysis provides a flexible and useful research tool, which can potentially provide a rich and detailed, yet complex, account of data’ (Braun and Clarke, 2008, p.78). However, despite the flexibility it offers it is nonetheless essential that qualitative researchers are clear about what it is they are doing and why and how they are doing it. Attride-Stirling (2001) also notes that little is said in some academic research regarding how data has been analysed, rather that the material is simply presented when the discussion and consideration of the ‘how’ can add value to interpretations. Having a framework and clear method for analysis results in a robust and systematic methodology.
Thematic analysis is a method that is used to identify, analyse and report patterns within data. Whilst the organisation of the data is presented minimally the description and discussion is rich (Braun and Clarke, 2008) and can be useful for researchers who adopt a realist or essentialist approach or, as with this research, a constructionist approach. Thematic analysis is also compatible with an inductive analysis as the use of thematic analysis can work for both a ‘bottom up’ (inductive) or ‘top down’ (deductive) approach (see Boyatzis, 1998). There are for Braun and Clarke (2008) specific terminology and steps required when undertaking thematic analysis. Firstly, they distinguish between the types of data collected and used. Data corpus is all data collected within the research whilst data set refers to all the data from the corpus that are being used for a particular analysis. The data set can comprise of either all or much of the individual data items within the corpus or may be identified by a certain analytic interest in a topic that is within the data, thus the data set then becomes all data where there is a particular reference to that topic (Braun and Clarke, 2008). The two approaches can be used together, and this was the method adopted for this research. Specific data was sought in relation to topics (risk of serious harm definitions for example) but wider data was also used that included data not obtained through participant research (i.e. interviews) such as government reports. Within the data set there are data items which refer to individual interviews which are analysed through the creation of data extracts which are specific ‘chunks’ of data that have then been individual coded. A selection of these are what is used within the final analysis (Braun and Clarke, 2008, p.79). With the different types of data identified there next takes place a six-stage process of analysis, which was also adopted within this research. Firstly, Braun and Clarke (2008) advocate that the researcher familiarises themselves with their data, that they immerse themselves with their findings through continued repeated reading of the data in an ‘active way’ (2008, p.87) so that meanings and patterns are obtained. Whilst doing this research notes were made and ideas noted in relation to potential codes. Once completed the verbal data is transcribed. The level of detail of this is left with the researcher to determine but for this research all interviews were transcribed in their entirety with pauses highlighted to ensure that any nuances were captured and the data remained true to its original nature. Phase two moves the researcher into generating initial codes that identify a feature of the data. Braun and Clarke (2008) stress the importance of ensuring that all actual data extracts are coded and collated together during this phase and that researchers should code for as many potential themes as possible and to take note of the surrounding data for context and future analysis. They also highlight that each extract can be coded as many times as needed. This research adopted this methodology by using, as already discussed, NVivo having uploaded all research documents (transcriptions, reports etc.) into the tool.
The third phase involves the searching for themes. Identifying a theme is a complex task when faced with a wealth of data but it is important that there is an appreciation that when deciding what a theme is and when it counts that there is an appreciation that whilst prevalence is important it does not constitute cruciality (Braun and Clarke, 2008). As with qualitative content analysis, analysing data goes beyond the counting of words, rather it is the examination of the language that is used and the process of classifying textual data into a number of organised categories that demonstrate similar meanings (Hsieh and Shannon, 2005). This reinforces the importance of the judgment of the researcher but again also shows the importance of adopting a rigorous and systematic approach to the process. The pertinence of a theme stems from what it captures and how it relates to the research question. For this research that is how the data relates to working with risk – the rationalities and mentalities that are employed but, when gauging these it is important that the inductive process does not culminate in the data being made to fit in with pre-existing ideas or coding frameworks or the researcher’s pre-existing understanding and pre-conceptions (the outside insider), rather it must be data driven. Returning to the determination of what counts as a theme and how much importance is placed upon it Boyatzis (1998) suggests that the researcher adopts either a semantic or latent approach to data interpretation. Here, semantic refers to the researcher not aiming to look beyond what has been said and patterns are described and summarised. In contrast the latent approach seeks to identify the underlying ideas and examines conceptualisations, i.e. the ways that the semantic content has been shaped. Clearly this approach is one that allows for a constructionist approach to be taken and is the most appropriate for this research question, for it allows consideration of the production of the data/views and the socio-cultural contexts and the structures that they exist within (Braun and Clarke, 2008). Once completed phase four reviews and refines the themes. This may involve merging themes or breaking themes down into separate ones. The key objective is that each should be clear and have identifiable characteristics that are distinct. Once the researcher has a sense of what the different themes are and how they fit together phase five can begin. Here, having obtained a thematic ‘map’ (Braun and Clarke, 2008, p.92) the researcher ‘defines and refines’ the themes so that ‘essence’ of the each of the themes is determined.

Attride-Stirling (2001) proposes the creation and use of thematic networks that illustrate the key themes of both textual data and the research findings/overall themes. This technique ‘enables methodological systemization of textual data, facilitates the disclosure in each step in the analytic process, aids the organisation of an analysis and its presentation, and allows a sensitive, insightful and rich exploration of a text’s overt structures and underlying patterns’ (Attride-Stirling, 2001, p.386). It is for these reasons and the fact that it enables researchers to explore how an issue or area
is understood and the significance of ideas, as well as being closely aligned to the core components of grounded theory (concepts, categories and propositions) that this approach has been adopted.

The method starts with the formation of a Basic Theme which is derived from the textual data, they are the simple premises that characterise the data and, independently say very little, however when examined together with other basic themes they allow the researcher to formulate the Organising Theme (Attride-Stirling, 2001). The Organising Theme lies in the middle of the network and summarise the core assumptions of the Basic Themes thereby showing more meanings within the text – i.e. what is going on. The themes are united and are used to formulate the final network – The Global Theme. These are ‘super-ordinate themes that encompass the principal metaphors in the data as a whole’ (Attride-Stirling, 2001, p.389). Using this process prevents the researcher into not falling into a common pitfall identified by Braun and Clarke (2008) whereby the researcher uses or is unable to move away from the questions asked, using these as codes in themselves, as this is not analysis and impedes the emergence of themes and patterns. It also acts as a safeguard when ensuring that the themes are independent with little overlap (Braun and Clarke, 2008) and have internal coherence.

This research has developed four Global Themes (see appendices four, five, six, seven and eight), each of which constitute an empirical chapter within this thesis. Having derived basic themes from Nvivo these were collated and the story that they told were used to identify Organising Themes. In the case of chapter Six, the basic themes were textual data that commented upon the ways that TR and the CRC owners had altered (or not) practice. These illustrated that many practices had changed and often it was assumed by participants that this had been done due to the CRC acting like a business. The Organising Themes were based upon the business culture and the overall purpose of the CRC (to secure a profit) which ultimately led to a Global Theme of the rehabilitative intent of CRCs post TR. Chapter Seven considered the practitioner and offender experience with the Global Theme being the impact of TR on those that are working within it and their perceptions of how it had impacted upon those that they work with. The organising themes here were identity, resistance and the repositioning of the offender. Chapter Eight followed the same process in relation to how practitioners worked with and understood risk more specifically, with the text rhetoric of risk being the Basic Themes, and the processes, definitions, assessments etc. being the Organising Themes. The Global Theme that encompassed these here is the recalibration of risk (and its consequences).

Finally, Chapter Nine focused on Basic Themes pertaining to the relationship and communication with NPS. These led to Organising Themes of risk escalations, serious further offences and definitions of high risk of serious harm and a Global Theme of NPS hierarchy and expertise. With the themes identified it was possible to then consider them in relation to the objectives of the research.
and within the context of theoretical concepts and policy. It should be noted that the formation of these networks acted as a tool for analysis and did not constitute analysis of the textual.

Having established the networks, the themes underpinning must be explored and identified. To do this the analysis returned to the original text which was then interpreted using the network. Each of the networks were taken in turn and its contents were explored using text segment to support the discussion. The text is now read through the lens of the established themes promoting a deeper understanding and exploration of the data, ultimately with the aim of exposing the underlying patterns (Attride-Stirling, 2001). The final phase is producing the report and involves the final analysis and write up of the research which should provide an interesting and logical account of the story that the data tells with evidence provided through the use of data extracts that are embedded within a narrative that is analytical and theoretically driven and moves the extracts beyond description. It is for this reason that within this research the data is embedded into the work rather than presented separately and then discussed.

King and Wincup (2008) caution researchers that analysis of data is a lengthy process and this was certainly true for me. To develop the concepts I had to re-read and re-code my data on numerous occasions whilst ensuring that the records remained intact and were kept in a systematic way so that I could ensure that I was able to support my findings. To maintain this internal validity I shared some of the anonymised interviews and the coding with colleagues and similar themes were noted by all. Some researchers advocate using the participants as a source of validity by taking the research findings to them (Corbin and Strauss, 2015). However, this was not logistically possible given the time pressures on staff and their difficulty in finding time out of their day. Such an approach is not deemed vital by all and it is important to appreciate that some participants may feel a certain amount of unease at being asked to be critical and will not have the same level of knowledge of the research process and the ways in which data in interpreted (Silverman, 2001).

The findings of the research were to be presented to senior managers within the CRC, however with staff changes and the ongoing implementation of new tools and ways of working this has yet to happen. However, the thesis will be made available to them and the offer of feedback will remain.

**Reflexivity**

It is important to consider the fact that my own cultural assumptions and knowledge informed my research topic, the ways that I conducted the research and the expectations that I had regarding what I would ‘find out’ and what I thought about the practitioners who agreed to take part.
Therefore, it is important to adopt a reflexive approach to the research and its data. Reflexivity refers to ‘a reflectiveness among social researchers about the implications for the knowledge of the social world they generate of their methods, values, biases, decisions, and mere presence in the very situations they investigate’ (Bryman 2008, p.69).

My background is as a former probation officer who worked with all offending behaviours but had an expertise in risk assessment and management (I left probation whilst working in the public protection team). Also pertinent to this study is the fact I have previously worked as a university lecturer on a probation officer education and training programme. I was therefore an ‘outside insider’ (Brown, 1996) no longer an employee of probation but with considerable knowledge and experience gained as a probation practitioner and educator. This adds an additional layer to the research process given that:

The qualitative researcher’s perspective is perhaps a paradoxical one: it is to be acutely tuned-in to the experiences and meaning systems of others—to in-dwell—and at the same time to be aware of how one’s own biases and preconceptions may be influencing what one is trying to understand. (Maykut & Morehouse, 1994, p.123)

Dwyer and Buckle (2009:54) note that the ‘personhood of the researcher, including her or his membership status in relation to those participating in the research, is an essential and ever-present aspect of the investigation.’ Some believe that having an identity with the research group can compromise the research integrity, for example Kanuha (2000) states that whilst it does afford the researcher (insider) added depth and breadth in understanding it also raises concerns regarding objectivity, reflexivity and authenticity because the researcher simply knows too much. In my case I am no longer a member of probation and I no longer work alongside probation practitioners and have not done so for ten years. Indeed, the interview respondents work in a different probation environment (physically and professionally) and it was important that this distinction was part of the research (data collection and data analysis). The environment that the participants now work within is markedly different to the one that I worked within not just because I worked within the public sector but also because the work being undertaken had changed.

Dwyer and Buckle (2009) comment that being an ‘outsider insider’ can result in greater trust and an increase in participant’s readiness to speak openly with the researcher because the researcher has some form of legitimacy. In response to critics of such an approach Adler and Adler (1987) assert that the distinction between researcher and participant has been historically more present within theory rather than practice and that any objectification of the self tends to occur in the analysis
rather than within the field work. Brannick and Coghlan (2007) note that having knowledge and first-hand experience of the research environment/practices allow for a nuanced understanding of the dynamics of the organisation as well as the linkages to theoretical understandings and this lived experience allows for preunderstanding. As such ‘preunderstanding extends the concept of epistemic reflexivity to explicitly include lived experiences’ (Brannick and Coghlan, 2007, p.67). Advantages of pre-understanding include a knowledge of the specific professional ‘speak ‘and jargon, a knowledge of what may occupy the respondent’s thoughts and to be able to see beyond any ‘window dressings’.

The undertaking of research into probation by former practitioners is not uncommon. Robinson and Svensson (2013, p.104) describe this trend as ‘internal affairs.’ Because of this relationship, the researcher’s reflexivity is arguably even more important so that the researcher is conscious of their own assumptions, values and judgments and how these may affect the interpretation of the results and the ways in which the study is shaped. The approach taken in this research was that of a reflective and reflexive researcher. I needed to be aware of how my own experiences and opinions of probation could impact upon the ways in which I undertook the research and responded to the data. To address this it was important for me to acknowledge that I had not been part of probation for many years and to keep in mind the fact that the probation that I had left was vastly different to the one researched. Furthermore, my own views of whether probation should have been changed were not part of the study though recognising the nature of such changes is an important aspect on the research. I did this by speaking with former colleagues that I have remained in touch with to get a feel of the nature of contemporary probation practices so that I could distinguish between my experiences and the current CRC context. I also read widely and spoke with colleagues within academia who had similar research interests and expertise. I ensured that I was familiar with all the changes that had occurred through external measures (legislation) and internal measures (through NOMs directives etc.). Whilst this did help me it would be naïve to state that my research topic and the questions that I sought answers were not influenced by my own experiences. Frauley (2005, p.246) describes academic enquiry as involving the act of theorising which is a ‘practical endeavour, and not just hypothesis testing’. Prior to commencing this research my own ‘practical endeavour’ was to consider whether the changes to probation through TR have affected risk and whether risk is viewed differently in a context of a bifurcated probation. How had CRCs taken on board risk practices and how had this altered the subjective understandings and practices of probation professionals? It was difficult to garner any preconceived notions of what I would find due to the paucity of research in this area and a lack of academic research and scholarship on CRCs in general,
thus making this a unique opportunity to contribute to new knowledge on privatised probation in England and Wales.

Inevitably with research unexpected events occur and this was true with this study. I had met with the CEO of the CRC to obtain access and this was a relatively straightforward process. Initially I was given permission for the focus groups, interviews and access to case records. The case records were to provide information regarding the risk process when a case had been escalated to high and needed to be transferred to the NPS. However, not long into the process the CEO changed and the access to case files was no longer an option. It was communicated to me that it would no longer be appropriate. Because the study is a qualitative and considers rationalities and mentalities the research could still progress and use data regarding this from the participants directly, but it meant that this was the only means of obtaining information on this matter. I was though allowed to attend a demonstration and training event in relation to their new risk assessment tool (which was not at that time being used). This allowed me to see what tool they had developed and the ways in which risk was being considered, albeit as a prototype. I was also allowed to have information and sight of the interventions that were in place. This took the form of a toolkit for practitioners.

The take up rate of participants for the research was less than expected. I had hoped that I would recruit approximately 15-20 participants for the semi structured interviews, however, I in fact recruited 13. Given that this research takes the form of a case study and I had acquired the views of 14 others through focus groups it has still provided enough data, with recurring themes, that allowed for in depth analysis. Had the original target number been achieved it would not have altered the research but would have allowed for more data to be obtained which may have supported or contested the final analysis. However, the themes that did emerge were consistent with each of the participant’s response. In the end twelve probation officers and fifteen probation service officers took part. The longest serving participant was a probation officer who had worked within probation for twenty-four years. The shortest serving practitioner was a probation service officer who had been employed for one year. Interestingly, the variations on risk practices and understandings (definitions and application) varied across the cohort and were not limited to the number of years served or the grade of the participant. The less than anticipated take up rate also demonstrated another important theme - that there was still considerable insecurity and distrust amongst the probation workers following TR. It was clear that there was suspicion of me and my intent with some participants very keen to start the interview by getting me to reiterate the purpose of the study and who I was doing the research for. One focus group experience highlights this the most. Two participants that were due to attend were late. Given that those that had arrived were
busy professionals with appointments I decided not to keep them waiting and proceeded after five minutes of waiting. As they were reading the information sheet and signing the consent forms the two late participants arrived and staged what was a mini protest. They informed me that what I was doing was wrong and was clearly part of a management strategy to monitor staff. I explained that this was not the case and that the research was for my own professional needs and in fact was self-funded. The two members of staff then addressed the other participants urging them to not take part and to leave and contact the union. This led to another participant deciding not to take part stating that he felt uncomfortable and I agreed that on that basis alone he should. After several minutes the three staff left. Those that remained were somewhat shocked so I decided that I would give them time to think about whether they still wanted to proceed. I asked them if they had any more questions, if anything was unclear and offered to leave the room should they wish to talk amongst themselves. They all insisted that they wanted to go ahead with the focus group and expressed embarrassment on behalf of their colleagues and concern for how it had affected me. I assured them that I was fine and decided to leave the room anyway to ensure that they had the opportunity to rethink their decision and did not feel duty bound to participate. No one left. As awkward and unnerving as this was it was important that I considered it from a reflexive perspective – my presence had created a very specific event. It was evident at the time and now that the occurrence reflected a high level of discord by some staff and resentment towards the process of privatisation. It was also noted by participants that there were high levels of stress within the CRC due to the loss of many members of staff and the resultant high caseloads that they were carrying which no doubt also contributed to the take up rate.

When undertaking research it is also important to consider its limitations. Firstly it should be acknowledged that the data obtained is from practitioners’ accounts rather than live observations of work being undertaken so it is important to acknowledge that some of the accounts provided are rhetoric and potentially idealised versions of events and practices and that the participant may well have their own opinions in relation to the changes that have occurred. Given the profoundness of these changes and lack of other empirical research on CRCs and their staff, coupled with the fact that this CRC won only one contract, it was also difficult to establish a true baseline of practice from other literature outside of what was provided by the CRC and those that took part or what is in the public domain (for example their website and government reports). In order to overcome these issues participants were asked to provide concrete examples where relevant and part of the purpose of the focus group was to attempt to bring a level of challenge, confirmation and refutation of the view expressed in interviews. However, it is acknowledged that the ‘window’ on practice provided is subject to these limitations and what has been produced is a snapshot of practice (mentality and
rationalities) in regard to risk of serious harm within a single CRC. With hindsight, more concrete examples could have been asked for from each participant and case scenarios could have been used to test how each may have responded though again these could have been subject to rhetoric and idealisation. Live observation was not an option within the CRC and would have raised additional issues concerning the effect of a researcher’s presence during supervision or when carrying out risk assessments as well as ethical issues regarding the observation of offenders and their case records.

The other obvious limitation of the research is the generalisability of the results given the relatively small number of participants in a single CRC. This is of course an issue for all forms of qualitative research, but I remain certain that the qualitative approach was the most appropriate methodology given that the intention was to try and draw out knowledges and the subtleties and nuances of risk and how it is understood and used by practitioners.

Finally, I have to be aware of the possible difference in my ideas and conclusions about the practices discussed and how they may vary from those of my participants, the management of the CRC and the government (Shipman, 1997).

Summary

This chapter has outlined the ways that this research was undertaken. It has set out the design chosen and provided a rationale for this. It has discussed the practicalities of the research and the challenges that were faced. Methodologically the study has strengths: it utilises focus groups to obtain group views; semi structured interviews to further explore probation workers’ perceptions and has undertaken coding using a systematic six stage process which created thematic networks. The limitations concern the smaller number of participants that had been anticipated and the relative newness of the research and NVivo to the researcher. In the future I will undertake research with a greater level of confidence and consider other data collection methods such as structured observations so that I would be able to see practice ‘in action’.

This chapter has also demonstrated that the qualitative research that has been generated is credible due to the rigorous processes outlined. Whilst the findings pertain to a specific organisation there is potential for some of the findings to be of use to policy and practice outside of the CRC. It is these findings that will now be discussed.
Chapter Six: Outsourced Probation and the Reconfiguration of Rehabilitation

This chapter will discuss the research findings in relation to the key changes that have occurred to the everyday practices within the CRC since ownership commenced in February 2015 and how these have altered the mentalities and rationalities of risk. It will discuss how commodification, through public governance, has impacted the (rehabilitative) intent of the work that is undertaken and the ways in which practitioners perform their role and the work that they are now required to deliver.

CRC – A Business

To begin with it is perhaps helpful to consider how the CRC presented themselves to its new employees. Shortly after taking over an event was held where the CRC formally welcomed its new staff and introduced itself. This event was to lay out the CRC’s vision. The messages that came across included:

‘This is who we are, we’re taking over, we’re not here to shake up and change too much of what you’re doing, we’re here to work with you but we don’t like the way it was done before so we’re going to do it our way, it’s going to be better. It was all a bit wishy-washy I’m afraid.’ (PSO, Rehabilitation Team, 10 years).

‘When (CRC) came along and there was the big thing... and it felt very much they wanted it to be more offender or service user or whatever we’re going to call them focussed, and instead we seem to have ended up with more layers of admin for less purpose... It was all about risk of reoffending and very little about risk of harm, that was where it was the shift, yeah.’ (PSO, Rehabilitation Team, 18 years).

‘No wasted time, every appointment counts, every session counts.’ (PO, Assessment Team, 4 years).

It is worth noting here the point raised whereby risk was spoken of in relation to risk of reoffending rather than serious harm. It would appear from the very beginning reoffending, the cash linked goal of PBR, was to become the priority and main risk focus.

When asked what changes they had noticed since the CRC took over each of the participants responded with an answer that related to an adoption of a business mentality where there was an emphasis on targets (related to contractual constraints and obligations), expediency and costs. A focus on value for money was evident by all that took part in the research but it was also clear that
the CRC had specific components within their bid that they had a duty to deliver and these were also communicated to staff at the welcome session:

‘It was all talk about targets and, this is what we had to do...this is...we must meet these targets. This is what we put in our bid. This is what we must do. We all must do it together...From a probation officer point of view there was that slightly dreading message of, you’re all going to be deemed the same level, so you kind of, as a probation officer, it’s like well, does that mean you’re not respecting the fact that I’m...you know?’

(PO, Resettlement Team, 5 and a half years).

The initial meeting caused consternation for some practitioners regarding both their practice and their identity and from the very beginning some participants felt that the CRC did not prioritise the staff, which compounded the fears that already existed about the change in ownership. As already highlighted the use of targets within probation work is not new. The introduction of national standards, the nationalisation of probation and the New Choreography all introduced systems that were seen to be encroaching on rehabilitation (Burke and Collett, 2014). In particular the New Choreography presented new aims and duties for probation following its nationalisation in 2001 with a new focus on effectiveness and provided a new strategic framework where a primary aim of probation was to be recognised as a top performing public service, as benchmarked by the European Excellence Model by 2006, achieved through the implementation of stretch objectives. These included greater use of risk assessment tools such as OASys and the completion of risk assessments within specified working days all of which would be measured and used to obtain recognition of excellence. However, as a vision and opening statement it was clear that the focus and goal for the CRC was to be a service provider for service users and that the ways in which this was to be achieved had to be efficient and that, at that time, things were not. The CRC made it clear that things were going to be different. These changes will be broken down into the following key areas: targets and accountability, environment, interventions and accredited programmes.

**Targets and Accountability – Payment First**

The CRC is obviously a business and as such must be accountable, more so than perhaps the public sector, for how money is spent and for how much money is made and profit was certainly a change that all participants commented upon with all of them stating that it had affected the ways in which the CRC was run and the work that they were instructed to undertake. Halushka (2016) has noted that the use of NPM can compromise rehabilitative goals through imposing contradictory pressures on the service providers resulting in them subverting substantive policy goals, (to reduce re-
offending), by incentivising a focus on the production of outputs metrics that ensure the organisation’s survival. Such subversions are evident within the research.

The participants were asked what the ethos of the CRC was:

‘I don’t know if I easily could answer that, because I think it’s changed and I think that’s evolving. We’re very soon to have a presentation on our five-year business plan, and I’m hoping that that’s answered more clearly then. It’s different from what we’ve been used to, because there are more…there are clearer targets on key parts of our job. And I think that, therefore, means that the ethos has changed. And how I see it as a personal thing is that it’s about the cost-effective management of people on community orders, suspended sentences or licence, so that what we’re saying is we have to balance, we have to think about where is the money best spent in terms of managing that.’

(PSO, Assessment Team, 11 years).

The fact that a business plan is now part of the practitioner’s experience and associated with their (and the CRC’s) ethos demonstrates the adoption of a business mentality by the CRC and its staff and the uncertainty around what was to come was a notable feature of the responses. However, some expressed more certainty and optimism, viewing TR as an opportunity for better practices to take place:

‘I think in the past, I’ve seen horrendous...very, very poor performance in probation, and I think that time’s gone, I think that’ll be challenged now.’ (PSO, Rehabilitation Team, eleven years).

Here, the participant believes the CRC to have more power over staff now that they are employees thus bad practices could be challenged more easily and more readily and staff would be subject to greater accountability.

Another participant, when asked about the CRC ethos, stated:

‘I think maybe we’re a bit more efficient, I think. I think we are being paid ultimately and we need to evidence what we’re doing and our time is money, which the idea of that sounds horrible, but actually I think it means we’re a bit more accountable sometimes, even though we should be accountable when the government’s paying for us, I think when it’s all about it ultimately making a bit of money I think the spotlight’s on you a bit more, I think.’ (PSO, Resettlement Team, 18 months).

Here the PSO feels that the adoption of a business mentality could be transformative and is not resistant to a new ethos of profit which demonstrates that the resistance highlighted in previous research is not ubiquitous. As such there is clearly the potential for the CRC to implement and embed a new ethos that will in time become the dominant, pervasive working practice supporting Robinson et als (2015) observations that practitioners have become less committed to
their organisation (probation) due to the lack of consultation and relentless changes. It is interesting that, for these two participants, there is no correlation between the fact that the profit generated is being obtained from what is arguably human suffering (the victims’ and arguably the offenders’) and the administering of justice. In this regard there are no ethical or moral concerns being expressed regarding privatisation.

A focus on effectiveness has led to the overhaul of each stage of offender assessment and supervision. The CRC now has three specific teams: Assessment, Rehabilitation and Resettlement (which includes Integrated Offender management IOM). Every time an offender receives an order with the CRC they are seen by the assessment team who will complete an initial risk assessment and sentence plan before allocating it to the rehabilitation team or to resettlement if the offender has been released on licence. This happens regardless of whether the offender is already on an order and being supervised in a different team. Often there is no Pre-Sentence Report prior to this appointment (completed by NPS) but the assessment team may receive some handwritten notes. Assessment team members are expected to complete two of these assessments and sentence plans in full each day. This includes meeting the offender and undertaking all required checks with other agencies (social services etc.). This has resulted in time pressures for staff which have the potential to affect the quality and accuracy of these important assessments and as such may promote a cursory approach:

‘some people don’t have a caseload now so it is literally just that identification of risk first and then you pass it on. And I know there might be disparity in people that do really thorough risk assessments and people that don’t, that’s a real risk as well for those who are inheriting the case from an assessor.’ (Probation Officer, Assessment Team, 6 years).

This raises an important question regarding how much this initial assessment is taken for granted by those that the case is allocated to because, as this participant highlights, it is the assessor that determines the supervision plan and what work the supervisor will complete with the offender:

‘you have to move on from spending loads of time on the things that aren’t that important and just trying to highlight the important bits, the risky bits, the bits you need to identify to the rehab team straightaway. That is your role as an assessor, it’s identify what they need to do first and foremost, what’s important, all the other bits they can add in.’ (Probation Officer, Assessment Team, 6 years).

The concern here is that those allocated the case may feel bound to deliver it regardless of any new information that they acquire, which may alter the nature of work needed. In addition to this, the supervisor may not ‘add in’ the information required in the remaining sections, which again may
affect the overall relevance of the assessment and sentence plan. The capacity to check the assessment for accuracy or fill in any deficits may well be governed by knowledge, understanding and experience. The fact that PSOs are part of the assessment team adds another layer of potential problems in determining risk from the outset. Tuddenham (2000, p.173) states that practitioners need to have ‘an appreciation of the effect the assessor will have upon the assessment.’ The ‘effect’ here is governed by the knowledge and ability to undertake risk assessments in a manner that elicits and interprets information regarding dynamic risks in addition to static risks.

The initial assessment is not a full OASys, it is a third layer assessment which covers fundamental information concerning the sentence (e.g. the offence) and provides a basic risk assessment of re-offending and risk of serious harm. The 2017 HM Inspectorate Probation England and Wales Annual Review noted that the NPS were predominantly providing oral reports to courts and that when Pre-Sentence Reports were undertaken they were inadequate and often missing fundamental agency checks (social services, police), therefore the CRCs were being given limited information when allocated the case. Such a lack of information could lead to Availability bias (Kemshall, 2008) where assessments are based solely upon the information that has or can be obtained. This paucity of information is, in risk terms, exacerbated by the subsequent completion of a minimalist initial assessment that will dictate the offender’s supervision journey. It is ironic that previously the main critique of neo-liberalism was its inflated use of risk and over reliance on and application of risk assessments, particularly actuarial assessments (Hardy, 2014). The further expansion of neo-liberalism through privatisation has however negated risk and has not increased or even maintained its prominence. Risk pre-TR was also criticised for its assumptions, due to it being offence focused with a lack of consideration of social and situational contexts. Risk was the presiding concern not the welfare of the offender (Robinson and Crow, 2009, p.87). With the completion of these reduced initial assessments comes further removal of the social situation and a narrowing of risk focus. The assessments become tasks to complete expediently with the hope that they will be ‘finished’ by the supervisor. Having a dedicated team to do this work was, for some participants, an issue and raises further concerns regarding the quality of risk work being undertaken at this initial stage:

‘I did work in assessment just for a few months and I couldn’t bear it, I couldn’t bear it. It was like a sausage machine, and I started not to care about these people. I wasn’t really interested, and that’s not me. You know, I wasn’t interested in what they were saying, I just couldn’t wait to just get them out really because they weren’t going to be my person, I wasn’t going to be working with them. That’s a horrible thing to say, but I found myself losing interest in them.’ (PO, Rehabilitation Team, 18 years).
‘I feel, ‘cause I’m writing OASys’ all the time, I’m writing similar things for people a lot.’

(PO, Assessment Team, 10 years)

The potential for representational biases to also occur are clearly evident (Kemshall, 2008). The representational bias (which assumes cases are similar) affords assessors a model to produce timely assessments and adopt an assumptive rather than an inquisitorial approach. This is potentially further compounded by the allocated supervisor assuming that the information is correct and therefore not engaging with the offender in a manner that allows them to deviate from what has been written. As such risk loses its dynamic components (Kemshall and Pritchard, 1995).

Both responses show the potential for practitioners to lose an individualistic approach to the offender and the assessments. A mindset can be created whereby practitioners lose sight of the person in front of them and see instead an offender who has committed a certain offence. They represent a task that must be completed in a short period of time. Separating activities in this manner could be viewed as a form of post-fordist neo-liberalism, where components are fragmented into repetitive tasks that are performed at speed (Taylor 1998) and has the potential for deskilling practitioners. It has been noted that the risk need principle remains a core component of risk interventions- resources should follow risk (Lancaster and Lumb, 2006). However, if the initial assessment does not undertake a thorough risk assessment potential risk behaviours and factors may go unnoticed and resources not allocated. Such dilution in assessment also leads to the loss of the individual within practice:

‘I mean if someone’s got no previous convictions and they’ve got unpaid work I’m going to spend about 20 minutes with them, maybe half an hour; there’s some forms they need to sign as well, give them copies, that kind of thing, so it takes a few minutes. If they’re doing BBR, if they’ve got DV issues, they have lots of previous convictions, maybe an hour to an hour and a half. But two or three of those a day, so whatever risk they are or whatever their circumstances are. So that’s really where my time goes is writing up those assessments after I’ve seen them; I spend more time doing that than actually seeing the people...But in terms of our good risk assessment abilities, they do get watered down somewhat by having that many people coming in over the short amount of time, and having to write them up in theory very quickly’. (PO, Rehabilitation Team, 9 years)

The division of the teams was primarily criticised by participants for a lack of continuity. If an offender is already subject to supervision and receives another order the supervising officer is not permitted to complete the new initial assessment and sentence plan. The fragmentation of supervision and teams has not only led to a reduced and narrowed approach to risk but has also
fragmented supervision affecting the relationship that offenders have with practitioners, another
criticism of a neo-liberalist risk agenda (Fitzgibbon, 2008):

‘They find it really confusing, I’ve got one who’s now got three concurrent orders so he’s
had to go back before the assessment team every single time and the last time he got
really confused because he saw me during the week, he then had an appointment with
the assessment team, which he didn’t go to because he’d already seen me. He then got
taken to breach court over it because he missed about three assessments with them
and his defence in court was like, I’ve been in contact, I’ve been seeing my...I don’t
know what he referred to me as, who knows anymore?  And, yeah, even the court were
confused saying, why is he in court today, why is he in breach? (PSO, Rehabilitation
Team, 3 years).

Offenders have not just been affected practically by the changes (additional appointments with
different teams), their progress and engagement have also been compromised:

‘The only time I’ve ever almost been punched in the face, in my life, in probation was
this poor girl who was in a real state. She’d had this probation officer, took her...she’d
been through that process. She had this probation officer and she’d just managed to
start talking to her, yeah, so then she re-offends so then phew, she talks to this person.
Then she was talking to me and she was going to me, I won’t fucking talk to you, I want
to talk to S***. You know, and she couldn’t understand, and all I could do was sit there
and going, you’re right, you’re right. I really understand, I’m so sorry. And all I could do
was just try and tick the box by just backing off as much as I could and, you know...’(PO,
Rehabilitation Team 18 years).

This illustrates a need to complete the task and an inability to deviate from the new system and
team structure, regardless of whether there is a genuine need such as in this example. The pressure
to produce has been a prominent feature of probation since the 1990s and the advent of
managerialism within probation (such as the adoption of targets and standards of supervision) and
have become ever more prominent following the rise in technological solutions to risk assessment.
Philips (2011) notes that managerialism and its associated targets led to a change in occupational
culture whereby there was a move from rehabilitation to auditing and so the constraints and
pressures here are not new. All who participated in the research stated that the system was
implemented to enable and ensure the attainment of targets but also primarily to obtain the
payment attached to timely completion of assessments and sentence plans. This is the difference
between the CRCs and probation as a public sector agency. There now exists a new agenda and a
new rationale for meeting objectives that is not grounded in effectiveness and European Excellence
but in the receipt of monies in order to not only fund the organisation but to obtain a profit. In
addition to this there are qualitative changes to the work that is undertaken, which are is also
geared towards completion for payment through the use of cursory assessments that lack detail. The repercussions of having cash incentives such as these have been noted by the Centre for Crime and Justice who stated that ‘CRCs commonly produce timely sentence plans, and so meet contract expectations, but those plans may not be good plans, comprehensive plans, based on a comprehensive assessment’ (Kuipers, November 2017, p.2). The end product is therefore not completed to aid the effective supervision of offenders but to comply with contractual constraints failure of which results in non-payments or fines. No longer is it the case that poor performance affect ratings and potential future funding, it now directly affects the sustainability of the CRC as a private company. With the free reign given to CRCs to innovate and undertake their own assessments using their own tools there is now a de-regulation and lack of standardisation concerning the work undertaken. No longer is there probation continuity, allowing for objectives to be met however the CRC deems fit. The 2017 HM Inspectorate Probation Annual Report also noted that there was a need to assess and monitor quality rather than production and completion reflecting the concerns around such approaches. Such concerns and observations were evident in the research:

‘They want targets met because they link to money. So, therefore, they are quite happy for someone to do an OASys in ten days, that is basically a blank OASys pulled through and signed, just to meet the target. How anybody can think that’s a suitable and sufficient risk assessment, is anybody’s guess. HDCs, they want them sent back at the ten day stage, so they meet the money target, regardless of whether you’ve got the right information to return it. So you’re creating two assessments quite often, ‘cause the police haven’t got back to us in ten days, so we can’t complete the report. So, we send it back to the prison saying, send it back again, and we’ll give you an answer.’(PSO, Resettlement Team, 18 years)

Such time constraints are obviously imposed by NOMs/MOJ but the non-completion of these now have a very different meaning for they are directly related to profit which was not the case when a requirement of the public sector causing CRCs to adopt strategic measures and processes in relation to vital risk practices, which for this participant was a new development since privatisation. The implications of not meeting the target are different thus practitioners are expected to play the system by prioritising ‘completion’ over content and purpose. The purpose becomes profit and not the production of a useful piece of work which formulates and communicates key decisions regarding the effective management of offenders. It is impossible to know an offender’s risk when you have limited, let alone no, information thus practitioners are potentially working blind with risks going unchecked. When considering Home Detention Curfews (HDC) this is a worrying prospect for the public because the assessment concerns the suitability of an offender for release into
community. The public is not just at risk but also any persons who will reside with the offender who is subject to the curfew. Such paucity of information when completing detailed and vital assessments place practitioners in a vulnerable position. Without thorough assessments offenders are reduced to their offence.

The participants gave further evidence of directives to just sign off incomplete assessments:

‘I think the major, major thing was a comment by my line manager that said, I don’t give a shit about OASys, we don’t get paid for that.’(PO, Rehabilitation Team, 9 years).

This was confirmed by two other practitioners

‘That’s pretty much what my manager said as well, we don’t care about OASys, it’s not looked at.’ (PSO, Rehabilitation Team, 4 years).

‘We’re told by managers, if you don’t have time to do it, just sign and lock it empty, because it’s been done.’ (Probation Officer, Resettlement Team, 11 years).

Such observations relate to an over reliance on auditing discussed by Kemshall (2010) where audits replace trust and accountability replaces expertise (also Munro, 2004). Activities and tasks are prioritised by profit and a distinction is made between what counts as payment, not what counts for risk management and rehabilitation. Such practices were also highlighted within Unpaid Work, where it was noted that the allocation of offenders onto placements was done through the lens of cost:

‘Even working on unpaid work, they’re being targeted to work people more on single placements, and I’m only saying this because of one of my cases. He was on a group placement because of his risk, but then their drive is to put people on single placements, to work them on single placements and remove them from groups because obviously they’re very costly. You have to have supervisors, you have to have a van, you have to take people out onto projects, so that costs a lot more per head...so move them from groups and get them more onto single placements so you can work more people. That increases the number of people working in unpaid work and therefore increases the cost per head. But I had one who clearly shouldn’t have been worked on a single placement at all. Very volatile type of guy, very loud, swore a lot, disruptive, liked to do things his own way, and it was highlighted that he shouldn’t but somehow he was pushed onto a single placement, turned up drunk, used his phone, was laying down, and then when he was spoken to by council officials who were managing the park he kicked off at them. Members of the public around as well. Didn’t bode well.’ (PSO, Rehabilitation Team, 10 years)

This is a tangible example of how the public and others are put at risk when an offender’s supervision is not governed by their risk. Resources are not following risk, risk is following resources,
namely cost-effective resources. Such an approach results in the distortion of core probation principles and duties and compromise the CRCs duty to deliver public protection. During the 1990s the advent of managerialism within probation is highlighted by Robinson (2008) as being, to some, the death knell of rehabilitation due to the emergence and prioritisation of a rationality of risk, dominated by actuarialism. However, risk and rehabilitation can be compatible (Gough, 2010; Robinson, 2008; Kemshall, 2003). Risk is integral to rehabilitation and to public protection and whilst probation discourse has been saturated by it, it was not at the expense of all rehabilitative measures. Risk was the lens that everything was viewed through and determined the interventions. However, TR has resulted in a new lens being adopted for CRCs, the lens of profit and target attainment. These observations further reflect Halushka’s (2016) comments where NPM has the potential to compromise rehabilitative goals leading to the subversion of policy goals. NPM and commodification has incentivised the production of output metrics that ensure the organisation’s survival (payment).

The new team structure has also impacted on the provision of supervision with offenders now crossing the boundaries of more than one team:

‘We had one in our office that he was still on licence and was given a community order, and they wouldn’t put him into just one team, he was co-worked with both of them, so the resettlement officer had to see him as part of his licence conditions, but he also had to come in for appointments with his rehabilitation officer to go through the requirements on his community order…So he was having two appointments a week with two different officers’. (PSO, Rehabilitation Team, 4 years).

This implies that there are two agendas within the supervision of this offender (a licence and a community order) and raises concerns about the compatibility of the system when working with a group of people that are often chaotic with regular changes in circumstance that need to be communicated to the people working with them. Here, the effectiveness of the supervision is reliant on information exchanges between supervisors who are working remotely rather than together. The participant could not say why there were two distinct teams supervising one person outside of it being the new team structure that was inflexible. In addition to this the new structure means that there is more potential for offenders to have to change supervisor and this has wider ramifications in relation to risk in a multi-agency setting:
‘R: I was managing him in the rehabilitation team, committed an offence, remanded in custody. Now because he’s in custody he’s part of the resettlement team so he’s moved officer.
I: So is he on remand?
R: He’s on remand.
I: And that would mean upon release he has to go then to the assessment team?
R: Yes. Because he’s coming out in a completely different order because he’s committed further offences. So he’s written to me from prison and I’ve told him I’m no longer his officer. They’re holding a professionals meeting and I’ve been invited, but again because I’m no longer his officer I’ve had to decline and then pass them on to who his officer is. So a little bit too much chopping and changing I think.’
(PSO, Rehabilitation Team, 10 years).

Here the person who may know the offender best is unable to contribute to a meeting that addresses professional concerns, and enables information sharing all of which are vital to risk management. Interestingly, the offender was on remand and so not subject to a custodial sentence and yet the fact that he was within a prison culminated in a change of supervisor demonstrating a rigidity that is seemingly predicated on logistics that facilitate target completion.

When the intent of the work alters there is a possibility that a reductionist attitude will be adopted, where the activities that are undertaken are constructed as being mere products for payment changing the mentalities and rationalities of how and why work is undertaken. Importance and value is attached to attaining targets and the completion of tasks and the risk becomes the potential for missing these. Consequently, risk in relation to risk of serious harm and re-offending loses its meaning and importance. This was evident when a participant discussed the use of referrals to Social Services (CP1) to ascertain if an offender is known to them:

‘Just taking CP1 as an example, it’s almost like you send that off to say, I’ve sent it off, rather than say, I’m sending this off because of safeguarding.’ (PSO, IOM, 4 and a half years).

The implication of this is that staff become desensitised to the relevance of the content and its intended purpose. Here the referral merely facilitated a monitored outcome and such observations could also be made regarding the initial assessments. The potential for tasks to lose their ‘risk meaning’ is exacerbated by the increasing numbers of new staff for whom this will be the norm, where checks are a formality undertaken to evidence it has been done (Munro, 2004).

The need to focus on cost by CRCs has been acknowledged by Dame Stacey in relation to their having to run on a shoestring:
‘The first point to make is that CRCs are facing substantial financial challenges. With workloads now some 30% smaller than anticipated, and payment largely linked to the number of service users through the door, CRCs are having to cut their cloth accordingly. They are running with ever fewer professional staff and taking other steps to contain or manage expenditure—and to reduce it, wherever possible. They are pared back, if you like, and focus predominantly and understandably on what is measured and rewarded. Of course, they are seeking to avoid stinging penalties for non-delivery against contractual targets.’ (Stacey, Justice Select Committee Oral Hearing, 21st March 2017).

Monetary constraints were an inevitable risk for the TR agenda and the move towards incentivising this work comes with the potential for strategic practices to occur, not just in terms of profit but in terms of simply having enough money to function. However, such practices alter the purpose of activities and compromise the rehabilitative intent which becomes secondary. It could be argued that core probation activities are being corrupted through commodification. Participants noted the difficulties of holding onto to the rehabilitative intent:

‘we've had to be very adaptable to the change so that we can incorporate all the paperwork that...you know, the paperwork that sort of...you know, the boxes to tick, and everything else, to make sure that we’re meeting targets and achieving what we need to achieve...I think it’s been very challenging to stop that encroaching on the main reason why we’re here, which is to rehabilitate service users and to reduce re-offending and to protect the public’. (PSO, IOM, 4 and a half years).

CRC Practices and Legitimacy

With privatisation and PBR it was inevitable that practices within CRCs would have to consider costs but there are not just payments within TR there also fines and losses, creating additional risks to the CRC’s profits. Consequently, practitioners are now being asked to consider the monetary effects of their practice. The primary example of this given by the participants was undoubtedly breaches. Prior to TR strict enforcement of orders/licences was a prominent part of probation work, which can be interpreted as being part of the process of modernisation and the adoption of NPM within the service, which commenced after its nationalisation (Nash and Ryan, 2003). It could also be seen as fitting with theories where control is the aim, rather than care (Garland, 2001) and a need for probation to become less ‘soft’. However, post TR there now exists a reticence to breach. Monetary wise the reason is two folded; the rejection of a breach results in a fine and a breach represents a non-completion and loss of payment. The process of breach since privatisation has become a somewhat convoluted and disparate process. The breach paperwork is completed by the CRC but it
must go to NPS for approval (the report must be of sufficient quality and meet all the requirements), and if satisfactory the NPS will process and take to court:

‘Everything has to go back through the NPS, so say for example with that one, what I will have to do is I will have to get him in for an appointment, explain to him, obviously, I am going to take it back to court, I don’t think this is right for you et cetera. I will then have to write the report, it will go back through the NPS who will check it et cetera, they will go, yep, that’s okay, and they will book it in for a court date. We can’t just go to the court, everything gets run through them. They are the ones that book the court dates, send out the summons, et cetera’. (PSO, Rehabilitation Team, 4 and a half years).

Participants were all very aware of the financial implications associated with this process:

‘They don’t like us breaching people but then when we do, it has to go through otherwise we lose money again, because of the quality of the breach.’ (PSO, Rehabilitation Team, 4 years).

Most participants felt that the NPS had been over zealous in their rejections at the outset of TR but that this had since eased, which they in part attributed to the use of the assessment team as gatekeepers. This addition of another layer of bureaucracy is to prevent losses but it has also made timely completions more precarious by adding additional time onto a process that is time bound to ten days. One participant was aware of the actual costs that are incurred for non-breaches illustrating how the key feature of CRC communication was finances:

‘What we seem to hear about is what you get charged for rather than what you get paid for. So, for example, each breach that is rejected by the NPS costs the CRC £800 if it's not accepted, if it's rejected.’ It’s been written and QA’ed and we pass it through and they reject it there's a cost. Or if you are late on...it's more about that, the focus has been on that rather than what work you do that will reward with payment. So it's almost a bit scaremongering at first is how I feel, I don't know how things are rewarded or paid.’(PO, Assessment Team, 6 years).

This raises an interesting point. The participant feels that the work that attains money has become marginalised, but it is arguably this work that is focused on reducing re-offending and ultimately an offender’s risk of serious harm. Unsurprisingly participants felt that they were being encouraged not to undertake breaches so as to receive payment for the offender’s completion:

‘You would lose money because you’ve failed to get them through that community order and then it would just start all again with the...If we breach someone and they get convicted of the breach, you haven’t successfully got them through ...so you don’t get paid for that. So we get told off for breaching too many...you could be waiting three months before you actually breach them because you just keep sending them warning letters.’(PSO, Rehabilitation Team, 4 years).
Clearly such practices have implications, not only for the integrity of the order but also for the integrity of the CRC and the professionals within it. When breaches are not undertaken on this basis the legitimacy of the sentences and the organisation are compromised and the offender is potentially allowed to not fully engage with the CRC and their supervisor. With potentially disparate and irregular attendance ensuing and a lack of compliance the monitoring of risks and changes to circumstances become difficult if not impossible. The focus on targets and the potential reticence to breach was discussed at a Justice Select Committee oral hearing and concerns were raised regarding the transparency of these new businesses:

‘Kate Green: Have you seen any evidence that CRCs are reluctant to breach because of the financial consequences for them?
Professor Senior: You hear of anecdotal evidence. It is very difficult to get inside the CRCs at the moment. You are dependent on the high-quality evidence that the inspectorate and other reports have given. At the moment, they do not open their doors easily to that kind of scrutiny. It is difficult to go further than the official reports, which are fairly strong in relation to this issue, particularly the inspectorate’. (Justice Committee Oral evidence: Transforming Rehabilitation, 28th March 2017).

The privatisation of CRCs allows them to act as businesses do, where disclosure of business practice is done so only when formally required. This further compounds the ability of MOJ to monitor CRCs and ensure that the work being undertaken is of sufficient quality and that the intentions behind it remain the same (to rehabilitate and reduce re-offending), whilst being commercially successful. At the same oral hearing it was noted by the National Association of Probation Officers (NAPO) that in addition to these concerns the time scales attached to breaches were also hindering their successful completion:

‘Recently, we did a very quick survey of our members … The answer to your question around breaches is complicated, as Ian said, but one of the things that came through very clearly from our survey is that the CRCs cannot get the breaches into court in time, because of problems with staffing, delays in administrative systems and delays in IT. Once those breaches get into the system, they are rejected because they are simply out of time. I do not think that it is just about disincentives for the CRCs; it is about their administrative inability to get the paperwork to the courts in due time.’ (Priestley, Justice Committee Oral Evidence: Transforming Rehabilitation, 28th March 2017).

The dominance of costs within practice has the potential to create a ‘just get them through’ mentality and such an approach is evident in other areas of the CRC’s practices, with participants
noting leniency. A PSO, whilst discussing large caseloads due to lack of staff, commented that the expectations of offenders’ behaviours have diminished:

‘On a Monday night, we have our late-night reporting, and programme staff also deliver programmes. They are certainly being more lax in terms of time-keeping, and on the BBR group on Monday night they regularly have people arriving late, who they let in, whereas before, that never would have happened. They also are accepting more dissent, which again, wouldn’t have been tolerated before. Now, whether that’s because they’re purely being delivered by PSOs now, rather than PO and PSO, or whether it’s because of CRC, I don’t know. I suspect it’s because of CRC.’ (PSO, Resettlement Team, 18 years).

Such sentiment was also observed in another long serving participant:

‘I would think that if you took some people who were supervised pre TR and post TR, they spanned it, I think that they would notice that there’s probably more leniency now. I think we give...we’re encouraged to not breach people and so I think, yeah, they would say actually you get...they get away with more now than they did then’. (PSO, Rehabilitation Team, 12 years).

The dissent mentioned could stem from new practitioners being employed that lack experience however, it does raise important markers for an approach that promotes completion over everything else. This represents a new ethos, one where it is no longer the offender and their order/licence that are the primary drivers for actions but the price tag that they represent. Whatever the reason all such behaviours curtail the delivery of effective interventions. Robinson and McNeil (2010) contend that substantive and longer-term compliance are more likely in regimes that are perceived by offenders as being legitimate. The lack of consistency in breaches and a lack of enforcement of rules undermines this.

A New ‘Homeland’

The CRC has a background in offering employment skills and many felt that this, whilst potentially beneficial, was too dominant in the CRC’s approach in particular the logistics of their working environment. Many of the locations throughout the three regions that the CRC is responsible for were deemed inadequate, too expensive or needed vacating to allow it to become an NPS only site. The proposed new office locations were to adopt a new way of working which promoted accessibility and openness (open plan, without interview rooms) so that the offender felt more at ease and were able to come in and use computers at their leisure. None of the participants viewed this as a positive step with most believing it to be evidence that the CRC was not aware of, or interested in knowing, what probation actually does:
‘...so you’ll have all the practitioners sat at their desks working with some tables at the end where the service users will come in, there will be computers in the corner that the service users can use when they’re not being seen and all the interviews will be in an open plan office, and they have understandably become very, very angry at that, and CRC have gone, well, we’re doing it anyway, so deal with it, and a lot of people have threatened to leave because they refuse to work in that environment. Some colleagues in my office have said CRC seem to think that we’re like the Job Centre and that kind of office environment will work...And while we do work with a lot of the same clientele that the Job Centre deal with, it’s in such a different context and they don’t seem to understand that. I mean, data protection and confidentiality will go right out the window if you’re sat trying to do your work or having a phone call to social services and you’ve got service users in the corner.’ (PO, Resettlement Team, 11 years).

The likening of the CRC to a job centre was a common theme and suggests that the CRC does lack an understanding of the intricacies and the day to day minutia of probation work. Conversely it could be considered a knowledge and understanding of probation that the CRC simply wants to change and mould in their image, to sustain their own culture and ethos and not preserve probation’s. Burke, Millings and Robinson (2016) note the relevance of the concept of diaspora (the movement of a group from their homeland) and the moving of offices in this way does this in numerous ways, for practitioners are not just leaving a location they are also leaving former NPS colleagues and their ‘old’ working practices. Additionally, the new homeland proposed bears no resemblance to what they have left reinforcing their removal from public sector probation and previous probation practices.

The job centre approach also extends to the way that the CRC constructs the offender:

‘The CRC seem to think that offenders are exactly the same as jobseekers, and they can have the same model. So, they wanted open plan offices, where the offenders can wander around at will, and they don’t seem to understand the difference. And they said, show us the evidence of incident reports. And because we were quite poor at recording things, there was a lack of evidence there.’ (PSO, Resettlement Team, 18 years).

The perception of offenders by the CRC will be discussed in more detail later but it is important here to acknowledge that participants felt that there was a fundamental lack of knowledge by the CRC of the people that they were working with, the types of interventions and conversations that occur and the reactions that can ensue:

‘It just made it sound like we’re dealing with a few cheeky chappies. Just not having that understanding of how things can kick off and also the nature of the conversations
we’re having with people, how that is going to be significantly compromised if you’re seeing people in that sort of environment...they showed us pictures and it was like how it was in the Job Centre. And I just think it’s very different...you’re not talking to someone about their job search, well you might be, but on top of that there’s a lot of other stuff you’re speaking about to people.’ (PSO, Rehabilitation Team, 12 years).

For meaningful information to be obtained it is known that offenders require consistency, as highlighted above, but they also require the capacity to disclose in a manner that is suitable and appropriate for what can be distressing or confidential details. The lack of awareness or consideration of this could be a result of the CRC believing that those offenders with complex risks and needs are with the NPS, therefore the offenders that they are working with are more straightforward and less likely to require privacy. They instead require practical solutions which could lead to an encroaching complacency not only in relation to risk (notably serious harm) but also need. Potentially the low to medium risk of serious harm offenders may subsequently become homogenised and over simplified and for their ‘rehabilitation’ to be reduced to minimalist, measurable interventions, as with the initial assessments.

Interventions

Part of the CRC’s bid to NOMS involved them outlining what work they would undertake with offenders and for this CRC it has primarily taken the form of a toolkit of worksheets referred to as My Solution Rehabilitation Programme (MSRP). Within this there are seven routeways out of offending which are determined at the initial assessment and sentence planning appointment, so potentially come from narrowed, cursory assessments. The seven routes are: outlook; home; money; habit; future; support and health. Each session is designed to take approximately twenty minutes and each routeway consists of three modules with numerous worksheets attached to each. It is important to note that there was no evidence base for this toolkit provided by the CRC to either the staff or the researcher. When promoting the toolkit to staff the CRC made it clear that not only did they provide focus but allow the offender to take responsibility for addressing their own behaviour, an assertion not agreed with by some:

‘So it is more structured, sort of, supervision, sort of, appointments rather than just the general chat that you would potentially have had. It was almost a bit contradictory. It was on one hand you wanted to involve the service users and make them part of their own rehabilitation programme but then you’re giving them set, sort of, topics to have to discuss and work through with set scenarios.’ (PSO, Rehabilitation Team, 1 year).
For some such methods are demonstrative of a target led approach that simply ticks the boxes that NOMS/MOJ set:

‘Their view is that every single offender has to have sessions with the My Solution Rehabilitation Programme, which has seven different pathways. And each of the pathways has a learn, practice and do, activity requirements, and each session is supposedly 20 minutes. And they want us to put in the supervision plans, those things, and deliver them. So, they want something that’s very open and shut to show the MOJ, that we’ve done this offence focus work, here’s the worksheet, open and shut. We will get paid.’ (PSO, Resettlement, 18 years).

Indeed, many participants spoke of the fact that it was not the completion of the worksheets that mattered, rather it was the evidencing of their use to the extent that it was a mandatory task despite it not yet being compatible with the computer systems. A target led approach is of course not new to probation as already noted but targets have the potential to be counter-productive (Burke and Collett, 2011) because as Phillips highlights (2011, p.110) ‘they can be arbitrary; not people focused; out of practitioner’s control; competing; coercive; and too simplistic in the context of the ineffable success in probation.’ The arbitrary nature and lack of offender focus within the worksheets is discussed later, what is important here is the notion that the types of work to be undertaken with offenders was now completely out of the control of the practitioner. Practitioners are expected to account for and justify any deviation from the toolkit with evidence:

‘We should be using MSRP, so the toolkit, unless we can evidence that something else is working even better than that. So, we’ve got to be able to evidence that, if we’re not using it, the other stuff we are doing is effective and is meeting our targets and reducing reoffending basically.’ (PSO Resettlement Team, 18 months).

For Weber (1947) autonomy declines in the face of a large bureaucratic organisation illustrating the issues of adopting a public governance approach within probation. The emphasis on logging and evidencing these worksheets culminates from a need to evidence that offence focused work is being undertaken. The worksheets are arguably designed primarily to achieve this, rather than for their effectiveness. They are concise pieces of work that demonstrate that prescribed activities have been completed and can be logged ready for auditing (Munro, 2004):

‘It’s what we use to show we do work. It’s the fact that it needs to be where it needs to be in order for it to be counted.’ (PSO, Rehabilitation Team, 12 years).

Consequently, there is removal of practitioner discretion. The supervisors are instructed which routeways are to be completed by the assessment team and the ability to use other resources is limited if not forbidden. Calder (2013) comments that working to demonstrate effectiveness and to
meet targets can lead to probation becoming too focused on negating the offender’s deficits at the expense of socially inclusive factors that are fundamental to an offender’s desistance from crime. The use of worksheets as the primary means for rehabilitation removes the capacity for needs outside of the crime to be acknowledged let alone addressed. If it is not part of the toolkit then it is not relevant.

The arbitrary nature of the worksheets was prevalent in most participant responses reflecting the job centre mentality already discussed and the simplification of offender needs:

‘I mean, if you actually think what CRC are asking us to do with people, I think the concerns we have in terms of not being an open plan is that we’re potentially talking to someone about their past abuse, about, you know…whereas actually if you look at MSRP and the work we’re being asked to do…’. (PO, Rehabilitation Team, 8 years).

Through the adoption of mandatory worksheets there is less potential and scope for conversations outside of the tasks to occur and thus it is more likely that such a workspace design would be achievable when the information being gleaned is no longer of such a personal or volatile nature. Again, this changes the rationalities and mentalities of work. It is constructed as an exercise to complete rather than an exercise to discover core behaviour and attitudes that contribute to offending and aid in the management of risk. With this toolkit comes an attainable ‘solution’:

‘That toolkit that we’ve been given of worksheets to do with our service users, when it comes to cases like domestic abuse, they are utterly useless, because there’s nothing in there at all about actually challenging someone’s thoughts and beliefs. There’s nothing in there based on victim empathy, there’s no victim work at all. It is all accommodation, substance misuse, employment…’I’m using old tools that I’ve got from previous times.’ (PSO, Rehabilitation Team, 4 years).

‘It’s difficult because a lot of the sessions in the new models we’ve got out aren’t really related to risk at all, there’s lots of things in there about tidying up your house and paying bills and things like that. And there isn’t anything on victim empathy, there's very little on conflict resolution, it’s weird, looking through the sessions at least half of them I can say I would probably never, ever use, which seems very strange to me.’ (PO, Rehabilitation Team, 14 years).

The lack of victim work raises further questions regarding how the CRC constructs rehabilitation. If probation and rehabilitation is to assist offenders with their offending behaviours with the aim of them leading law-abiding levels, what form should this take? As Rotman (1990, p.6) asks ‘should rehabilitation be defined to include efforts to produce a moral change in offenders, or should it rather be confined to the acquisition of the capacity to abstain from future crimes?’ Without victim
awareness work the offender is not being asked to take responsibility for anything other than implementing actions that are practical and may result in their not reoffending. There is a lack of accountability for consequences. There is also a lack of understanding and appreciation of risk for there is limited information being obtained regarding who may be at risk, why and when:

‘CRC sometimes seems to be slightly more based about practical needs rather than looking at risk, and that’s kind of the feeling that’s starting to come across.’ (PO, Resettlement Team, 11 years).

The focus on practicalities diversifies the rehabilitative intent from being transformative in relation to improving social capital and addressing the root causes of their actions (e.g. poverty) to a goal of producing a responsible subject and a rational actor who has the ability to ‘self-govern, and prudently manage their risk of recidivism…the construction of the offender leaves intact the presumption that crime is an outcome of poor choice’ (Hannah-Moffat, 2005, pp.40-41). If the aim is to transform offenders in this way, then the offender is seen as being able to manage their own risk. What they require are core life skills that equate to a responsible, law abiding person. Risk here becomes a hybrid of need which is considered within the context of the transformative subject. O’Malley (2006, p.49) comments that criminal justice has increasingly interwoven risk ‘with a more traditional social and behavioural form of criminology by translating the old causes of crime into risk factors.’ Here it could be argued that the basic practices of everyday life have become the new crime risk factors, or crime facts within the CRC, which again implies that an assumptive approach is being taken in regard to risk of serious harm and it not being the remit of a CRC.

For some participants the worksheets illustrated a lack of interest and knowledge regarding what probation work needs and involves:

‘They might not really understand necessarily how adaptable we have to be.’ (PSO, Rehabilitation Team, 12 years).

‘I think it would be good for them to go round and perhaps sit in on some of the appointments that we have, to identify some of the frustrations that sometimes we have, to look at MSRP in practice, actually really look at it.’ (PSO, Rehabilitation Team, 10 years).

In terms of the rationale for their implementation a message had clearly been conveyed by the CRC that there was not enough probation officer work taking place and that practitioners were not
engaged with constructive interventions, instead they were having ad hoc conversations with their offenders that had no impact upon their offending:

‘The CEO he’d heard someone chatting... he said he used to hear people chatting instead of probation officer-ing.’ (PO, Rehabilitation Team, 18 years).

Such comments have impacted upon the practitioners’ experience, sense of identity and value as an employee. Ironically those working with the toolkit felt that it had dumbed down their work, with one going so far as to say that it is not something that is even probation-centric, it provides a service that is accessible elsewhere just like a job centre:

‘Well, this is kind of like something in the community that anyone can go to anyway, so it’s not specifically contracted to probation, so really it’s almost like CRC expect you do these worksheets, so I think their view is you’ve given those people the tools to go and find housing for themselves, it’s now up to that individual. ..I’m sure that’s how CRC see it... What would be the point of having a 24-month order if you’re just going to do a few worksheets with someone and that’s going to be that.’ (PSO, Rehabilitation Team, 11 years).

This is an important point because it negates the need for external agencies to become involved and for innovation to occur with the local, despite TR being based upon the premise that CRCs would utilise specialist services: ‘it was assumed and expected that in their day-to-day work, CRCs would work with a diverse range of local sub-providers, coming largely from the third sector, to provide specialist rehabilitation services in a timely way and meet the diverse needs of all those under probation supervision’ (HM Inspectorate Probation, 2018, p.7). However, within this CRC (and potentially others) interventions become signposts and instructions on how to access services thus all work is done in house and costs are kept to a minimum (see HM Inspectorate Probation Supply Chain, 2018). The TR agenda from the outset espoused the need to use a variety of local agencies from all sectors when addressing offending behaviours. TR was to open up the field and expand the provisions received by offenders. However, the fears of those who opposed the transformation have been realised. CRCs work within a climate of losses and gains and currently the former. Consequently, buying in resources is replaced with offender responsibilisation. Innovation becomes the providing of information. Probation has a long history of multi-agency working since its inception, acknowledging the need for expertise when working with diverse and complex thoughts and behaviours but when such agencies comes with a price tag their usefulness is negated by their cost. TR was intended to increase collaboration and provide opportunities to deliver interventions and support by using both probation and the third sector’s knowledge. However, here there is a
clear distinction between them. If offenders require services outside of the CRCs remit or capabilities, they are to access them themselves which not only hinders the offender’s rehabilitation but also the ability of the CRC to have a thorough knowledge of the offender’s circumstances. Additionally, by negating the importance and use of other agencies the CRC is also more able to transfer and implement their previous work practices, which do not require a wealth of qualified or experienced staff. If CRCs lose their probation-centric approach and become a service that anyone can do (arguably this has already been demonstrated through TR) its legitimacy as a probation agency is severely compromised as are the practitioners that work within them. Their skills and experience will inevitably diminish and become lost. As one practitioner commented:

‘Unfortunately, I’ve flicked through some of them and thought, this is frankly insulting.’ (PSO, Rehabilitation Team, 19 years).

However, for one participant this approach, where practical needs are the priority, is seen as a return to traditional values:

‘I think it’s going a bit more towards the befriending way, I think, and the supporting and the helping route, I think, rather than punishment, I think. That’s the feeling I’ve got.’(PSO, resettlement, 18 months).

The relative newness of this participant may reflect the observations made by Robinson et al (2015) in relation to the types of careerists within probation. This participant could be viewed as an ‘offender manager’ who is more malleable and conducive to changes.

The omission of risk within the toolkit could be viewed as the oversimplification of offenders and their protective risk factors, for example home, cleaning and budgeting which are included in the toolkit. For most practitioners this has been at the expense of other offending behaviour interventions:

‘There is no anger management. No anxiety management. Both closely linked to offending. I’ve spoken to somebody in...higher up in CRC who said, well, that’s for mental health services. They don’t do it...On the basis of what I’ve seen it’s insufficient to address risk.’ (Agency Probation Officer and former Social Worker, Rehabilitation Team, 15 months).

The provision of mental health services is of course not part of probation’s remit but the appreciation and understanding of it is if appropriate referrals and partnership working is to take
place. There is a danger that privatisation has resulted in an insular approach towards offenders and risks where the completion of work agreed within contracts is the overriding goal. This does not promote a holistic approach but further refines and reduces criminogenic factors at the expense of welfare needs and an accurate picture of the offender. This could also be considered within the transformative risk subject (Hannah-Moffat, 2005, p.34) where only the risks deemed manageable are recognised. The welfare need is transformed into non-criminogenic and non-manageable problems that do not need addressing. It also promotes noncompliance by making core work abstract and remote to the offender:

‘...some of them are just completely inappropriate. There was one in the finance section, which is good, you know, all budgeting and that kind of thing, but there was a whole session on how to budget effectively, for example, a second mortgage [pause]. And I’d say ninety per cent of the people we work with don’t even have [pause] a first mortgage or somewhere to live in the first place and it’s just you would never do with that someone.’ (PSO, Rehabilitation Team, 4 and a half years).

Such an example does suggest a lack of CRC knowledge of the ‘client base’ or an unwillingness to change its previous practice to that of probations. More importantly it also highlights a lack of responsivity, which is considered a core component for successful interventions. Responsivity relates to the matching of learning styles and abilities of offenders and an understanding of their social background and status (Robinson and Crow, 2009). As one participant stated:

‘We’ve looked at the person in front of us and worked with what we’ve got. Whereas now they seem to want to hit the targets and the boxes, rather than have any concept of who’s in front of us.’(PSO, Resettlement, 18 years).

These worksheets and routeways do address the everyday lives of the offender but in a way that is not relatable to them. The freedom accorded to CRCs to innovate and engage with offenders in a new and meaningful way has in fact permitted them to implement strategic exercises that neither address risk nor promote social capital by addressing societal and economic factors (Burke and Collett, 2015). Probation cannot be expected to resolve deep rooted social problems, such as lack of social housing but nonetheless these are factors that arguably need to be addressed and in recent years probation has seen relationships with hostels (now for NPS cases only) and housing associations decline, with criminogenic needs taking priority (see Jordan, 2003). TR presented an opportunity for CRCs to re-engage with the local and use the third sector to assist with these important areas of the offenders’ lives, but there is no evidence from the participants that this is taking place in any real way, internally or externally.
The participants were not just concerned by the toolkit’s perceived inadequacies but also its impact on their relationship with the offender:

‘So ignoring the fact that it might be a heroin misuser who can barely get out of bed, you’ve given them those tools so it’s up to them now to go and find themselves housing. I’m sure that’s how CRC see it’. (PO, Resettlement Team, 11 years).

Here the ‘My’ of MSRP is evident. There is an emphasis on the offender taking responsibility, however, to achieve and promote an offender’s capacity and motivation to change (not reoffend) the work used to accomplish this must be meaningful for both them and for rehabilitation (Vanstone 2004). It has to be individualised because offending needs and solutions are not homogenous (Garland 1997; Feeley and Simon 2002). The need for empathy and understanding of the offender is integral to the attainment of positive changes (Burnett, 2004; Robinson, 2005) and rehabilitation and desistance from offending is reliant on there being a good relationship between the practitioner and the offender. Research has shown that the demands by a supervisor are only deemed legitimate when they are the practical manifestations of the requirements of a legitimate court order (Beetham, 1991). Good quality supervisory relationships are respectful, reliable and communicate genuine care (Appleton 2010; Rex, 1999). Here that relationship is compromised as the worksheets lack empathy, which is integral to building a rapport. The empathy is not about agreement or collusion but being able to see the world from another’s viewpoint to understand the behaviours and reasons behind them (Egan, 2002). The toolkit does not promote an understanding of the offender in a real sense exacerbated by potentially basic, cursory initial assessments geared towards the selection of worksheets:

‘There seems to be this perception that if you sort out someone’s debt, sort out someone’s accommodation...And sort out their employment, they'll magically stop offending, which might be the case for some people, but for some people actually it's those deep-rooted...it’s that thinking and behaviour and that will...’(PSO, Rehabilitation Team, 4 years).

‘I mean, on addiction, most of the addiction work we do, for example, is around alcohol and drugs. And their exercise is on food and being addicted to food. And it’s completely irrelevant. And they do feel slightly patronised by it.’ (PSO, Resettlement Team, 7 years).

Upon further scrutiny it is apparent that these new interventions are also to be undertaken as group activities, which can be counted as hours for specified activities. These Rehabilitation Activity Requirements (RARs) were implemented through the offender Rehabilitation Act 2014 and whilst
the court determines how many hours should be completed the CRC determines what activities are used, in theory providing them with greater flexibility to innovate (Fox and Marsh, 2016). The National Audit Office (MOJ, April 2016) reported that is the completion of these RARs that CRCs are primarily paid for. However, when there is such a need for group work the setting and appropriateness of the toolkit are both causes for concern for some participants and could again be evidence of a lack of knowledge of the nature of the work undertaken in probation by the CRC:

‘A lot of those exercises, if you look at the planned sheets, that you’re supposed to print off, are mainly for groups rather than individual works. And there’s a lot in there, and I think with some of them, they’re quite sensitive cases. And you’re trying to rehabilitate somebody, and you could be opening up a whole can of worms, when you’re talking about addictions, background, lifestyles, and we’re not trained counsellors.’(PSO, Rehabilitation Team, 5 years).

A Rehabilitation Devolution

Chapter Three has demonstrated that probation has gone through many changes and that throughout these practitioners have for the most part maintained their professional habitus and retained the desire to facilitate change within offenders and many of the participants expressed a desire to continue working with offenders in the ‘old way’:

‘Yes, I’m just going with my own…I’ll make my own worksheet on the computer and print it off and take it in with me.’ (PSO, Rehabilitation team, 4 years).

One participant commented that they were using both practices (the old and new), reflecting the observations made by Bourdieu (1977) in relation to habitus and field where new cultures are absorbed through the lens of the old altering their original intention:

‘to be honest I think I’m doing a lot of the stuff in it but I’m not strictly like using it...I'm still kind of joining up how I've been working with how we’re meant to be working.’(PSO, Resettlement, 18 months).

However, the capacity for this to continue is limited by the implementation of new IT systems and assessment tools whereby the interventions and sentence plans are designed by the tools themselves. The completion of these are mandatory and will inevitably become increasingly scrutinised to the extent that any deviation is apparent and called into question. The rehabilitative
intent of the work will therefore be purely governed by the CRC. The toolkit, coupled with the new team structures and initial assessments, have the propensity to encourage practitioners to become extractors of prescribed information and strategic data inputters of their completion:

‘I will be getting them in, like the minimum, sort of, 20 minutes and trying to do it with them almost as quickly as possible because I don’t have the time to sit down and analyse.’ (PSO, Rehabilitation Team, 1 year).

Again, this participant is not a long serving member of staff and could be classed as an ‘offender manager’ (Robinson et al, 2015). Rationalities and mentalities such as this suggest that not only is there an encroachment of NPM (cost effectiveness and procurement of money through targets) on rehabilitation but an administrative criminological approach where the new penology exists (Feeley and Simon, 1992, 1994). It also suggests a lack of desire by some practitioners to continue to work with offenders in the ‘probation way’ or that some staff may not know what the old way was. This detachment may result in practitioners no longer aiming or wanting to work with an offender and to use the information obtained to ensure that supervision is meaningful and individual. The potential loss of probation culture was something that Mawby and Worrall (2013, p.154) foresaw. They commented that the dismantling of probation under TR could loosen the ties that have kept probation together and to probation workers to what was an ‘honourable’ profession. The result is that probation workers lose commitment to the core values of working with offenders to reduce their crime. Such repercussions are counterproductive because whilst they allow for TR to occur and for CRCs to impose their own agenda it eventually culminates in a loss of professional experience, knowledge and values. The work is no longer transformative, it is generalised (see Deering, 2011). The reduction of practitioners’ knowledge and expertise could suggest a deliberate and conscious decision by the CRC to deskill practitioners reducing them to deskilled ‘automatons’ (Baverman, 1974 cited in Littler and Salaman, 1982)). Here practitioners obtain data and perform tasks without being aware of the big picture and may become unable to critically analyse their practice or the information they receive. The collation of data can also be considered in governmentality terms where practices do not bear down on individuals or specific groups but ‘work impersonally through the collection of data and the calculation of the efficient ways of managing collective risks’ (Valverde, 2017). Here the risks are not those posed by individuals or groups of offenders but comprise of risks to fiscal needs and priorities.

TR was heralded as an opportunity for CRCs to be ‘liberated’ and to introduce innovative ways of working with offenders but the interventions within this research appear to be a scaling back of
previous tools, such as Targets for Effective Change, rebranded as a new model of working. The lack of innovation was prevalent in an HMI Probation report:

‘Government hoped to see substantial amounts of innovation—new ways of turning people’s lives around and, hopefully, reducing reoffending. You will know from our reports that we have not seen very much innovation in the way in which service users are progressing through probation. We do not see a wealth of new interventions; indeed, we see a bit of a dearth of tried and tested interventions.’ (Stacey, Justice Select Committee Oral Hearing, 21st March 2017).

The innovation was to include the local (voluntary sectors) which was not evident within this research. Instead there was almost sole reliance on the MSRP demonstrating not only a lack of innovation but an extension of neo-liberal reforms. Robinson (2013) notes that creativity and innovation require piloting. The contractual constraints of the CRCs and fiscal priorities have no doubt impeded if not prevented these occurring. The MSRP was implemented seemingly without a trial. Innovation requires risk taking and CRCs are in no position to take risks when they are operating in a non-profit and payment by results climate and any innovation from practitioners on the ground is curtailed as is their discretion (Robinson, 2013). Fundamentally a NPM approach incentivises the providers to pursue short term performance outcomes and holds them accountable to standardised performance metrics thereby incentivising ‘isomorphism and constrains organisations’ capacities to develop innovative alternatives’ (Halushka, 2016, p.4). Massey and Johnston-Miller (2016, p.665) characterise the process of public governance as being interactions that are ‘game like, rooted in trust and regulated by the rules of the game negotiated and agreed by network participants’. They highlight the significant autonomy within the networks who are not accountable to the state but are self-organising and steered by the state. Here there was an implicit agreement and trust that TR would achieve innovation and new ways of working, however the contracts themselves are what have guided the development of working models. The autonomy has arguably been impeded by monetary goals and constraints. For Massey and Johnston-Miller (2016), social innovation through public governance is not a new mode of governance, rather it is a continuum representing the relationship between the state, market and civil society along a neo-liberal path. In the case of TR the proliferation of the market has simply pushed probation further along the neo-liberal trajectory, with little substantive signs of social innovation and civil society playing even less of a role.

McCulloch and McNeill (2007, p.232) consider the notion of rehabilitation within a context of Liquid Modernity. Here rehabilitation becomes a tool to construct new commodities where those being
supervised are no longer the beneficiaries of services ‘but rebranded as an object of risk-reducing intervention.’ Furthermore, O’Malley (1998) contends that there is a risk paradigm within criminal justice which has led to ‘policies concerned with risk detection and management... Individuals are viewed as bearers of risk, potential agents of harm or hazards’ (Ward and Maruna, 2007). Now offenders are arguably cash bearing commodities and have become constructs to attain payment through meeting targets in an evidentiary and efficient manner. The risks that they bear are now associated with non-completions and losses and it is these that are being managed through leniency and a reticence to breach.

Accredited Programmes

In addition to the MSRP toolkit the CRC delivers accredited programmes which are a court directed, mandatory part of a community sentence. However, accredited programmes can be recommended by CRCs when applying for additional licence conditions. Post TR, accredited programmes generate income. CRCs are paid an additional sum of money for each person that undertakes one. The incentive here could be interpreted as an attempt by NOMs to ensure that offenders are in receipt of effective behavioural programmes to reduce their offending. Morgan (2003) noted that after their adoption a ‘programme fetishism’ took place, with a lack of concern for the individual. Now, this fetishism has been incentivised. The programmes were generated during the What Works initiative (aimed at addressing the nothing works pessimism) and allowed probation to demonstrate its effectiveness (Canton and Dominey, 2017) and this is still the case for CRCs. There have been criticisms levied at these programmes for their adoption of a one size fits all approach. However, the basis upon which they were developed is also questionable, with little or no consideration given to ethnic minorities and woman. They are based upon the experiences of young white men and yet they continue to remain the mainstay of probation work ‘effectiveness’ (Canton and Dominey, 2017).

With a price tag attached there is inevitably a drive by CRCs to increase the number of accredited programmes on licences:

‘Accredited programmes are cash linked. Well, we’ve been told that we have to have a programme attached to a licence now.’ (PSO, IOM, 3 years).

As with the MSRP worksheets practitioners are now directed to apply for these licence conditions as a matter of course and again justify why when they do not. This is another example of a loss of
professional discretion and of monetary targets dictating the ways in which the practitioners work and the offenders are supervised, adding additional administrative pressures, processes and obstacles:

‘But it does seem that the managers are put under pressure to justify why a case hasn’t been referred, which then puts us under target. And there have been all sorts of to-ing and fro-ing between programmes’ teams managers, our managers - because we’re referring people that we don’t think are suitable, and then the programme team meeting, they don’t think they’re suitable, and there’s all this sort of argument, can you take the conditions off? And you kind of feel that distracts from the work I want to be doing, which is managing people’s risk from helping them, because I’ve got to spend half an hour, a day at least, justifying little decisions and doing the admin-y side of telling everyone that it’s happening, what I’m doing.’(PO, Resettlement Team, 5 and a half years).

The inappropriateness of referrals is a cause for concern. Research suggests that offenders need to be ‘ready’ for the intervention/programme both in terms of their motivation and their ability (Miller and Rollnick 2002). Risk also requires targeting of resources appropriately and on an individual basis, as the participant continued to illustrate:

‘whilst it’s always been an option, it’s never been kind of forced upon us; whereas now, there’s a real sort of, we have to justify why we’re not going through an accredited programme. And for me, as a practitioner, based on one or two video links or one or two face-to-face meetings in a prison, you can’t judge if someone’s suitable for a programme. They might tick the static control sort of boxes, but in terms of like their dynamic, how are they going to actually act in the community? What are they coming out to? Are they in a position of chaos effectively? Are they really want to sit and do a thinking skills course at that exact moment? Whereas, I would like to think, they could come out. I could meet them. They could settle down for a couple of months. Then I could do the referral at that point, but I know it’s a...again, this is where the whole target side of things come in. I know there’s a target. We have to email a colleague at the end of each week to say who came out and what accredited programmes were part of their licence? And you’re kind of like, I should be trusted to make the right decision. And it shouldn’t...if it’s someone suitable I will refer them.’(PO, Resettlement Team, 5 and a half years).

The issue of trust is a common feature of the practitioner experience with some feeling that their ability to exercise professional judgement is being eroded due to financial priorities. They are no longer trusted to carry out their role because this may place key payments in jeopardy. The enforcement and policing of non-referrals when there is inadequate information to hand signifies a lack of rehabilitative intent – the purpose of the referral is no longer grounded in effectiveness and suitability (what works) with the aim of reducing re-offending, often to the detriment of the offender:
'I had a chap come out, a really chaotic drug user, and to add to his woes, he wants to be in Swale, but because of where he was when he offended, he’s down to Medway. So, he’s registered with a GP in S***e, he’s signed on for benefits in S***e. And he’s in B&B in M***y, and he’s seeing me in M***y. So, he’s halfway between the two, and we’re sort of paying travel warrants every two seconds, and the manager is saying, put him on a programme condition. And he’s not suitable...trying to ask what the criteria are for these programmes now, is quite interesting. It used to be over scores and other things, and number of violent offences, and that’s been paired down, and basically if it moves, we put it on a programme.’(PSO, Resettlement, 18 years).

It is apparent that, when analysing practitioners’ experiences and understanding of interventions within the CRC there is a general acceptance that the rehabilitative intent has been compromised through TR. Prior to TR, the transformative element of probation was seen to be taking place by accredited programmes and individual supervision (Vanstone 2004). With the wholesale use of accredited programmes and a potentially inappropriate toolkit that prescribes the content of supervision there is a reduced capacity for transformative work to occur (Brownlee, 1998). Interventions are now developed for expediency and audit rationales and there is evidence that practitioners are having to adapt to these, some willingly most unwillingly, due to a loss of professional judgment and discretion. The implementation of contracts, payments by results and payments for attaining targets results in a culture where work is driven by external factors that ultimately determine the success or failure of a private company, moving probation away from an offender-centric approach. As Nick Park (NAPO) stated:

‘Sometimes, the kinds of metrics that our members are given drive a very bureaucratic approach. We want to see them using the skills and expertise of their staff to help people with multiple needs to address the issues that they face, rather than just making sure that they have met them three times over a two-month period, for example. We need to make sure that we have the right drivers for the right kind of change in the system.’ (Justice Committee Oral Review: Transforming Rehabilitation, 21st March 2017).

When the drivers for business are payments that are not reliant on reducing CRCs can opt to make up their deficits, or try to avoid one, by changing their delivery goals:

‘When you have payment mechanisms that incentivise certain things, the organisations engaged in them are bound to think about how they deliver their service. If one of the incentives is successful completion of post-release supervision, you might encourage the non-reporting of minor breaches, in order to keep the figures up and get the payment at the end’. (Senior, Justice Committee Oral Review: Transforming Rehabilitation, 28th March 2017).
Summary

This chapter has discussed the key changes that have taken place within a CRC since it commenced ownership and demonstrates that the majority of the participants within this research felt that privatisation had led to new mentalities and rationalities within the CRC. There is a feeling that the CRC works through a lens of profit and fines rather than a lens of risk and rehabilitation in order to secure profit. At a Justice Committee Dame Stacey (HMI Probation) acknowledged that inspections had shown that TR:

‘was a very significant cultural challenge and change for probation. It is a caring profession, not dissimilar to social work, teaching and nursing, yet this wholesale move to fragment the service and to give it a commercial edge has been enormously difficult... Probation is not readily engineered. It is not readily put into models of risk and so on.’ (Stacey, Justice Committee Oral evidence: Transforming Rehabilitation 21st March 2017).

Research by Weaver and Armstrong (2011) highlights the importance of the climate that offenders are supervised within: ‘For some people a benefit of being on probation, then was that the ‘existence’ of the probation order itself seemed to create a supportive, protective structure, a positively experienced constraint on their behaviour’ (2011, p.16). This chapter has illustrated that these factors are being negated. Offenders have lost these constraints in various ways: through the adoption of a more lenient approach to enforcement; the adoption of work that it is not viewed as being useful or positive for the offender and supervision that is fragmented. Bottoms (2001) argues that compliance and enforcement need to encompass legitimacy in the eyes of the offender and that it is this that can lead to a normative compliance that will include a genuine, sustained change in behaviour. Now probation practices are being undertaken within a new agenda, one that secures payments rather than compliance and thus there is the potential for a lack of engagement and compliance due to a loss of legitimacy.

Feeley and Simon’s (2002) work contends that the emergence of risk-based strategies superseded the individual ‘treatment’ approach in a cost-effective manner and that risk decisions are based upon the statistical aggregate or the dangerous. TR has taken this to the next level. Feeley and Simon (1992) also discuss how the New Penology has resulted in a form of administrative criminology that warehouses offenders by virtue of their offences and risks. Consequently, the welfare needs are superseded by criminogenic factors. With the advent of MSRP offender needs have arguably been further reduced to basic practical skills aimed at empowering offenders to take ownership of their own offending behaviours. However, they lack consideration of the offender’s
thoughts and beliefs and thus are construed by the practitioners as being superficial and lacking consequential work, such as victim awareness. The CRC has potentially adopted a one size fits all approach furthering the aggregation of offenders (Feeley and Simon 2002).

This chapter has also highlighted a paucity of risk (serious harm) within the CRC’s rhetoric and interventions. Such a lack of risk ‘talk’ contrasts with probation practice prior to TR where risk was a dominant feature of working practices (Beck, 1992; Bullock, 2011). When considering Lupton’s (1999) cultural approach to risk the CRCs may well be indoctrinating a new risk rhetoric governed by a new probation culture. It is therefore important to consider the impact that these changes have had upon both the practitioner and offender experience.
Chapter Seven: The CRC Experience – Practitioners and Offenders

The previous chapter has already highlighted some of the ways that the participants feel about the changes that have occurred from TR and how CRC changes have affected their work. It is evident that some have endeavoured to maintain their own working practices and this raises the important question of practitioner identity within a CRC and how this affects their practices. Prior research has suggested that there are culture carriers within probation (Mawby and Worall, 2013; Clare, 2015) and there is some evidence within the research that this is still the case, but the ability for practitioners to continue to do so is not a given. In addition to this the new ways of have impacted upon the relationship between practitioners and offenders. This chapter will therefore consider the impact that TR and the CRC has had upon the practitioner and offender experience.

The Practitioner Experience -Identity, Resistance and Professional agency

Participants were asked what the role or ‘mantra’ of the CRC is and none of them could provide a clear answer:

‘There probably is an official one, I don’t know whether it is on the letters or it is probably on the website and I probably should know it, but I don’t [laugh] [pause]. It’s something along the lines of transforming lives through something else; through the way you work with them and that kind of thing. I’m going to look it up later now, because that is going to bug me [laugh’](PSO, Rehabilitation Team, 4 and a half years).

For this participant there is a lack of willingness and need to know how the CRC describes or sells itself. A study by Robinson and Burnett in 2007 found practitioners to be ‘confused and fatigued’ by poorly managed change, exacerbated by uncertainty for the future, having been subjected to continuous change since 2001 (2007, p.318). TR is an extension and arguably the climax of these changes and may contribute to a reticence by practitioners to find out about or acknowledge the current changes. For some participants there was a clear distinction to be made both about their role within the CRC and how the CRC should be perceived by others. For them they continued to be probation and TR had resulted in a need for them to make this explicit:

‘We are probation. We used to be probation. I’m a qualified probation officer. Everyone round me is also...we’re not new in. We’ve all been in...sort of having to justify that we’re not some private company with people that don’t know what they’re doing.
We’re people that, depending on where you were at the time, could have been working for NPS now.’ (PO, Resettlement Team, 5 and a half years).

For some participants the CRC purported to having the same ethos and goals as probation prior to TR but there was a sense that the reality was different, that there is a disparity between what they are branding themselves as and what they are actually doing:

‘Well we went from an advise, assist and befriend to public protection and reducing risk of re-offending. I think the CRC would probably say that it’s the same. But, in practice, it’s meet the targets, and hit the money things. Whereas, I think we should be reducing re-offending and protecting the public.’ (PO, Assessment Team, 24 years).

Probation workers have a history of holding onto core probation values and with habitus comes the potential for practice to ineluctably lag behind the changes, with a compromise attained (Deering, 2011). The preservation of a probation culture ‘can also work to promote professional pride and standards that are more deeply rooted than the performance measures of NPM’ (Faulkner and Burnett, 2012, p.175). However, the processes discussed within the previous chapter illustrate that it is becoming increasingly difficult to do this, as practitioners’ capacity to work in the old ways and not adhere and conform to CRC practices is becoming increasingly limited. As such the ability and desire to undertake work such as the MSRP whilst still promoting rehabilitation and maintaining previous practitioner identity has been undermined. As Robinson (2013, p.96) notes the practitioners who remain with the CRC will ‘forge a stronger identification, distinguishing their new roles and identities from probation through co-creating narratives with other employees from non-probation backgrounds.’ Hardy (2014) discusses how the ‘why’ of governing is an important question. The ways in which practitioners perceive their roles and objectives will dictate how they undertake their roles and within this context the CRC view offenders as rational agents that must undertake designated work that allow the CRC to meet their needs (targets and payment). The ‘why’ becomes profit and the objective sought distinct from rehabilitation and risk management (Parton, 1998).

Resistance to the CRC approach and a need to maintain probation values was not universal, with one participant welcoming of the CRC and no longer identifying them self with probation:

‘I see myself more as a citizen, right, than a probation worker really. It’s why I supported the change, the takeover... I’m a union member, my whole lifetime as a union member and I walked through the picket line, and I was challenged, oh, blimey, you’ve gone over to the dark side. And no, I said, I think this organisation needs to be really overhauled, that’s what I think, and it won’t happen if we don’t get taken over by someone else.’ (PSO, Rehabilitation Team, 11 years).

For this participant, who had been in probation for a long period of time, there was a genuine need
for TR. Probation in their eyes was not working and could not be changed and improved from the inside. A revolution was required and there was a sense of inevitability that this could only be done through privatisation and if it was not this CRC it would be another. However, others still showed apprehension and disagreement with the commodification:

‘At the end of the day we’re dealing with people with complex issues, complex lives, chaotic lifestyles, drugs, alcohol, relationships. I can’t see how you can make money out of that. If they happen to get on and move on and make good, they’ve done it for themselves and I’m glad. Yes, it will reduce the cost or the burden to society in terms of their offending, but it’s not a case to make money from. So in that respect yes, it’s sort of soured a little bit.’(PSO, Rehabilitation Team, 10 years).

The ‘souring’ of probation under TR demonstrates a change in attitude by practitioners regarding the work that they are doing (its purpose) and their role within CRC; there is resistance to the bureaucracy and principles of payment for work that was previously undertaken with a more humanitarian (public sector) approach. For this participant there is an ethical dimension to the work that has been compromised, but there is also a resolve to continue to make a difference in spite of everything, a notion shared by others:

‘I almost feel as if CRC have come in and almost tried to make it, like, a money organisation, a profit organisation and it doesn’t matter what you’ve been told, it’s almost, like, a square peg in a round hall. You will make it work, it will work and nothing.’(PO, Assessment Team, 24 years).

Such sentiment regarding the incompatibility of the two was expressed by the President of the Probation Institute, Sue Hall (2015, p.325), who stated that the TR reforms are ‘likely to pose substantial challenges to professional integrity and identity in the future’ purporting that TR was not about transforming probation but about transforming the public sector. The incompatibility suggests that for the CRCs to succeed there needs to be a change and overhaul of the intent not just of the organisation but of those working within it, further jeopardising the maintenance of a probation habitus. However, many participants continued to practice in a manner that they saw as morally right:

‘My main duties are to change offenders, CRC’s view, is our main duty is to hit targets... Certainly not as bad as I thought it was going to be, going privatised. I was outraged at the thought of it being privatised. I still think it was a really, really, really stupid idea to split something up in two like that, because it’s just made layers of expensive bureaucracy that were completely unnecessary. And made years of mucking about, hours and hours of work and mucking about and, where the people that really matter have just dropped through the cracks because of all of that. But it’s not been as, you
know, I still feel like I’m, morally I still feel like I’m doing the job that I trained for and wanted to do’. (PO, Rehabilitation Team, 18 years).

One caveat to this approach, of doing what is morally right and instilled within them, is an unwillingness to do it through heroic efforts. Their sacrifices should not profit the CRC:

‘I don’t think I do anything massively different to what I was doing two or three years ago really... I think people are more...you’re willing to do it for the public sector but actually it’s like no I’m not going to do unpaid overtime for a private company.’ (PSO, Rehabilitation, 12 years).

Both of these participants are long serving probation workers and comments such as these show a shift in culture, a move from the philanthropic to profit and such a mentality is inculcated into practitioners by the CRC itself by its stringent focus on targets and money, so it unsurprising that this will not only affect how practitioners work but also why they work. They now work to create profit and so any efforts outside of their contracted hours now benefit the company and not the offender or the public.

De-skilling of Practitioners

The new regimented, prescribed ways of working have been shown to have the potential to erode and compromise practitioner’s professional judgments and decision making, resulting in them feeling deskilled and there is supporting evidence within this research that this has occurred. Such instances were seen across the spectrum. The separation from NPS was clearly a change that caused many to feel insulted because they are no longer deemed capable of supervising and managing high risk (of serious harm) cases, which they may well have done before. The risk escalation process (referral to NPS) was one such source of contention:

‘I’m sitting there going, it’s not going to be acceptable at the moment. I feel I can manage the case. So that is a frustrating process all round.’(PO, Resettlement Team, 5 and a half years).

‘A risk that I was considered, personally, that I was personally considered completely capable of dealing with a year ago suddenly is a risk that I have to go no, can’t possibly deal with that.’(PO, Rehabilitation Team, 18 years).

Participants expressed concern that their ability to work with such offenders would result in them losing fundamental skills and knowledge. Post TR only the NPS can complete Pre-Sentence Reports
and for one participant this loss of practice made them feel that their ability to be a good PO had been compromised:

‘I’m in a slightly weird situation where I write presentence reports through an agency, so in my actual role I can’t write presentence reports but through the agency I can write presentence reports, which is a slightly weird situation. So I feel I can still keep my hand in by doing that.’(PO, Rehabilitation Team, 14 years).

A need to ‘keep my hand in’ demonstrates that the practitioner does not wish to become distinct from the NPS and that their professional status is dependent upon being able to do the work that they used to. It also suggests the emergence of a NPS hierarchy, discussed within chapter nine.

The division of the CRC into separate teams has also caused some participants to feel that the range of work undertaken and the range of skills that they are practicing have become too limited:

‘I don’t want to lose that ability to analyse somebody’s risk and manage that, that’s really scary to think that you trained and did all of that hard work and had those cases for six, seven years and worked with them to then just write that all off.’ (Probation Officer, Assessment Team, 6 years).

‘It’s breaking into the different departments it’s felt a little bit deskilling from my point of view because whereas you would have had experience of resettlement cases as well and prisons and licences, et cetera, et cetera, and I now feel limited in that rehabilitation.’(PSO, Rehabilitation Team, 19 years).

If practitioners are feeling deskilled this could lead to a reticence to employ the former skills that they exercised and limit not only their capacity to use their training but also limit their confidence. This is concerning given that some of the participants viewed the new CRC directed activities as inadequate and needed additional work to take place instead of or alongside them, therefore the rationalities and mentalities of practitioners are integral if interventions are to be meaningful and effective. The previous chapter has noted the potential for initial risk assessments to become cursory, especially in relation to risk of serious harm. Ballucci (2008, p.175) states that ‘contrary to the belief that risk tools remove the subjective nature of the...process, such practices not only still exist but are necessary for risk tools to operate’. Here the knowledge and understanding of risk is integral to risk assessments, the subjective nature needs to be grounded in a homogeneous probation risk concept and arguably the new practices highlighted have hindered the application of this knowledge as well as the capacity to think in this way. Once an initial assessment is completed practitioners may not feel confident or able to amend the initial assessment provided and this will only be exacerbated if practitioners are constructing themselves as incomplete PO’s, through a loss
of core skills. Furthermore, if practitioners are not exercising their risk knowledge and skills their ability to assess it may become compromised resulting in the potential for risk escalations to be missed. Conversely, if risks are not understood unwarranted escalations may occur culminating in false positives. A working knowledge of this area is vital if risk is to be managed accurately and effectively and the advent of the implementation of the CRC designed assessment tool may well further compound this:

‘When we go to the new system, I’m going to lose even more probation officer skills which are going to make it even more difficult to go to NPS, so that was my concern about changing the computer system. I totally agree, nDelius is a nightmare, and OASys is a bit longwinded to get to the point you want to get to, but I’d worry about losing them because then I’ve lost that skill in the end, I will forget how to do it. So that was one of my major concerns, that’s why I’ve decided to leave now because then at least I won’t lose these skills.’ (PO, Resettlement, 11 years).

Currently NPS and CRCs use nDelius as the means of logging and managing case information. The loss of this and other key probation tools (OASys) removes CRCs from probation pre TR and the current NPS even more. In addition to this the new assessment tool includes more tick boxes and less text which is where traditionally practitioners have exercised their clinical. The more that the CRCs are separated from and distinct to NPS the more difficult it will be to maintain a probation culture and for services to be able to work together, as highlighted in the HM Inspectorate Probation Annual Review 2017 which noted a fragmented two-tier service. The practices that take place within NPS are becoming NPS specific, alienating CRCs from risk of serious harm attributes and the ways in which they are managed further hindering their ability to identify them within their own caseloads, which is often done through clinical assessments.

For one practitioner the loss of clinical judgment is not a future event:

‘There can’t be independent thought or knowledge from probation professionals within the CRC.’ (PO, Resettlement Team, 18 years).

Evidently this participant felt that their skills, knowledge and experience had been marginalised to such an extent that they were inconsequential and simply not required. Participants were asked if their clinical judgement was sought and used and whilst there were opportunities for this to occur they came with restrictions which are again bound to privatisation and a need for auditing:
‘I think with your own judgement if you can justify it then yes, but it does need to be well and truly documented.’ (PSO, Rehabilitation Team, 11 years).

Importantly it was not just administrative procedures that affected clinical decision making but also the time involved to utilise it:

‘I think generally, my clinical judgement is respected. I just think I have less time to do that role because I’m having to deal with the other little bits and as I’m the only officer I get...the PSOs will often ask me for advice which I’m happy to help. I enjoy that part of the role, but when you’ve got everything else coming in and then you’re having, oh, can you have a look through my HDC report? Can you have a look through this? It can be a bit more so my colleagues I feel respect my judgement maybe more than I’m allowed to demonstrate with the organisation.’(PO, Resettlement Team, 5 and a half years).

The role of POs in assisting PSOs will be discussed shortly but it is noteworthy that clinical judgment and experience is advocated, appreciated and sought by colleagues rather than the CRC. The reticence of CRCs to utilise this area of skill could be interpreted as another example of the CRC having a lack of knowledge of what probation does but also could demonstrate the lack of desire to maintain previous working practices when they conflict with a new agenda that is fiscally driven. Additionally, it could also be interpreted as further evidence of a risk complacency where high risk of serious harm lies solely with NPS.

The need to justify core practice and deviation from prescribed activities and processes is prominent within all areas of clinical judgment in the CRC and some participants intimated that there was a loss of trust in their abilities as well as a loss of autonomy:

‘National standards have been pared down to virtually nothing. They suggest that the practitioner can decide the level of reporting. CRC are quite risk averse, and the managers don’t like us doing anything, six weeks or more is considered wrong, whereas if you were deciding yourself you might go three months with some of the more stable people on longer licence periods, but they don’t like us doing that.’(PSO, Resettlement, 18 years).

‘I’ll do what I can - and that’s where it gets more frustrating when you’re having to lose half an hour to an hour every day saying, why have you done this? Why have you done that? It should be obvious. You’d like to think there’s that professional judgement that was really being promoted a few years ago. I feel it is now getting forgotten and everything is more, justify yourself...you used to think the manager would want to talk to you because you’ve...someone has re-offended, so how could you have improved your practice to avoid that from happening? Whereas now, there’s a lot more, oh, you haven’t completed...these three initial sentence plans were a day late, or something like that, so I suppose it does feel like that’s what they’re more pushing on.’(PO, Resettlement Team, 5 and a half years).
It could be argued that the use of clinical judgment is being eroded through a lens of performance measures, further enforcing a de-skilling sentiment amongst practitioners creating a climate of defensive rather than defensible practice (Kemshall, 1997):

‘If I have concerns about a case, I will be on the case with my manager, and probably do it via email, because everything’s all an audit trail now, as well.’ (PO, Resettlement Team, 5 and a half years).

One participant noted how undervalued they felt and that practice and supervision was no longer a concern for management, unless it related to targets. Neither the practitioner nor the offender was the focus:

‘Well I think a recognition of what we do within one to one interviews, and one to one work with offenders has some value. And some credit within the organisation. And no manager has asked me anything about what I’m doing with offenders, since the split happened. The focus of supervision, the focus of team meetings, it’s targets, targets, targets.’ (PSO, Resettlement Team, 18 years).

The CRC welcome session, for one participant, implied that there would be no distinction between PO and PSOs:

‘From a probation officer point of view there was that slightly dreading message of, you’re all going to be deemed the same level, so you kind of, as a probation officer, it’s like well, does that mean you’re not respecting the fact that I’m...you know?’ (PO, Resettlement Team, 5 and a half years).

A change of title is not new to probation with the Criminal Justice Act 2003 bringing in the Offender Management Model and the term Offender Manager however, there was still a distinction between staff and the roles and tasks completed by qualified and unqualified members of staff (determined by tiering). This CRC has chosen to remove such a distinction, which most participants attributed to budgetary constraints (lower paid staff can perform tasks previously undertaken by POs). Practitioners are now all referred to as Responsible Officers:

‘Well it’s a change that came in from the Offender Rehabilitation Act. So, it’s...yeah, we’re termed as responsible officers rather than offender managers. So, it’s more something that’s been in the legislation rather than anything else that’s been brought in.’ (PSO, IOM, 4 and a half years).

There is one distinction between the work remit of POs and PSOs and this pertains to the ‘higher’ medium risk of harm cases, the CRC’s (highest) tier fours. Here there are known child protection
issues or there is a known victim (such as with domestic abuse). The rationale for this distinction is clearly sound as they are the more complex risk cases that require a degree of knowledge and experience (Gilbert, 2013) however, prior to TR this would not have always necessitated PO supervision. The new higher risk cases are PSO appropriate in many instances prior to TR (CJA 2003, NOMS) but only when the PSO has the required training. Should the case warrant multi-agency working or attendance at Multi Agency Risk Assessment Conference (MARAC) the case would be held by a PO. Therefore, in principle the CRC approach promotes resources following risk (NOMS 2005; NOMS, 2006) but practitioners commented that the distinction is more of an idealistic principle than it is a reality:

‘Tier four are the ones that should be held by probation officers, but they’re the ones that, because there are so many of them, I’ve got four or five tier four cases, which I shouldn’t in theory hold, because they should be held by probation officers, but we’ve got two or three probation officers in our office and their caseloads are so high as it is they cannot physically hold all the other cases, so they do get filtered down.’ (PSO, Rehabilitation, 4 years).

‘But we've lost so many probation officers that PSOs are now acting up, in essence, we're fulfilling a probation officer role, there is no practical difference now. We're attending MARAC meetings, Social Services case conferences, there is actually no difference whatsoever now between what myself and my PO colleagues sitting next to me does.’ (PSO, Rehabilitation Team, 19 years).

Staffing issues appear to be the primary cause for PSOs being allocated cases where there is a need for a PO. As highlighted there is a need for practitioners to understand the meaning and significance of information and to have an awareness of potential triggers that may be significant in terms of a risk escalation. With PSOs being given such cases the need for training is imperative, but this too was identified as been lacking:

‘I find their training really quite basic. Yes, it’s not going to develop my skills at all. I don’t think there’s any training on offer that would do that.’ (PSO, Rehabilitation Team, 4 years).

‘I don’t feel that I’ve had the sufficient training, I would need to be able to assess, I’ve not had enough training either in DV or child protection to be confident in what I’m doing.’ (PSO, Rehabilitation Team, 3 years).

The lack of distinction between the roles has not only raised concerns about the level of experience on offer when dealing with complex, multi-agency cases (Edleson, 1999) but has also resulted in tensions regarding status and equity of roles:
‘There’s a lot of resentment between the PSO wage and the PO wage.’ (PSO, Rehabilitation Team, 1 year).

For POs there is a concern that they are losing their identity, no longer is it a case that only qualified officers can work with certain people, leading them to become sceptical of their future and the need for qualified officers who are more expensive to resource:

‘Roles are becoming much more blurred, and I’m not quite sure what are probation officers going to be doing in the end? What’s going to make us so different? So you kind of worry are they going to even keep this grade of probation officer?’ (PO, Resettlement, 11 years).

‘I think that’s been a fear right from the start, actually, hasn’t it? That if the CRC doesn’t have high risk cases, then why do you need to pay someone fairly significant more amounts of money with fairly significant more training and, you know, why would they pay that extra money if you’re not managing high risk cases, and the second there’s a hint of high risk, they’re whisked off from you. So I think there is a kind of constant background worry for probation officers, I don’t know, generally.’ (PO, Rehabilitation Team, 9 years).

There is evidence of resistance by some POs to the creation of Responsible Officers. For some the name is a step too far and so continue to work in and identify with the old ways to preserve their PO identity:

‘I’d still change it and put probation officer.’ (PO, Rehabilitation Team, 8 years).

‘I won’t lie, I still sign my letters probation officer. I still introduce myself as someone’s probation officer, because as far as I’m concerned, I trained hard to get that qualification, so that’s how I’m going to be referred. You know?’ (PO, Resettlement Team, 5 and a half years).

When POs are referred to as qualified staff by the CRC it is seen as being due to a need for accountability by the CRC rather than an appreciation of their knowledge:

‘CRC talk all the time about offender manager, though they made no distinguishing between POs and PSOs in the operational side. When they’re talking about risk, they do mention POs, probably ‘cause they’re wise enough to realise that in the contract they’ve got to cover themselves.’ (PSO, Resettlement Team, 18 years).

This non-distinction can be interpreted as another example of a degree of risk complacency and reluctance to focus upon factors outside of practical needs by the CRC, which can be constructed as reoffending needs rather than harm needs because risk of harm is the remit of NPS:
‘Even at the hotel meeting with CRC, when they first came in, they were talking about not really there being any difference between POs and PSOs, and we didn’t really need POs.... So that again, eliminates the need for someone more experienced to handle different risk, so maybe they’re not even viewing, or looking at risk.’ (PSO, Resettlement Team, 7 years).

Given the increased use of PSOs to undertake traditionally PO tasks and an apparent lack of support and training during this transition it was important to ascertain what understanding practitioners had of risk in a climate where it has seemingly lost prominence. When asked whether they knew the definition of risk of serious harm one PSO they simply replied ‘no’. When asked where they obtained risk knowledge they stated:

‘Training and from colleagues, in fact probably more colleagues than training.’ (PSO, Rehabilitation Team, 1 year).

This PSO had received no training since the CRC commenced ownership and had a caseload of 83 all of which were in the community. Another PSO of ten years’ experience also had no answer for a definition of risk and risk of serious harm, however they had recently been moved from the Unpaid Work team:

‘I don’t know, I’ve never been asked that question. Risk for me is just something that I need to be aware of whether it’s coming from the service user directly or it’s coming from outside of their control but that would cause them harm, would cause somebody else harm or would cause them to reoffend again. So yeah, I think for me that’s how I look at risk, working with it.’ (PSO, Rehabilitation Team, 10 years).

When working in Unpaid Work the risks are often associated with working conditions but the fact that they had been placed in a rehabilitation team and had not received any training or obtained any working understanding of risk within this setting illustrates both a lack of focus and regard for it but also further demonstrates an assumptive approach whereby practitioners may not need to know what the definitions and principles are. Such a lack of training and knowledge could result in issues regarding the administering of ‘lay’ risk knowledge. Here Kemshall (2011) notes that lay actors can result in irrational and meditating competing knowledges regarding risk, leading them to generate and administer their own risk knowledges. Risk therefore becomes bound with individual values, attitudes and perceptions rather than in knowledge and experience. Exacerbating this further are the staff shortages that have resulted in PSOs being deemed the most experienced team member after relatively short periods:

‘so I think I've got 60 to 70, maybe mid-60s, so it's just changed recently, so we haven't got a PO in our team at the moment, so I've got the current and active, the higher end
mediums, I think, yeah, my 18 months seems to have put me in the most experienced position at the moment.’ (PSO, Resettlement Team, 18 months).

The use of newer staff coupled with the lack of POs with longer periods of service and historic knowledge of probation further jeopardizes the continuance of probation culture, there simply are too few culture carriers and according to participants this is not something that the CRC is actively trying to address:

‘I’ve never seen a job advert...because I get a little bit nosy at times ... I’ve gone on the CRC website for current vacancies, and nowhere does it say, probation officer. So, if I was looking to move into the area or whatever as a qualified officer and I was to search, I wouldn’t see that there is, so...I’m being told, on one hand, that they are recruiting, but I’m not actually seeing any evidence through job adverts.’ (PO, Resettlement, 5 and a half years).

The CRC has, however, taken on social workers in lieu of POs. For some this will be a welcome move and could mark a return to the social work values that probation held dear. However, the removal of the social work qualification took place over twenty years ago and there have been a significant amount of changes to probation since this time and for the participants social workers have been a hindrance and further complicated a generic understanding and working definition of risk of serious harm:

‘They seem to be taking social workers, at the end of their social work degree, who wouldn’t know risk if they fell over it. We had a social worker on placement, they do a six-month final placement, who considered somebody was very high risk, because they had a broken window, and they’d been a previous victim of burglary’. (PSO, Resettlement Team, 18 years).

The differences in risk understanding could be attributed to social workers being trained to work predominantly with victims. Risks in relation to perpetrators of offences are different and clearly not necessarily compatible. Should such practices go unchecked there is the possibility for false positives to occur. The participants perception that the CRC is not recruiting POs may well be accurate and the reasons may well be grounded in cost:

‘One of the real reasons why some of the CRCs have gone away from the formal qualification is that it costs around £8,000 a head. The experience of some CRCs has been that, once those probation officers are trained, they are recruited by the NPS. In business terms, those organisations have trained them.... the Government decided not to specify at all what the qualifications or training of any of the practitioners or managers across the CRCs should be; so, the extent to which they continue to employ probation officers is a matter of their choice... on the CRC side, you see them struggling—trying to fund people to go through the probation officer qualification out of what we know are shrinking budgets.’ (Schofield, Justice
Such observations chime with Fitzgibbon and Lea’s (2014) concerns where they highlight the potential for PBR to lead to CRCs working with risk in a less labour intensive, cheaper fashion where the more ‘skilled, and inevitably labour intensive, traditional forms of rehabilitation through community re-integration will be beyond its capacity without massive and costly corporate re-organisation’ (2014, p.29). The adoption of the MSRP does suggest that this may be the case. The loss of POs during the TR process has left a void in professional experience and with CRCs currently working at a loss it is possible that financial constraints will not just impede but prevent a rebalancing of staff and professional knowledge, further hindering the maintenance of a probation culture and a homogeneous definition of risk of serious harm, with more non-probation employees being sought and utilised (Robinson, 2013). However, Dame Stacy from HMI Probation has recommended that this needs to be addressed:

‘We have seen the number of qualified probation staff reduce at a significant rate. Personally, I am very interested in making sure that those working in probation are professionally qualified, that their profession is respected, that they get a chance to develop and that the profession is sustained, because it is those people who will deliver probation, whatever the delivery model may be.’(Stacey, Justice Committee Oral evidence: Transforming Rehabilitation 21st March 2017).

This statement reinforces discussion within this chapter. There is a need for practitioners to not only have the capacity to work in a meaningful way with offenders, where deviation from prescribed worksheets is permitted without fear of reprisals, but to have the knowledge and time to work with the information garnered. The model/toolkit is not the rehabilitation, it is an aid. With CRCs not having any requirements regarding PO capacity in their companies there is no obligation to employ or train POs (Clare, 2015). The lack of experience within the CRCs also undermines the capacity for public governance which requires professional expertise and resources and a leadership that is committed to addressing a socio-economic problem (Massey and Johnston- Miller, 2016).

The ability for the profession to be sustained is not only impeded by logistical constraints but also by the nature of working for a private company where brand is everything. Practitioners noted that their no longer being public sector workers had culminated in a hard-lined corporate approach.
Towing the Party Line

‘Questioning the company, or questioning line managers, you’ve got to be really careful what you say.’ (PO, Resettlement Team, 11 years).

A comment such as this suggests a towing the party line approach by the CRC. The participants indicated that the CRC’s reputation was espoused as integral to its success. Therefore, when practitioners feel that the changes may not be necessary or productive they have no voice to express dissatisfaction or offer alternatives. As Halushka (2016) notes, the competitive nature of being a business results in a need for organisations to develop, instil and protect a distinct organisational brand. Research by Annison, Bradford and Grant (2015) notes the ways that a brand can aid criminal justice and how it is sold to those it works with, promoting compliance and engagement. However, here in the case of its staff the CRC has not seemingly attempted to get their new workforce to buy into the new mode of working. Its concerns seem to be external rather than internal. The CRCs were created amongst suspicion and criticism which has not abated since their commencement most notably through inspectorate reports. In order to be viable there is a need for them to not only perform but also to demonstrate legitimacy with those that they work with. This goes beyond their staff, offenders and the Ministry of Justice it extends to all criminal justice agencies and importantly the courts for it is the courts that ultimately decide on whether they are capable of carrying out and delivering the sentence that is handed down. The courts also decide whether the sentence will provide the CRCs with a profit. Annison, Bradford and Grant (2015) discuss how a brand is not just a slogan or symbol it is ‘a promise’ and a commitment to deliver and encompasses the expectations of the consumer. Therefore, the brand must be maintained so that there is no reason to doubt any of the promises made. The expectations need to be fulfilled or at the very least not questioned. To survive a CRC must be seen to be delivering the commitments made. Privatisation has also led to competition within probation with CRCs potentially vying for the same contracts. Consequently, there is a need, especially for the private sector, to brand themselves in a manner that not only promotes confidence but makes them distinct from and better than the others. Additionally, the brand must not just be promoted and maintained it must be ‘protected’. Probation as an agency has not just been commodified and made into a product so have the everyday practices that occur within it therefore any new developments or initiatives become owned materials, distinct to that CRC. The sharing of good, effective practice is not a common feature within for profit organisations.

The CRC initially shared offices with NPS staff and from the outset the CRC’s new employees were advised not to fraternise with NPS nor talk about the CRC:
'We were told in our office that whatever it is, we’re not allowed to say anything bad about it just in case NPS hear us saying it.’ (PO, Rehabilitation Team, 9 years).

Such instructions were not just viewed as merely directives but made within a climate of disciplinaries. The wariness and reticence to speak ‘out of turn’ was noted in respect of this research and potentially contributed to a smaller response rate than was anticipated:

‘...but there’s also a risk of disciplinary, it’s very real in our office as well, you hear lots of stories, and just there is this thing you could get disciplined for, that’s so different from probation, because we were always allowed to express opinions in probation, and you never got told off for it, it was just accepted, that’s how you vent, whereas here you’ve got to be really careful what you say, because if my line manager heard what I’ve been saying today, that could be potential for a disciplinary probably.’ (PO, Resettlement, 11 years).

When this is combined with the quote and discussion in the previous chapter which stated that the MSRP toolkit had been implemented because POs were ‘chatting too much’ and not probation officering there is a sense that the practitioner’s voice is being lost in all regards. When they do speak it was either ineffective (with their offenders) or had to be conducive to the goals and objectives of the CRC. One participant noted that their public comments resulted in them being issued with official guidelines and documentation concerning employee conduct:

‘Well, yeah, the culture certainly has changed, they’ve introduced a dress code, which is no T-shirts and no jeans. I’ve always tweeted quite a lot about probation, and I’ve been warned off and given a copy of the social media policy. And it was sort of a form of bullying. It hasn’t worked. I’m fairly unrepentant, and because of my background, I know the policy better than they do. So if they want to come gunning for me, then I will probably win. But, a lot of people have been culled and are more hesitant to say things. Lots of managers are saying, well we’re now in a commercial environment, lump it or get out. So, that sort of, has changed the culture, totally, yeah.’ (PSO, Resettlement Team, 18 years).

The feeling of fear within CRC workplaces was demonstrated by Kirton and Guillaume (2015, p.27) when researching probation workers attitudes to their employment conditions. In their survey 36% of 991 respondents stated that they felt more fearful at work and 31% stated that there was a culture of low trust. When considering the concept of liminality the potential for practitioners to hold on to values and be guardians (Robinson, Burke and Millings, 2016) of probation is severely compromised. Not only are practices being altered to meet modes of NPM but staff themselves have lost discretion and the capacity to deviate or modify the new methods to maintain a rehabilitative intent through ‘pragmatic adaptation’ as was previously the case (Kemshall, 2003). Resilience cannot
alter or take precedence over the new mandatory, dominant practices which take place in a climate of fear, accountability and monitoring. Private sector values must take priority in an organisation where there is a necessary compulsion to not only make a profit but to not lose money. With CRCs recently being bailed out by more government funds to ensure their continuation the CRC focus will inevitably become narrower. Kirton and Guillaume’s (2015, p.37) research also showed that 72% of POs felt that the traditional probation values were being corrupted by a profit motive.

For one participant the commercial approach taken by CRC and the then CEO seemed logical and as such accepted that they needed to adapt and work with it:

‘What he seemed to be saying was look, what you say and do is going to make a difference to whether we succeed or not, so if you complain about the business you don’t... Sorry, I’m not being very coherent. But you don’t... You know, you don’t work for a restaurant and stand in a restaurant and say the food’s shit, do you, or very soon you’re going to be out of a job because no one’s going to be coming to the restaurant.’(PO, Rehabilitation Team, 18 years).

Such a response illustrates an acceptance and understanding of how the CRC, as a business, must operate. Probation is viewed within a NPM framework. Nevertheless, there was apprehension by most participants about the working conditions they were now subject to and a belief that the CRC did not support its employees and had no interest in learning from or working with them.

Offenders/Service Users

Whilst this research does not include interviews with offenders the participants were asked their views on how TR and the CRC had affected them. The most significant change noted was the terminology used to address them. The CRC decided from the outset that they were no longer to be referred to as offenders instead they are service users. The reaction of the participants to this was mainly one of disapproval. The rationale for this change was provided by one participant:

‘Yeah, I would say service user. It was a real conscious change though. I mean it’s...it was the argument of labelling people. You know, would you label them an offender and are they...you know, would they be happy being called an offender, but then we’ve been told to use service user, or advised to use service user, when we’ve got the Offender Rehabilitation Act and the, you know, Prolific and Priority Offenders. So, it’s still being used but that’s how I would say, you know, service user. I can understand it’s much more respectful. So, it says service user in them, but like a couple of the old forms, you know, that we still use from pre-privatisation still say something like, offender signature, you know, when they sign a form, but...and a couple of them actually...you know, a couple of my old cases have commented on that. They’ve gone,
cor, offender signature, oh, I don’t like being thought of as an offender’. (PSO, IOM, 4 and a half years).

The change does not just promote a greater level of respect but also represents a shift already noted where the offender is more responsible for their own behaviours and, more importantly, their own solutions. There is a move towards responsibilising the offender not just for their crime but for their own rehabilitation:

‘They’re bringing in user voice organisation staffed by service users and ex-service users. So there is this sort of thing about getting them to own it, getting them to own the crime, getting them to own the problem, getting them to look at focused solutions rather than us dictating and spoon feeding them. So I think there’s a shift in that respect...So you’re just trying to frame questions and direct and lead slowly so that they can eventually get down that path, even though it might be a little bit more winding. That’s where it is.’ (PSO, Rehabilitation Team, 10 years).

The UserVoice report (2015) regarding TR stated that the removal of the offender label was vital as it served to distance the offender from probation resulting in disengagement and a divide that was not conducive to relationship building and that it stigmatised those it labelled in this way. Replacing the word offender with a more inclusive terminology could represent the selling of the brand (CRC) to its client base in a similar vein to the research undertaken by Annison, Bradford and Grant (2015, p.401) in relation to the Integrated Offender Management Model where ‘if the IOM brand is recognized by its consumers’ (offenders, their associates and the wider community) as a positive, convincing signal of desistance and an offender’s commitment to self-rehabilitation, then such branding itself could constitute an effective active ingredient of the intervention’. As already discussed offenders are now commodities and thus their buy in is in many regards fundamental to the success of the CRC.

The adoption of service user could also be interpreted as another move towards a classicist approach or a neo-classical perspective that emphasises personal responsibility:

‘So there is this sort of thing about getting them to own it, getting them to own the crime, getting them to own the problem, getting them to look at focused solutions rather than us dictating and spoon feeding them. So I think there’s a shift in that respect.’ (PSO, Rehabilitation Team, 10 years).

Burke and Collett (2015) note that contemporary rehabilitative practices express the nature of punishment as being interventions (programmes and now MSRP) that encourage offenders to both
think and behave differently. It is a neo-classicist approach which is all about personal responsibility. Robinson (2008, p.440) further elaborates commenting that the modern-day purpose of rehabilitation is to ‘instil within the offender a moral compass to guide his or her future actions. Thus the “treated” offender is presented as an individual capable of managing his or her own risks without recourse to externally imposed sanctions or controls.’ Here, crimes are ‘reframed as matters of choice and not of structural processes, crime itself becomes a matter of irrational and imprudent choices’ (Kemshall, 2003, p.19). The use of MSRP demonstrates this approach within the CRC but in the context of a narrowing of risk concerns, thus even greater emphasis is placed on the offender’s capacity to manage their own behaviours through limited input. Halushka (2016, p.3) discusses how NPM within corrections leads to defensive institutionalism, where practices are used to protect resources from high risk clients and ‘ensure consistent production of output metrics and fulfil substantive goals of rehabilitation.’ Halushka (2016) notes that NPM has resulted in the responsibilisation of clients by emphasising their personal responsibility whilst recruiting them as active partners in the production of output metrics. It can be argued that the use of the MSRP and offenders being encouraged to take ownership of their own rehabilitation is an example of the CRC ‘enlisting’ offenders in the meeting of targets. Hardy (2014) comments that neo-liberalism promotes an idealised version of the offender, where they are not people in need of assistance to overcome barriers but are carriers of potentially harmful traits intrinsic to who they are. Neo-liberal governance can also expect individuals to take responsibility for and manage their own risks and ‘entails shifting the responsibility for social risks such as illness, unemployment, poverty, etc... transforming it into a process of “self-care”’ (Lemke, 2001, p.201). Neo-classicist approaches within the CRC are unsurprising in a climate of privatisation, especially when considering responsibilisation in a governmentality and risk society (Beck, 1992) context, which promotes the autonomous and the self-directed (Valverde, 2017).

For the majority of practitioners the name change removes responsibility from the offenders by constructing a new identity that allows them to minimise their actions, reinforcing participant concerns that the CRC are working with a Job Centre mentality:

‘We were just told one day, weren’t we, you don’t call them offenders now, you call them service users, and then a few people quite rightly said, well, we’re not providing a service, they’re not here voluntarily because they’re asking for us, they’re here because of a court order because they’ve committed criminal offences. We’re not...and again it’s like comparing us to something like the Job Centre where they’re coming voluntarily to access a service that will help them, but we’re not that kind of organisation. They’re here because they’re told they have to be here.’(PSO, Rehabilitation Team, 5 years).
Practitioners expressed consternation that the change in ownership coupled with a change in offender rhetoric would alter their relationship with offenders and that this change in dynamic would undermine their role and status both as individual professionals and as a probation agency that has a duty to protect the public:

‘I think that service users almost imply that they are our customers, that they are choosing to be here, they are choosing to use the service and I’m not sure how the victims would feel’. (PSO, Rehabilitation Team, 1 year).

When asked whether the offenders had noticed any changes or if they were aware of the new ownership most responded that, outside of a change of supervisor, they had not but one participant did have a case that was fully aware of the changes and knew that that the CRC was now a business:

‘Yeah, I wouldn’t hide it and I would quite happily speak about it, but it does sometimes worry me when...I think it’s a good thing, you should be clued up and you should know, but it’s also sometimes quite shocking when they tell you about it, so it does send my alarms going a little bit. I’ve had one person that...a fraud offence, his is index offence, and he’s...yeah, he knows all the CEOs’ names and he knows the company’s names and we just think this isn’t right. He got a request to prove, but it's okay because he's talking with the CEO and it’s all about business, and you just think, mm.’ (PSO, Resettlement team, 18 months).

With offenders having this knowledge there is the potential for practitioners to feel vulnerable and concerned about the potential for their decisions to be called into question because offenders are more able to make complaints due to new systems of accountability. This again reinforces a change in employee status and a fear of being in receipt of disciplinary measures. Whilst none of the participants said that offenders were disgruntled with being under a CRC it is important to note that UseVoice (2015) highlighted that some offenders felt that the CRC provided them with ‘less’ because they were a ‘low’ risk, in particular offenders felt that there was less contact time with supervisors.

For others the adoption of ‘service users ‘was less about them being customers, it was simply abhorrent:

‘It’s utterly wrong. I can never forget a quote from the survivors of mental health, the first conference down in Brighton 1983 which I think is transferable to probation. I’m a much...I am as much a user of mental health services as a cockroach is for Rentokil. To call them service-users is a bit like, I don’t know, painting something smelly gold.’(Agency Probation Officer, Rehabilitation Team, 15 months).

This was the most extreme response but the fact that they have committed a crime was something that many felt needed to be openly acknowledged:
They’ve been convicted of a crime, they’re offenders...I think some think it’s...what’s the word, not ridiculous, something, it’s minimalising the risk maybe, I think that’s the word, I think, yeah.’(PSO, Resettlement, 18 months).

Again, some felt that it was another change that they would acknowledge but would not alter their practice which ultimately was their priority but this acceptance stemmed from a paid employee stance:

‘It’s a bit customer service orientated, isn’t it? I can see why they’ve done it, well, up to a point. To be honest, I don’t really call myself a probation purist or specialist really, and if my employer says call them this, I’ll call them that. In that sense, I don’t really care. It doesn’t affect how I treat them.’(PSO, Rehabilitation Team, 11 years).

The Supervisory Relationship

When discussing the supervision of offenders two areas stood out: the worksheets and their relationship. The previous chapter has already discussed the MSRP toolkit but further to this the participants expressed anxiety regarding its impact on the offender:

‘...a lot of it is quite patronising as well, some of the sheets....I can remember reading one about two mountaineers hanging off a cliff-edge and one deciding whether or not he cuts the rope and saves him or herself, and, you know, I think the whole point of it was to get people to see different perceptions, so points of view, but I just felt it was so out of anybody’s realm of experience that it just didn’t have any relevance, really, and I’ve tried it. I have tried to use that particular one, I thought, no, let’s give it a go, and it just fell flat.’(PSO, Rehabilitation Team, 4 years).

The irrelevance and abstract nature of this exercise has the potential to distance the supervisor from the offender. If an offender feels patronised and that they are not gaining any meaningful assistance this will affect their engagement and potentially result in their being reticent to share information which is pertinent to their risk assessment, management and sentence planning. There is also a potential for a lack of compliance which is exacerbated by the issues demonstrated regarding breaches. When this takes place in a climate of ‘leniency’ the offender has little incentive to work with the CRC. When considering rehabilitation as a criminological concept Robinson and Crow (2009) note the connotations with restoration – restoring offenders as law abiding citizens who are reinstated in the community. Here, there is an underlying acknowledgement that their previous state will not be conducive to rehabilitation as such the offender requires improvements to their lives. By responsibilising an offender whilst reducing interventions to a diluted form of practical
worksheets that the offender has limited understanding of or nothing in common with, restoration is not achievable. The offender, as discussed earlier becomes a resource and a commodity.

The separation from NPS and lack of access to their systems was also seen as detrimental to offender relations. When a case is not active (to the CRC) the CRC have no means of accessing any information about them. For one participant this has led to a loss of information that would have benefited an offender post supervision, which was considered an important part of the job:

‘I’ve had somebody else who was making an application to university and they wanted a reference with regards to what their order was, how long it was, how long they’ve attended for, how long it took them to complete their order. Just general. But a few months had passed since they had completed, I couldn’t remember their case, and I couldn’t recall their case either on nDelius so I then had to refer them to head office and they had to make their application there. So where I would have written a personal letter like I did in the past where I’d put in some pointers, rather than just being they’re on an order that’s 12 months], they’re completed, der, der, der, and that’s it, I would have put in there about how they worked, what they were like, the fact that they went on to do voluntary work with that organisation after. So it sort of beefs it up and makes it a little bit more personal, whereas that’s been taken away.’ (PSO, Rehabilitation team, 10 years).

The loss of the personal is clearly a cause for concern when research has shown that relationships are integral to not only successful for completion but also engagement in work (Appleton 2010; Rex 1999), that has the potential to reduce their risks and therefore their re-offending. Here the pursuit of continued desistance after supervision is impacted potentially hindering the offender’s attempts to be ‘restored.’

Summary

Dame Stacey comments on the need for professional judgment within probation and how it is ‘ignored at your peril, if you are trying to get good outcomes’ (Stacey, Justice Committee Oral evidence: Transforming Rehabilitation, 21st March 2017). Some participants have demonstrated a desire and a need to maintain their probation identity but with their new status as employees in the private sector and mandatory goals, targets and toolkit their discretion has been eroded impacting on the professional judgement spoken of at the Select Committee. There is a possibility that they will become disempowered and disenfranchised within the public criminal justice sector. Organisational and policy changes shape and constrain the behaviour of the staff but there has in the past been room for staff to resist change and to retain elements of their practice (Deering, 2010; Mawby and
Worrall 2011). This research suggests that this capacity is no longer a given. Schein (1985) has noted that culture influences both ‘how’ and ‘what’ organisations, and individuals within them, do (mentalties and rationalities) but the scope to which it influences individuals and the level at which they accept or resist changes is unique to the organisation (Foster, 2003; Reiner, 2000). With CRCs being under different ownerships their culture and practices (the how and what) will be determined at a CRC level further reinforcing its heterogenous status.

In addition to this the loss of experienced staff, in particular POs, and an increased use of staff who express uncertainty and a lack of training and knowledge of the offences they are addressing, could result in risk assessments that are inaccurate or incomplete. Risk assessment and management have the potential to become distinct and separate from supervision and rehabilitation; something that is done in isolation thereby losing its dynamic and fluid nature. The mentalities and rationalities move from risk assessment and management to ensure public protection by (albeit instrumental) rehabilitative means to employees administering their employer’s agenda through prescribed processes that are monitored and recorded ready for auditing (Kemshall, 2010; Munro, 2004).

This chapter has also demonstrated that, whilst a few of the participants have accepted and even embraced their new employers, these were exceptions. Most commented that TR and the CRC had had a detrimental impact upon their identity and had undermined their working relationships with offenders. In addition to a loss of identity and professional discretion there was also a need to tow the party line and there was a sense that being in the private sector brought with it new issues of accountability and a new ethos that was not aligned to probation pre TR. With regards to the people that they work most participants felt that the re-naming of offenders to service users further compromised their working practices and afforded the offender a status that was not conducive to probation. Concerns were also raised regarding the interventions used with them and how this affected their legitimacy as a supervising officer. Annison, Bradford and Grant’s research (2015), is again useful here when considering the implications of CRC branding on its staff and offenders. They note that branding can allow practitioners an opportunity re-construct their identity in the wake of relentless change and the blurring of roles. However, they also note that ‘there is equally a danger that an absence of genuine content, and/or inappropriate structural underpinning, may prove to be highly counter-productive’ (2015, p.403). Here the CRC branding has mainly served to isolate and deconstruct the practitioner identity and removed them further from the ‘old’ probation through its new job roles, titles, interventions, terminology and working rules. With these concerns in mind consideration will now be given to the risk practices that take place by these practitioners.
Chapter Eight: CRC and the Reconfiguration of Risk – the Creation of New Risk Practices

‘I just feel there hasn’t been a big onus on risk’. (PSO, Resettlement Team, 7 years).

It has already been illustrated that when risk decisions and actions flow within the CRC they tend to concern monetary risks, the non-completion of tasks and the potential incurring of fines. It is these risks that have subsequently modelled the systems of rehabilitation in place potentially compromising the rehabilitative intent through the dilution of interventions and risk practices. This chapter will consider how risk of serious harm is understood within the CRC and how this informs the work that is undertaken. The chapter will consider risk in relation to the following areas: the definition of risk of serious harm, the tiering of offenders within the CRC and the new risk assessment tool. Within these areas further discussion will be given to the practitioners use of discretion and clinical judgement and their confidence and understandings of how to use risk within their practice.

Risk and the CRC

It has already been illustrated that the CRC must be concerned with profit if it is to survive and that this has led to the implementation of interventions that are ‘practical,’ lacking a focus on offenders’ thoughts and beliefs. When asked the participants felt that when risk was not talked about in a monetary context it was focused much more on re-offending than risk of serious harm:

‘I definitely feel for me that the focus is on risk of reoffending, and there kind of tends to be this assumption that the risk of harm is under control because they’re with us. I don’t know, it is about risk of reoffending.’ (PO, Rehabilitation Team, 9 years).

Through TR and NPM rehabilitation has become justified through limited aims; to reduce re-offending and protect the public. Consequently, the transformative goals of rehabilitation become disconnected from the wider welfare needs which aimed to ameliorate the root causes of crime such as poverty and a lack of social capital (Halushka, 2016). NPM has ultimately resulted in reducing and re-framing probation to a technical problem of what works and what can be measured in the reduction of re-offending, which for Gottschalk (2015) silences difficult but important moral and political debates regarding inequality, welfarism and imprisonment. When an organisation is paid to deliver a set of pre-determined requirements it is inevitable that these become the primary if not
the only areas that are focused on. The role of CRCs under TR is not to protect the public from serious offences it is to reduce reoffending therefore the risks associated with reoffending inevitably will dominate the practices that take place. Reoffending risks will and have become the new lens of probation practice in CRCs. Subsequently the risk of serious harm is reduced to an afterthought and a technical exercise which eventually leads to it becoming a concept that is reframed and redefined through new goals and priorities. In effect the risk of serious harm becomes silenced and its key tenets lost.

This participant’s observation is important when considering the climate and emerging culture of CRCs, where their job is not about (high) risk of serious harm – the people that pose such risks do not supposedly come under their remit. There is thus a reductionist approach to offenders needs in relation to harm in favour of risks of reoffending as highlighted by most of the participants:

‘I think there’s more of an emphasis in terms of risk of reoffending. I think that’s where the target is driven. If they manage to get through their order and they don’t reoffend again in that 12-month period then it’s a success and they’ve hit the targets. It’s the risk of reoffending, definitely that’s key. The fact that they haven’t put risk in MSRP for me, it’s clear’. (PSO, Rehabilitation team, 10 years).

Canton and Dominey (2018) note that there has been a need by probation in recent years to distinguish between risk of re-offending and risk of serious harm and comment that confusion still exists. They attribute this to a failure to distinguish between likelihood of re-offending and the impact of that offence. Here it is evident that the difficulties and lack of distinguishing between risks has been exacerbated by TR, there is a lack of follow through from the reoffending to impact. The omission of risk-based interventions within the tool kit is a stark example of how risk of serious harm has been silenced through its loss of status. Reoffending has replaced harm in the hierarchy of risk. Arguably the reductionist approach to risk of serious harm in favour of re offending stems from the binary nature of TR. Those offenders supervised by CRCs were determined from the outset to not pose a risk to the public in terms of serious harm. Consequently, the task of CRCs is to deliver work that focuses on a particular aspect of the offender- their ability to desist from crime. However, as already noted the factors associated with the offence do not tend to consider the offender in their entirety, they tend to omit welfare needs and other behaviours or experiences not related to that offence. When this is coupled with a reticence to explore risk of serious harm with the offender they become reduced to their offence and to the likelihood of it occurring again.
The observation about the MSRP toolkit omitting risk was a common finding of this research and raises further concerns regarding its effectiveness. The lack of risk of serious harm focus by the CRC was often considered by the participants to be borne from the incompatibility of the CRC and probation:

‘Maybe it is just a culture thing and having that lack of understanding necessarily, I don’t want to be cynical but they’re not getting paid money to reduce the risk of harm, that it’s about not...risk of reoffending that’s where the money is, it’s not about...it doesn’t actually matter whether someone has gone and murdered someone or gone and shoppedlifted, at the end of the day it’s still...the financial target is still the same’. (PSO, Rehabilitation Team, 12 years).

This statement raises important questions regarding incentivising reductions in re-offending, as the participant notes ‘an offence is an offence’ and whatever it is it equates to a lack of payment regardless of its seriousness. Such approaches are markedly different to probation practice pre TR where risk of serious harm was the lens through which offenders were viewed and a reduction in the seriousness and risk of their harm was a success:

‘When we had the initial introduction to CRC and stuff I think it was very apparent how risk was barely touched upon. Whereas I think previously risk was at the heart of everything that we did and you knew if it was probation that it was all risk, risk, risk. I do think that that has changed, I don’t think...I think it’s still...there’s that awareness there around it and I think we all know what we need to do to manage that but I don’t think it’s drummed into us like it was previously’. (PSO, Rehabilitation Team, 12 years).

It could be argued that the awareness that the participant alludes to comes from within. It does not come from the CRC (management) but from the practitioners who are using their probation culture, knowledge and experience to maintain probation values and priorities. However, the sustainability of this is threatened by a lack of communication of and emphasis on the importance of risk of serious harm by the CRC. As the previous two chapters have shown, directives tend to be based upon targets and this has included practitioners being encouraged to sign off incomplete assessments or not review risk periodically:

‘I think there is a lot more pressure on managers to enforce certain goals and targets. I’ve noticed changes in SPOs where...before a lot their response to you would be very...their emails would be a lot of risk elements. Oh, have you done this work? Have you done that? Is this covered? Now, they’re a lot more... ...it sounds hard to say we’re not getting the support we need for the risk, but I think sometimes the priorities of the managers seem to be making sure they’re hitting their targets, and therefore making sure we’re hitting ours, rather than necessarily checking that the right cases are managed in the right way’. (PO, Resettlement Team, 5 and a half years).
‘The risk doesn’t seem to be, I mean, there are no targets associated with that, so it’s almost like they are not interested...We have to do twelve week risk reviews, which are apparently checked up on by NOMS, they will keep an eye on it to make sure that we are doing these risk reviews, but there are no targets for that. So, it’s almost like, oh, don’t worry about it, get it done, but [pause] the CRC doesn’t seem overly concerned with it’. (PSO, Rehabilitation Team, 4 and a half years).

The prioritising of fiscal concerns over practice concerns is a common feature of the research. Risk has become reconfigured and is now associated with fines and this raises questions regarding the capacity of practitioners to continue to work with risk in the ‘probation’ way. They no longer have the support provided by their line managers who are instructed to manage the targets rather than manage the probation workers’ supervision of offenders. This approach permeates into all dialogues between probation workers and management:

‘Like I say, risk is very, very minimal in what is discussed. None of our team meetings actually discuss risk’. (PSO, Rehabilitation Team, 1 year).

Definitions of Risk

To understand how practitioners conceptualise and work with risk of serious harm they were asked to give a definition for it:

‘I know there is because I remember seeing it when I did all my initial training [pause], but I can’t for the life of me remember what the phrase is. There is a definition’. (PSO, Rehabilitation Team, 4 and a half years).

The statement implies that risk has lost its relevance with an inability, or lack of need, to think what it may be outside of a formal definition. It is not part of the everyday practices for some within the CRC rather it is isolated to training:

‘Off by heart, no, I probably couldn’t, it has been a while. It depends; I don’t know, risk is such a broad term. It depends in what context you are talking really’. (PSO, Rehabilitation Team, 2 years).

The use of ‘it’s been a while’ supports the assertion that risk does not permeate through all the work undertaken within the CRC, rather it is something that is done in isolation at the point of allocation and potentially in the initial risk assessment by the CRC. Its meaning and relevance have been lost where once it was an important and ubiquitous component of probation. Through TR the risk agenda has been recalibrated.
For some participants there was an awareness of the key facets of risk of serious harm, such as imminence and impact:

‘I would say it’s...my working definition of risk, so how I define risk, isn’t it? [Laughs] My vocab’s atrocious. I would say it’s the likelihood of something happening...we work with risk of reoffending, risk of harm, so risk of harm might be saying it’s the likelihood of something happening whereby somebody can’t return to their previous state, risk of reoffending, likelihood of an offence happening, so, yeah, risk is kind of tarnished with a negative light, isn’t it, I think. It’s the likelihood of something negative occurring, I think’. (PSO, Resettlement Team, 18 months).

Some participants simply adopted a common-sense approach to what risk of serious means rather than one grounded in probation terminology and definitions:

‘Some things are obvious, you can say, right, he’s beaten up an old lady and something, so obviously he’s going to be higher risk because of the kind of people he’s targeting. But yeah, I don’t know what the definition is per se these days’. (PO, Assessment Team, 24 years).

‘I think one of the things I read about what you were doing was about thinking...looking at how probation sort of conceptualised risk. And I said to one of my colleagues, well, that won’t take long because I don’t think I conceptualise it at all, I wouldn’t know how to begin to do that [laugh]. But what I do use is, in terms of...I think I need to know what the risk factors are, and I think we need to show that we’re keeping an eye on them. So in terms of conceptualising an individual’s risk, I use - I can’t show you this...’ (PSO, Rehabilitation Team, 11 years).

The observations here raise the question as to how the CRC and its staff are determining risk factors and how they relate or equate to risk of serious harm. The need to ‘keep an eye’ on them suggests a lack of proactiveness and again a degree of complacency that they are no longer areas of work required. Risk, particularly risk of serious harm, has lost its status. The fact that one participant said ‘these days’ also implies that the definition has changed post TR which is not the case but it may well have done within the CRC.

Risk Tiering

Prior to TR probation worked with four tiers. The highest were those with the most serious offences and who posed the most serious risks. It is this tier that now lies with NPS. However, it is important that practitioners within CRCs still understand this group of offenders if they are to determine whether an offender requires a risk escalation to NPS. Within this CRC a new tiering system has been
implemented which only reflects the offenders that they now work with (low to medium). Within this tiering system the medium risks have been separated into different levels with the ‘high’ medium risk cases now becoming tier four. The participants were asked to explain this new framework:

‘Tier one’s generally low risk and low risk of reoffending, a lot would see the unpaid work standalones would fit into that. Then I think, yeah, tier two can be medium risk of harm but it’s the lower risk of reoffending, and then tier three would also be medium risk with a higher risk of reoffending, and then tier four is the active and current, so the people who are immediate risk of harm to known adults and children’. (PO, Rehabilitation Team, 14 years).

Here there is a conflict in rationale for NPS supervision – if there is an immediate risk of (serious) harm to known individuals this would warrant NPS allocation or escalation therefore the new tiering has the potential to blur the distinction. The majority of the participants were aware of, though not necessarily au fait with, the new tiering system however, two of the participants were not:

‘Until about a month or two ago we were still tiering but now I don’t think we necessarily do the tiering at the moment. Up until a month or two ago, I’ve only just realised we’re not doing it recently, but it was...I don’t think a tier four case would necessarily warrant NPS, I think we were going by if it’s...I can’t entirely remember to be honest, but I don’t think so’. (PSO, Resettlement Team, 18 months),

This response demonstrates some confusion about what tiering is being used and how the new tiers affect decisions regarding escalations. It also suggests a lack of knowledge of what behaviours and events warrant a risk escalation. Another participant continued to work with the previous tiering system:

‘R: Yeah, we still have a tiering system. I wouldn’t say it’s changed, no, I’d say they still remain within those brackets very much so.
I: And do you feel quite comfortable with knowing how to tier a case through your risk assessments?
R: That’s where the assessment would tier the case.’ (PSO, Rehabilitation Team, 1 year).

This comment reflects observations made within Chapter Six, that there is a potential for supervisors to ‘go with’ what the assessment team have assessed and, as discussed, these decisions can be based upon incomplete or cursory assessments. There is again a potential for complacency where practitioners do not feel that they are required to continue with assessment illustrating a lack of understanding of the dynamic nature of risk. Risk has become static, exacerbated by the inflexible structures and practices now in place: team structures, sentence planning, interventions, and tiering.
TR and the CRC’s individual practices have compromised ‘a multi-dimensional understanding of the concept of risk, which has developed in probation over the last twenty years’ (Fitzgibbon, 2016:47). One participant noted the rigidity of the tiering and how it has the potential to complicate risk escalation:

‘We deal with, obviously, the medium to low risk. But, then, we have this active and current as well, which is why it’s difficult, you can’t just distinguish between high and medium risk that is what the problem is’. (PO, Rehabilitation Team, 9 years).

The bifurcation of probation does not acknowledge or appreciate the fact that offenders can and do move within the serious harm categories, offenders’ risk of serious harm can both increase and decrease. Subsequently risk has, at best, became binary within the CRCs and NPS.

The new tiering, for some participants, also focuses more upon risk of re-offending than it does risk of harm:

‘There’d have to be high risk of reoffending through to be tier three, has to be high risk of reoffending and medium to public to be a tier three case. So they've brought in the reoffending bit much more which I've noticed from the new assessment tool as well, the focus is very much on reoffending because we're not dealing with as much harm. So they’re bringing in the reoffending, they’re the cases that we’re going to be dealing with. That's a real shift’. (PO, Assessment Team, 6 years).

Again, there is a perception that serious risk of harm is no longer worked with or warrants as much attention. As already demonstrated this is not the case, with research by Craissati and Sindall (2009, p.9) demonstrating that there ‘were no clear identifying features of this sample of offenders (committing further serious offences) which seemed to differentiate them from a much wider sample of the probation caseload’ thus highly developed skills are required to notice the small signs that can signal the imminence of serious further offending (Clare, 2015). Serious further offences are not committed exclusively or predominantly by high risk offenders (Ansbro, 2006, p.64). What this research suggests is that TR has led to the loss of appreciation of this.

The new tiering has resulted in the creation and adoption of new risk terminology - ‘active’ and ‘current’ which inform the tiering decisions and level of supervision required:

‘The tiering changed so they've now brought in active and current, so if somebody seems a medium risk of harm cases, seems an active and current risk of harm to known adults or children, so generally the DV offenders that are still living with their partners, recent police call outs, they’re now seen as the higher medium risk of harm cases and
they're now tier four. So in the past the tier four case would only be high risk of harm. And now if somebody's an active and current risk of harm, so DV offenders still living at home with wife and kids, they're now classified as a tier four within the CRC'. (PO, Rehabilitation Team, 14 years).

The new distinctions place more emphasis on children, individuals and victims and has resulted in a tiering framework where medium risk of serious harm is more complex and potentially incompatible with NPS:

‘Yeah, it cross references the risk of harm to the risk of re-offending and whether the risk of harm is current and active. So, that will be the dis…the sort of medium risk of serious harm is almost split into two in…within itself. So, there's medium risk of harm but there's also if somebody poses a medium risk of serious harm to known adults or children is that risk current and active? So, it's sort of a…I mean just to kind of illustrate what it is, it's like, say, if low was Level 1, medium was Level 2 it's almost as if there's a 2 and a 2.5 before it gets to Level 3, which is high, and then Level 4 is very high. So, it's that kind of thing, medium is split into sort of like a 2. category. So, yeah, it's whether or not somebody is a low, medium, high or very high risk of serious harm. If medium, is it current and active, and also sort of cross referencing that with their risk of re-offending. So…which is done by OGRS scores.’ (PSO, IOM, 4 and a half years).

When asked how distinctions are made between the high mediums (CRC tier four) and high risk of serious harm (NPS tier four) responses mainly concerned the imminence but there continued to be a certain amount of confusion regarding the differences:

‘Yeah, so I think my definition of what active and current would be will sound like my definition for the high, I think, if I'm brutally honest, I think. I'd be...I'd be told I should know this but I've always found it quite confusing. I would say active and current is there's even...that protective factors are diminishing or reducing. We know there's a risk there. They've said something, they've done something that indicates that it's...the risk that we've assessed is medium, the likelihood has increased a little bit because they've evidenced it in some way. So whilst there are still protective factors in place, we would say it's a bit more of a current or active risk because of something that's happened or been said. For example, I don't know, even something as significant as a child's birthday or something might bump it up and we might say they said they were...I don't know, something that said, I'm not sure’. (PSO, Resettlement Team, 18 months).

The use of the new ‘active’ and ‘current’ terminology and the categorisation of offenders has been a key function of the new tiering however, there are concerns by some participants that the focus is instrumental, with a lack of follow through. It could be construed as another means of cataloguing potential risks for auditing (Munro, 2004):

‘SPOs have become more hot on, is if it’s risk of harm to a child. So whenever I have supervision, lately, my manager will go through each case that has been identified, whereas that wasn’t done before, if they were, so there seems to be more of a focus on that specifically, but in terms of how to manage a medium risk and things like that, I
don’t think there’s been any training on that specifically or guidance. I think unless you approach your manager, and you were like, I don’t know what to do with this, there’s no big emphasis on, this is what you do with a medium risk.’ (PSO, Rehabilitation Team, 5 years).

For one participant the use of the tiering system has not only led to a less flexible approach towards risk, because there is no longer the capacity for risk to ‘move’ easily and has become boxed off, but has also culminated in POs leaving due to being overwhelmed by cases of domestic abuse:

‘CRC have changed the tiering, and now we have no latitude, it’s just, this is a Tier 1, this is a Tier 2, this is a Tier 3. And Tier 4s, they’re saying, are people with DV and child protection issues. But, within re-settlement across the whole of the CRC, that is being ignored. Within Rehab, that isn’t being ignored. The POs are having to have those cases. And they have lost some POs to the NPS and elsewhere, because of pressure that’s put on them’. (PSO, Resettlement, 18 years).

Every participant used domestic abuse as an example of the high-medium case that is both ‘current’ and ‘active’. Within the CRC this has become the new ‘risky’ group:

‘For example, it’s easy with an example, isn’t it? Is if… If you have a domestic violence offence, because they’re most, this is the problem, this is the problem, we’re mostly now getting domestic violence offences. I don’t really mind them but, you know, you don’t get the variety of work anymore; you know, you don’t get your burglars and your robbers and… I like a bit of variety. You mostly get the domestic violence ones. So, if you’ve got a domestic violence and thing and there’s no children involved and the man has been removed from the home and there’s a restraining order and everything, then you wouldn’t say there’s a risk but it’s not current and active. But if you’ve got a case where maybe the man is going to continue living in the family home, where there are small children and, you know, social services might be involved. Or if they’ve been involving, they’re having risky now, I suppose, so it could change if… Yeah, so it’s current and active; if something seems to you as if it’s more likely to happen than not then we’re involved in it’. (PO, Rehabilitation Team, 18 years).

Again, there is confusion regarding imminence because if something is more likely to happen than not it is not a medium risk of serious harm, the definition of medium being the offender is assessed as having the potential to cause serious harm but its deemed unlikely to do so unless there is a change in circumstances. The prominence placed upon one group of offenders could result in the upping of risk of for domestic abusers based upon their offence and the tiering, rather than on their current and past behaviours, especially those that fall within the current and active status. This has the potential to lead to false positives in respect of their risk of serious harm. The labelling of a new risky group of offenders relates to issues pertaining to pre-crime (Fitzgibbon, 2004) and pre-emptive risk classifications based upon risk analysis where the new terminologies act as risk markers that are used to identify problem populations (Fitzgibbon, 2007). The tiering and singling out of a group of
offenders could result in defensive practice and adoption of the precautionary principle where caution informs decision making (Kemshall, 2003).

The supervision of domestic abuse offenders was, for some commentators, a source of contention during TR. Gilbert (2013) noted that under TR most domestic abuse perpetrators would be assessed as a medium risk of harm thus would be supervised by CRCs. Domestic abuse accounts for approximately fifteen percent of all reported violent incidents in the UK (Kershaw and Walker, 2007) and seventy five percent of UK children on the child protection registers are affected by domestic abuse (Edleson, 1999). In addition to this on average two women a week and one man every seventeen days are murdered by their current or previous partner (Napier, 2012). Therefore, it is not unreasonable for CRCs to adopt a cautionary and proactive approach to this offender group.

However, there is no longer the capacity for offenders and their risks to move dynamically between medium and high risk of serious harm and with this decision based upon imminence often the escalation (high) will only be known when the victim discloses information (Gilbert, 2013) or after an offence has occurred. As such the accuracy of risk assessments are reliant upon either the perpetrator or the victim coming forward to report what are notoriously private crimes (Gilbert, 2013). Additionally, the allocation of offenders to CRCs/NPS will be based on the current offence and previous convictions, but only a minority of domestic abuse are recorded by way of a criminal justice sanction resulting in assessments that are not reflective of the true extent and seriousness of harms, placing women and children in vulnerable situations (Gilbert, 2013). It is fundamental that those working with these offenders have the experience and knowledge to appreciate these factors and the relevance of behaviours, as Gilbert (2013, p.128) notes ‘it is this high-level skill and knowledge base that will be absent when re-assigning cases of domestic abuse to the private/voluntary sector.’

The rigid structure in relation to risk of serious harm and offender allocation, in particular domestic abuse perpetrators, was noted in the first Early Implementation Review:

‘Many of the cases allocated to CRCs, particularly perpetrators of domestic abuse, who were reasonably assessed as medium risk of serious harm, were felt to be more likely to offend again in a violent way. While we accept this is a situation which has arisen from a correct interpretation of case allocation (policy), we think that it is worth highlighting that in many medium risk of serious harm cases appropriately allocated to CRCs, there are public protection issues.’ (HMIP, 2014:33).

This research has noted that there is a paucity of interventions in the CRC for domestic abusers outside of accredited programmes and a greater use of unqualified and less experienced staff in managing them so it is essential that these new risk markers are not reduced to auditing processes but are actively worked with by educated practitioners. The possibility also exists that the risks of non-domestic abuser offenders will be overlooked, the assumption being that the domestic abuse
offenders are the sole risk carriers within the CRC, as one participant noted who had an offender that was not ‘current’ and ‘active’ perpetrate a serious further offence (SFO):

‘I think, I mean I hope that I’ve managed to hang on to the risk-of-serious-harm issues; and that SFO actually probably did me a bit of a favour in terms of always remembering that even the person you didn’t think would commit any other kind of crime or, you know, can do.’ (PO, Assessment Team, 7 years).

Risk has been narrowed and reduced to very specific criteria. Previous research has demonstrated that practitioners were initially accepting of the importance of having a risk category implemented and would change or modify their assessments and practice based on a more personal, clinical knowledge base (Kemshall and Maguire 2002; Robinson 2002). However, the ability for this to happen within the CRC has been limited by the rigidity of the tiering and a lack of a linear approach coupled with a reduction in professional capacity to exercise discretion and utilise clinical knowledge.

The new tiering could be perceived as the distortion of risk of serious harm as a ubiquitous and homogenous probation concept, which may result in increasing numbers in the higher CRC tiers that are not justified by the ‘real’ risk of harm that they pose. The first Early Implementation Review (HM Inspectorate Probation, December 2014) noted that over two thirds of CRC cases were medium risk of serious harm requiring more resources than the government and the CRCs had anticipated and this could be attributed to, or at least exacerbated by, an inflation of risks by CRCs through new systems and new forms of precautionary logic. This in turn could have a disproportionate demand on resources and skew risk across probation in its entirety (Nash and Ryan, 2003) for it is possible that each CRC will implement their own tiering framework if they chose not to continue with the one used by NPS. Such practices will no doubt result in further separation and divisions between the different probation services and the continuation of deep-rooted issues concerning the now two-tier fragmented service, noted by the HMI Probation Annual Inspectorate report (2017). CRCs could lose an awareness of what work the NPS undertakes making the process of escalations more problematic:

‘Yeah, I think that…and maybe that’s scary as well, but I think, yeah, at the moment I just feel I’ve got an overwhelming amount of one type of offence and it seems to all be harassment and breach of restraining orders and that kind of thing, so I think I’m getting quite good at that, but then there might be an influx of something else for one other offence that takes me by surprise and not quite sure how to manage that. I’m really unfamiliar with any of the NPS kind of related services, so you ask me about MAPPA I wouldn’t really know if I needed to look into something, I wouldn’t really know. So I think I probably need to familiarise myself with the NPS services and their risk…and how they manage risk and what they have access to, to then know what I’m escalating to
and how I can manage the risk and why I need that, I think. And at the moment I’ve got no knowledge of that, so I’m almost pushing someone away because I don’t know what to do, but I think maybe’. (PSO, Rehabilitation Team, 18 months).

This participant had not worked for probation prior to TR and as such has no real experience or understanding of NPS, demonstrating that there has been a change to practices since becoming a CRC and that NPS and CRCs have become remote. The divide between the NPS and CRC is clear as is the lack of familiarity regarding how the NPS works with and defines risk of serious harm, which is in the way that the CRC used to. It is not a new mode of practice. For the CRC, the NPS has become abstract and distinct and not a partnership agency, further isolating the CRC from previous probation cultures and the ways that it used to work with offenders. Robinson (2016, p.45) comments that the creation of new organisational structures that are designed to take responsibility for different offender populations ‘has ruptured the systemic model of risk management which was at the heart of the OMM. In its place is an essentially static system of separate containers or silos, with new boundaries that appear to be designed to classify and exclude.’ This observation is not just evident within the tiering framework but within all the CRC practices that relate to risk discussed within this chapter.

Risk Assessment Tool

The CRCs have the option to continue to use OASys (for a fee) or develop their own. During the research the CRC was in the process of finalising their new risk assessment tool which would then require MOJ approval. The CRC was therefore still using OASys. Prior to conducting the research interviews a demonstration of the new assessment tool was observed (see appendix nine fieldnotes), with practitioners present to give opinions, not dissimilar to a focus group. The new tool continues to utilise the static risk assessment tools OGRs and RSR (risk of serious recidivism), refers to the offender as service user throughout and is designed to be used on a tablet computer so that assessments can be completed at the same time as the interview with the offender. It was stated in the briefing that the tool was designed to be time and content proportionate to the service user. As one participant observed:

‘Everything is going to be easier in this new Utopia apparently...and it’s going to be quicker to do. And there’s one thing that we– which wasn’t that great, I thought – where you take an iPad or tablet in with you and you do the assessment with the person there. But that really doesn’t sound like a time saver for me really, because of things like risk; you’re not going to talk to them, oh, yeah, I’m just going to assess you as, you know, do you know what I mean; it’s like you can’t do all of it with the person there you need a bit of reflecting. It’s not good really to write it immediately. In theory
what we’re supposed to do is see someone and then write it up immediately afterwards, and then see someone else and then write it up immediately afterwards; but one, that’s not possible, the phone goes, someone comes in early; I don’t really want to write them as I come out of the room, or in the room’. (PO, Assessment Team, 24 years).

The lack of reflection for the assessment team is coupled with time restraints whereby checks required with other agencies such as Social Services maybe missing at the point of completion, demonstrating again the issues already highlighted where initial assessments and offender allocations (PO or PSO) are based upon limited information which dictate the interventions that are undertaken. The flexibility of time to complete the assessment (based upon the offence and any NPS information obtained at court, which has been noted to be minimal) suggests that there is again an assumption of risks prior to the assessment and this will govern the level (and time) of assessment undertaken. This could lead to Availability bias which pertains to assessments being based solely upon the information that has or can be obtained, which is exacerbated when the behaviours are considered particularly taboo (Kemshall, 2008, pp.57-58), in this case where there are risk markers (active and current status).

The differences between the CRC risk assessment tool and OASys predominantly relates to greater use of tick boxes and less free text:

‘What one of the concerns is in the next few months we are going to be getting the new IT system that the CRC have made and there are some concerns thrown about, about is it just going to be a, sort of, tick box exercise. You know, do they have problems with this, yes or no, rather than an actual ability to write down what you think the concerns are. But, then, that links in with the whole target thing as well, it’s more get people to do the unpaid work, get them to the end of their order, it’s not really…it doesn’t seem to be as risk focused as it was.’ (PSO, Rehabilitation team, 4 and a half years).

For this participant the tool has been created with a focus on targets and expediency rather than as a means of highlighting concerns. The stance taken by the CRC was that often the free text (arguably the clinical assessments) were not always helpful and often completed simply because they were there. To avoid this the free text is not visible and has to be clicked on to access with the word count limited to three hundred. Such removal of practitioner agency compromises previous observations regarding practitioners absorbing risk positively whilst maintaining retaining professional agency and a probation ethos that is client-centric. Fitzgibbon (2013) warned that privatisation could result in an increasing disincentive to manage the qualitative aspects of risks and that binary calculations such as re-offending marginalise issues such as risk of serious harm to self and others, prophetically stating
that ‘the old probation staff with sophisticated understandings of the complex lives of ex-offenders will be gradually displaced by tick-boxers’ (2013, p.87). The reduction in dynamic risk factors within the new tool through less free text and more tick boxes has serious implications for the accuracy and usefulness of the assessment. For Canton and Dominey (2018, p.155) dynamic risks are not to be understood ‘in a straightforward way: they must be elicited and interpreted.’ With the new risk assessment tool the information required is no longer something that requires in depth elicitation or indeed interpretation as the responses are logged through prescribed answers within the tick boxes, thus practitioners are not able to deviate and utilise their knowledge, experience and discretion due to the tool’s constraints.

The increased reliance on statistical data is an example of governmentality, which uses masses of information about populations (aggregate data) to inform the conduct of individuals and groups in an impersonal manner and to guide its own policy work (Valverde, 2017). An increase in technology is also a component of governmentality and the new assessment tool, with more focus on data which renders information obtained into ‘a calculable form. It is a way of representing events in a certain form, so they might be made governable in particular ways, with particular techniques and for particular goals’ (Dean, 2010, p.206). NPM and TR has altered both the techniques and the goals of risk assessment tools. It also demonstrates the further adoption of a technico-scientific approach to risk resulting in ‘pre-determined risk facts being created’ (Lupton, 1999, p.19) and the generation of crime facts. For Fitzgibbon (2007, 2008) the technology used within probation can only be effectively implemented when done so by experienced and knowledgeable practitioners. As discussed, there has been a de-skilling and loss of experience and expertise within the CRC.

Giddens posits that there are two types of risk – external and manufactured. External risks are those that are unexpected but occur often enough that it can affect a population of people making it broadly predictable (thereby insurable). The move towards modernity marked the creation of manufactured risk which derive from the development of the human, in particular the creation of science and new technologies for which we have very little experience as it lacks any history; we do not know what these risks are let alone how to calculate them (Giddens, 1998). In this vein science and technology create new risks but fail then to address them (Giddens, 1998, p.26) and this assessment tool could become a warehouse of offender facts rather a tool that is informs and facilitates risk management and rehabilitation.

The tick boxes provide alternative responses to those within OASys. For example, for homelessness no longer was it a yes or no but there were options that allowed for offenders to be ‘sofa surfing.’ Whilst it could be argued that this facilitates a clearer, more accurate picture of the offender’s
circumstances it should be noted that CRCs are monitored on housing and this answer will meet an MOJ target of offenders on licence having accommodation. Therefore, it is possible that the need for housing assistance may be eradicated through such an answer:

‘They’re not allowed to be released homeless, well, they’re not meant to be released homeless, so on OASys I think you just kind of...if they’re sofa-surfing, you probably wouldn’t put they’re homeless, I haven’t been pulled up on that one yet. I’m sure I will be’. (PO, Resettlement Team, 11 years).

This issue is confirmed by Michael Spurr, Chief Executive of HM Prison and Probation, who noted at a Public Accounts Committee Oral Hearing on 17th January 2018 that homelessness is indeed a CRC target and that the incentivisation of this has been problematic. Munro (2004) notes that when there is a preoccupation with risk the trust between the offender and the employee/practitioner is replaced by audit leading to a culture of performance targets and professionals undertaking regimented and formulaic assessments, which are defensible in inspections (Fitzgibbon, 2007). The focus on tick boxes geared to targets and the mandatory use of prescribed interventions are both measurable (auditable) means of risk management, but it is the preoccupation with monetary risks that have governed them.

The section regarding risk of serious harm within the new risk assessment tool is, for some participants, in keeping with the new tiering framework in that it is geared towards domestic abusers:

‘Yeah, our risk assessment is solely around, for me it seems, just DV and just child protection, that's as risky as you're getting and that's where it stops’. (PO, Assessment Team, 6 years).

OASys and other risk assessment tools allow for concerns regarding risk and its likelihood to be operationalised (Kemshall, 2003). However, Fitzgibbon (2004, 2007) contends that they tend to over predict risk because practitioners feel that they need to demonstrate a defensible positions (defensive practice). This pre-emptively criminalises certain offender groups, namely those already identified as being more likely to commit crimes thus more emphasis is placed upon the static risk assessments utilised, which encourage the practitioner to merely produce collections of data rather than a holistic and historical context. A consequence of this is the creation of actuarial fallacy, where the ‘behaviour of individuals is spuriously inferred from the behaviour of groups’ (Fitzgibbon 2007, p.91). The new risk assessment tool and tiering are geared towards domestic perpetrators as it is this group of offenders that have been identified as being the ‘riskiest’ worked
with in the CRC and the emphasis placed upon them could lead to actuarial fallacy and the pre-emption of risk. The consequence of this ‘is that these assessments can be used to impose/justify non-transformative risk strategies to manage people’ (Hannah-Moffat, 2005).

The lack of domestic abuse within MSRP reflects a lack of (transformative) intervention for domestic abusers outside of the completion of the Building Better Relationships (BBR) accredited programme and it could be argued that the tiering and new risk assessment tool are now the sole means of managing risks, the emphasis is on the technology (Kemshall, 2003; Robinson, 2003). As discussed, this is not dissimilar to the Fordist factory where the skills of the worker are repossessed by technology. The assessment team will initially complete the risk assessment within this tool and it is designed to automatically generate a sentence plan from the answers, using the MSRP toolkit worksheets (it will ‘commission services’ appendix seven). This chimes with Vanstone’s observation (2004, p.155) that ‘the world of the practitioners has become increasingly prescribed and rule bound.’ This risk assessment tool ensures that the toolkit is the primary source of interventions and the supervising officer will then administer these:

‘Well, the toolkit that you guys are supposed to use that gets pulled through from the new assessments, every route way that the assessor identifies will link in at the end to the sentence plan and the relevant exercises from your tool kit that you’re supposed to use, or that are meant to in theory address that way and problem. That’s completely different from what we do now and where you sit and you’re trying to think of what objectives to write that’s going to identify straightaway what works needs doing’. (PO, Assessment Team, 6 years).

The automation of sentence plans curtails the use of professional discretion and responsivity to the offender’s needs and the effectiveness of them will ultimately be contingent on the accuracy and depth of the information inputted and the ability of the tool to interpret the information in a meaningful way.

The new risk of harm section asks the offender to rate their own motivation to change using a sliding scale. Such a move is consistent with a desistance approach and a good working relationship (Burnett, 2004; Robinson 2005; McNeill, 2006) whereby offenders play an active role in their own rehabilitation and sentence planning. Lancaster and Lumb (2006) discuss how motivation is key in allowing the offender to have individual agency, criticising OASys for only having one yes/no question about the offender’s motivation which is answered by the assessor, so the move towards inclusion is a positive factor within the new tool. The risk of harm section also allows greater
consideration of self-harm and includes protective risk factors within the tick boxes, such as relationships with neighbours and family.

Prior to its implementation practitioners were required to undertake ‘The structured conversations - assessment skills for probation practitioners’ training and this was also something that was observed as part of the research. The implementation of such training could be due the CRC perceiving staff to be talking rather than ‘probation officer-ing’. The training lasted one day and considered desistance and protective factors, conducting semi structured interviews and questioning and listening skills (appendix ten). The training day was the only one that the participants had been offered since the CRC commenced ownership:

‘The only thing we’ve had is actually we’ve all been put on that structured conversations training and the definition of risk of harm was that’s the first time I’ve seen it written in a different way. And it’s mandatory training that everyone’s had to go on and the breakdown of...it was almost like five categories rather than what used to be three, low, medium and high, it’s been broken down to low, low medium, medium, so maybe it’s four categories. But it was phrased differently, wasn’t it? And that’s the first time I’ve seen that and that works much better with the way the new assessment tool’s been developed... it was only very fleeting, it was literally that one slide and it was just thrown in there and a few of us were like, oh, hold on, that's really different from the last years and years where you've had those definitions of harm literally in your head and that imminence and everything, it’s rephrased. And it works better the way they've rephrased it with how we’re working now but we’re not using it yet because we’re in that transition of OASys’. (PO, Assessment Team, 6 years).

This participant highlights a change in risk of serious harm definition and comments that the assessment tool is more aligned to their new working practices (and offender group) and as such was appropriate, though none of the participants had any detailed knowledge of it due it being in the development phase. This highlights that practitioners are having to let go of the definitions of risk that the NPS still use. Consequently, there is a reconfiguration and narrowing of risk of serious harm at each stage of supervision, further removing the CRCs from probation practices pre TR and from NPS. For other participants the training day was not considered relevant or necessary:

‘It was the most pointless piece of training because it was what we do already’. (PSO, Rehabilitation Team, 4 years).

Another participant stated that there was an emphasis within the assessment tool on re-offending rather than risk of harm, culminating in a lack of practitioner discretion:

‘I mean, the risk of reoffending is not clinical’. (PSO, Rehabilitation Team, 11 years).
‘So they’ve brought in the reoffending bit much more which I’ve noticed from the new assessment tool as well, the focus is very much on reoffending because we’re not dealing with as much harm. So they’re bringing in the reoffending, they’re the cases that we’re going to be dealing with. That’s a real shift’. (PO, Assessment Team, 6 years).

Once more there is an underlying assumption that the CRC is no longer working with risk of serious harm offenders and that risk of reoffending is their remit and can and be measured through actuarial means:

‘So risk of reoffending I guess generally is quite static. It's using the OGRS and, yeah, it doesn’t change depending on the age and previous convictions.’ (PSO, Resettlement Team, 18 months).

However, such assessments do not predict the type or seriousness of offending in the future, they are for Kemshall and Maguire (2001) and Robinson (2002) the least reliable in assessing risk of serious harm and offer little in suggesting interventions that may reduce re-offending or determine the levels of risk over time (Lancaster and Lumb, 2006). Because of this it is clearly important that the risk of serious harm is given adequate attention through clinical assessments and yet these have been reduced. It is also worth noting that whilst actuarial risk assessment is helpful for determining groups of offenders most likely to be reconvicted it does not determine which individuals within a group aggregate would. The assessment also does not make calculations regarding reconvictions (measures reoffending), with only three per cent of offences resulting in a caution or conviction (Barclay and Tavares, 1999), arguably minimising the risks to the CRCs regarding payment by results. Hardy (2014) notes that a reliance on actuarial assessments can result in practitioners seeing ‘the worst’ in people (2014, p.306) further exacerbating issues regarding actuarial fallacy, whilst Douglas (2010:42) comments that ‘what seems to be in each case a purely technical exercise quickly becomes one that rests upon the philosophical foundations of inference.’ Post TR the philosophical foundations of probation and the CRC have altered.

Tuddenham (2000, p.174) contends that risk assessment should be reflexive and ‘a dynamic self-questioning process, which explicitly accept that knowledge is subject to perpetual revision and that the wider social and political context has an influence on the practice of risk assessment and management.’ There is here a loss of the dynamic and reflexive and of an understanding of how fluid risk is, coupled with a new political context where there are profit and losses. Assessment of risk involves re-assessment and needs to be more than an iterative process, ‘it calls for perceptiveness, sensitivity and openness to the possibility of change’ (Canton and Dominey, 2018, p.156). Therefore,
as Tuddenham (2000) also notes, an offender’s circumstances need to be regularly reviewed. However, two participants commented that the CRC was completing less reviews than when they were part of the NPS and The Early Implementation Inspection four (HMI Probation, 2015) supports this assertion, noting that there had been no review of the risk of harm assessment and the risk management plan in nearly fifty percent of the cases inspected. Of those that were completed the quality was deemed insufficient in over a third, supporting the loss of dynamic risk within CRC practice and a reduction in openness to change.

As already highlighted, a pervasive theme within the research is that risk had to be worked with in a new way now that they were a CRC:

‘The OASys risk assessment is really good but you almost...it contradicts itself a lot of the time because your mindset’s having to change with how you’re assessing risk. So I’m writing it but I’m almost not feeling what I’m writing because I’ve had to change the way I think about it all, whereas I think the new tool in line with the newer definitions we’re meant to use is going to work better...so maybe the new tool will help everyone to move with the new types of cases that we’re working with’. (PO, Assessment Team, 6 years).

The shift in mindset is evident, CRCs have to work differently however, they are not working with new offender groups and yet there is a sense amongst some of the participants that this is the case and so new practices had to be adopted, which were not just limited to targets, methods of recording and the new MSRP toolkit but also the ways in which they work with risk (new definitions).

The NPS continues to use OASys and one participant noted that the implementation of a new assessment tool seems somewhat contradictory given that it is espoused as being the most accurate tool when working with risk:

‘I just think actually we were told for years that OASys was the tool to assess risk and to assess needs and to undertake offending behaviour work and much as, you know, there are issues with OASys, actually it is very clear about what point you get to at the end of it, however long it takes you to get there.’ (PO, Rehabilitation Team, 9 years).

For others the new tool is more user friendly and a welcome change to the large and detailed sections that are part of OASys:

‘Because OASys is very cumbersome and I feel held back by that time wise. But all that’s going to happen is you might get quicker on the tool so I think it’ll end up being three slots a day’. (PO, Assessment Team, 6 years).

‘I can’t wait because our case management system nDelius and OASys are both so clunky and difficult to use, so I think in terms of day to day inputting, it’s going to make
Hardy (2014) discusses how reliance on actuarial methods results in a decline in clinical assessments being made in the everyday interactions with the offender because the reasons why the offence are occurred are already known. The offence itself becomes the risk analysis and the increasing prominence of risk of re-offending demonstrates that CRC is now risk averse to risk of serious harm. The purpose of the risk assessment tool is not about governing through risk but achieving goals and meetings targets, distorting its purpose and function accordingly. Giddens (1998, p.30) comments that the ‘emergence of manufactured risk presumes a new politics because it presumes a reorientation of values and the strategies relevant to pursuing them.’ Here it could be argued that the new risk assessment tool has manufactured new risks and that the new politics are that of NPM and privatisation – the values are bound to a competitive market place and the strategies are thus geared towards these.

The Devolution of Risk

It could be posited that TR has culminated in a devolution of the risk agenda (Garland 2001; Beck 1992; Feeley and Simon). Where risk was previously considered to have dominated and prioritised probation practices it has, through TR, become the remit of NPS resulting in a regression of risk-based practices within the CRC. When considering a governmentality approach the adoption of the new tiering and new risk assessment tool can be considered as thoughts and rationalities. The thoughts are ‘any form of thinking which strives to be relatively clear, systematic and explicit about...how things are or how things ought to be’ (Dean, 1999, p.11). Rationalities are the ‘regimes of practice,’ and ‘fairly coherent sets of ways about going about things’ (Dean, 1999, p.21). Governmentality seeks to investigate the logic behind the maintenance of regime. The logic here is a need for expediency achieved through the classification of offenders by their offence, reducing their management to rigid, inflexible information (data) gathering that result in the allocation of prescribed forms of interventions. Hardy (2014) comments on the need to consider the who, what and why of governance. Neo-liberalism and NPM has resulted in the ‘who’ of who is being governed becoming an idealistic version of an offender who is easily categorised by using data on groups of offenders whilst responsibilising them for their own reductions in re-offending, further distancing practice from penal welfarism (Hardy, 2014, p.310). The philosophy of the CRC is that the offenders are rational actors and this has culminated in a simplified and reductionist approach to how they are
risk assessed and why. Arguably TR has caused the ‘what’ of what is being governed to shift from the offender’s risks (Feeley and Simon, 1992; Hardy, 2014) to the attainment of targets and the management of the risks that threaten these. Ultimately the ‘why’ that the CRC governs, has shifted from a previously philanthropic and public protection agenda pre TR to an agenda of fiscal survival and the use of auditable measures to achieve these. The loss of probation values and practices is significant in all aspects of the process. More so than ever the ‘objective to be sought’ is separate from ‘the will to cure or to rehabilitate’ (Parton, 1998, p.20).

Summary

Kemshall (2003) discusses how the risk agenda had previously been operating at an increasingly intense level and that probation had embraced it through ‘pragmatic adaption to the new penalty of the New Right’ (Kemshall, 2003, p.92). However, this pragmatic response allowed for adaptation, with research demonstrating that probation could continue to work with new technologies and risk priorities whilst still being able to preserve their probation culture and practices (Deering, 2011; Mawby and Worrall, 2013; Deering and Feilzer, 2015). However, these adaptations are becoming increasingly difficult because there is a re-configuration of not only the organisation but also of the offenders and their risks. The CRC is heterogenous and so has its own practices and risk definitions which have reduced risks prominence and pervasiveness; risk of serious harm is no longer their priority or concern. As discussed Kemshall (2011) notes how the use of lay actors results in the generation and administering of new risk knowledges, the lay actors use their own risks. With TR risk is now bound with values, attitudes and perceptions of the CRC rather than in knowledge and experience and previous probation definitions and actions. Consequently, the risk of serious harm is no longer a ubiquitous and permeating probation concept, nor is it something that requires a dynamic approach where risk can change. Evidence of this can also be found within the 2017 Annual Report by HMI Probation which stated that ‘in about half of all CRC cases we have inspected, not enough attention was given to the risk of harm right from the beginning, and we find that lack of focus continuing through the period of supervision in a similar proportion of cases’ (HMI Probation, 2017, p.13).

Robinson (2016) highlights that TR could lead to a ‘risk-resource nexus’ whereby the resources following risk principle is compromised through new impermeable risk borders. As such there is an impact upon resources which may lead to a recalibration of risk:
Where resources are (relatively) fixed in space, and thus less flexibly deployable, it is definitions and thresholds of risk which must be adaptable. Put another way, now that the new organisational structures have been created (in the form of the NPS and CRCs), it seems likely that definitions of (high) risk may well need to shift in the future to fit those relatively inflexible resource silos....Given the regional structures of probation resources, it is possible that the future definitions of risk may become much more localized, reflecting differential resources, as well as differences and changes in offender populations. (Robinson, 2016, p.50)

This research does support these assertions however, it also shows that the issue is more complex. TR has culminated in the corruption of risk, it has become distorted through commodification which has led to the CRC implementing new ways of working that have competing aims and objectives to the NPS and to the probation culture pre TR. The NPS is becoming an abstract and remote organisation for CRCs rather than a partnership agency thus there is a gulf not just in the ways that risk is worked with but also with how it is constructed. Burke and Collett (2016, p.132) argue that this risk-resources nexus could also be resolved ‘by the de-professionalisation of staff skills and the dumping of additional responsibilities on staff without commensurate investment in their training and support’. Again, this research does demonstrate evidence of this which further compound the issues raised. Ultimately, privatisation has led to the definitions and assessments of risk of serious harm being distorted and reconfigured and this has serious implications regarding the pursuit of a public protection agenda. It is with this in mind that risk will next be discussed in relation to risk escalations and NPS.
Chapter Nine: The Bifurcation of Risk and New Risk Borders

This thesis has discussed and demonstrated how complicated and nebulous risk is and how the bifurcation of probation has led to risk becoming ‘boxed’ off. Risk has become compartmentalised and corrupted through the reconfiguration of definitions and assessments. With medium to low risk of harm offenders now under the remit of private companies the continuity in risk conception (rationalities and mentalities) becomes compromised and there is the potential for risk to become heterogenic – contingent on each of the CRC’s interpretation, understanding and application. This chapter will consider risk in relation to the CRC and NPS and how it is considered and used when there is a potential need for a case to be escalated to NPS supervision. It will also consider the impact that TR has had upon the relationship between the two organisations and discuss whether a hierarchy now exists in relation to risk expertise culminating in the creation of new risk borders.

Risk Escalation

Following TR NOMS (now HM Prisons and Probation) issued instructions to the CRCs and NPS regarding the escalation of risk, stating that:

...a significant deterioration in behaviour may indicate the possibility of an increase in risk of serious harm to high. That means that the offender could commit ‘at any time’ an offence that would be life-threatening and/or traumatic, and from which, recovery, whether physical or psychological, can be expected to be difficult or impossible. Factors other than the current behaviour of the offender may be significant in some cases, including those where the vulnerability of victims or the effectiveness of external controls fluctuate over time, or where hitherto unknown information about previous behaviour comes to light...In the community, indications of increased risk of serious harm may have involved serious further offending, and/or a need for recall to prison, in which cases practitioners will utilise the separate Recall and/or SFO reporting procedures alongside Risk Escalation. (NOMS, 2014, p.2).

The way in which medium risk of serious is differentiated from high is that a medium risk of serious harm means that the ‘person has the potential to cause serious harm but is unlikely to do so unless there is a change in circumstances’ (NOMS, 2014, p.1). Here it is evident that an escalation must be completed when there are changes to the behaviours of the offender or victim concerns which make an offence that would culminate in serious harm likely to occur. The emphasis is on this being done prior to an offence taking place.

With the creation of a separate and distinct tiering framework coupled with a new risk assessment tool there is a need to ensure that all probation services are working towards the same definitions of
risk of serious harm if risk escalations to NPS are to be accurate and timely. When considering this process it is first necessary to consider how the participants determined that an offender had crossed the medium risk of harm threshold:

‘I think it’s whether the risk is active, current, whether it’s imminent, whether they’re a risk to themselves or whether they’re an imminent risk to someone else’. (PSO, Rehabilitation Team, 10 years).

The use of current and active is a CRC terminology/requirement and not part of the MOJ risk escalation guidance. Neither are they concepts that the NPS will use or be familiar with however, they have clearly become embedded and instrumental in the escalation process.

Two participants noted that the NPS provides more inter-agency co-operation and management of risks and that this was a basis for escalation – that the risks could no longer be managed by the CRC however, Chapter Eight has highlighted that some participants were unfamiliar with NPS services and their practices and that NPS has become an abstract external agency, making this determination more complex and open to misinterpretation. It also demonstrates the isolation of CRCs and a loss of multi-agency working:

‘I think if it’s something that, as a service ourselves, we would probably look to need that extra support so obviously with high risk in NPS cases you generally find there’s a lot of MAPPA involvement, so having that support of...the Multi Agency approach which...you don’t really have in CRC, so...if the case I feel I need that extra police input. I need the extra police intelligence. We need the support of them, the extra power that a MAPPA conference can hold, that we can’t necessarily put out ourselves, because they look at it and say, well, he’s medium risk. He’s managed by you. If he was high risk we might be able to take them on. Examples seem to be a lot around, like approved premises, as well.’ (PO, Resettlement Team, 5 and a half years).

I think I might be doing...someone actually today has breached a restraining order and he's in the police cells again and I think that's the second or third time that he's done it, and it's quite nasty stuff, so I think that's going to push him up because we're umming and ahaing and then I've got somebody else who's coming out and he's HIV positive and quite promiscuous, so I think we're thinking...so I'm thinking ahead as well and I'm aware with what the harm is of this behaviour and what's the likelihood of it happening, can I manage it, why can't I, what can I do, why do I need to escalate it. I think I'm very aware of what our restrictions are in the CRC and what the benefits are of NPS and what they can offer and why it's high’. (PSO, Resettlement Team, 18 months).

The limitations of the CRC in regard to multi agency working could result in risk escalations based upon resources rather than risk. It is essential that the risk dictates the need for resources rather than the resources dictating the risk. Robinson (2016, p.50) highlighted the potential for this
occurring stating that ‘constructions of risk, it seems, may well have to be responsive to particular configurations of resources, rather than the other way round’ and this research shows evidence that this is indeed occurring. It is also important to note the loss of co-working and again how this will limit not only the offenders’ progress but also the capacities of the practitioners to work with cases in a way that their previous probation professional judgment, knowledge and experience promotes. For those staff that joined the CRC post TR there is a very real possibility that they will not be familiar with the NPS and multi-agency workings at all and thus will be unable to determine when such approaches may be required. The process of risk escalation can be considered as bearing the traits of Aaas’ (2014) ‘bordered penality’ whereby a system is created grounded in the concepts of membership and exclusion resulting in distinct modes of justice. This chapter will demonstrate that there are now different modes of understanding and working with high risk of serious harm and also that new borders (Robinson, 2016) have been created which include and exclude both offenders and practitioners from working with risk of serious harm, complicating and negating effective risk management. Rose (2000, p.332) discusses how risk is central to the ‘management of exclusion’ in post welfare strategies and TR has resulted in additional exclusionary practices where offenders are not just excluded from society and welfare provisions but from core probation practices.

Risk Escalation and Tiering

The implementation of a new, distinct tiering framework has the potential for risk escalations to be misunderstood or inappropriate:

‘We deal with, obviously, the medium to low risk. But, then, we have this active and current as well, which is why it’s difficult, you can’t just distinguish between high and medium risk that is what the problem is. Because people fluctuate, you will get, like, I will have, like, five medium risk cases, but two of them will be so medium that they are bordering on high, but you can’t make them high and send them to the NPS unless something happens’. (PSO, Rehabilitation Team, 4 and a half years).

There are two important concerns raised within this response. Firstly, the new tiering has distorted the understanding of risks within the tiers and made the line between them blurred, thus the new tier four has the potential to inflate an offender’s risk of serious harm by virtue of the classification. Secondly, there is also a rigidity present and a lack of appreciation of the fluid nature of risk within the new arrangements despite risk of serious harm being the guiding feature for the allocation of offenders. Risk is being ‘boxed’ off due to logistical constraints and new terminology, exacerbated by
the fact that a high risk of serious harm would result in a referral to NPS. Consequently, the participant feels that they must wait for an event before they can move the risk, thus there is no longer proactive risk management before an offence takes place, rather this now occurs after (discussed further within SFO dichotomy). TR is based on a fundamental misnomer:

‘The logic of the way in which the split occurred has caused and continues to cause issues. The splitting of risk is a big issue. People who work in probation know that risk is not about putting a person into a category where they stay. Actually, they move category as time goes on. They can start as low risk, be medium risk and then suddenly be high risk. Therefore, the way that splitting was organised is also a little problematic, because it requires an awful lot of co-ordination between the NPS and the CRCs, and that has not been easy to set up’. (Senior, Justice Select Committee Oral Hearing, 28th March 2017).

The communication between the CRC and NPS will be discussed in more detail shortly, but the use of tiering isolates not only the CRC from the NPS’ ways of working but also isolates the NPS from CRCs complicating the process of escalation:

‘Well, it makes a nonsense of it, because how the NPS are tiering, and how the CRC are tiering, they’re totally separate now. So, when you talk about a Tier 4 case, you’ve got to make clear that it’s an NPS Tier 4, as opposed to a CRC Tier 4’. (PSO, Resettlement Team, 18 years).

In addition to this, should the NPS accept a case they will be working from assessments and interventions that are unfamiliar fragmenting both continuity within supervision and the risk management:

‘And I’m wondering how it’s going to be because if it’s very different it’s going to be very strange then escalating slightly to a different system. And they’re not going to be happy because they’re going to be getting a case that doesn’t have OASys, so they’ll get a risk escalating case which has got no OASys so they’ll have to do one from scratch’. (PO, Rehabilitation Team, 5 years).

Fitzgibbon (2013, p.88) comments that the escalations to NPS will take place in a climate where the common language of risk ‘will dissolve in the mix of multiple providers from a diversity of backgrounds, educational levels and motivations’ and this research supports such an assertion and suggests that there is also a dissolution of risk as a homogenous, ubiquitous probation concept (one grounded in NPS terminology and definitions). The lack of continuity is also a factor for the offender who, once escalated, will be required to not only change supervisors but will attain a ‘risky’ label and be required to attend NPS appointments at a different location:

‘A lot of the people that we deal with are quite volatile. And they get used to having an Offender Manager, and if you’re moving them out from that Offender Manager, that’s
going to potentially affect their risk as well, because you’re breaking down a relationship’. (PSO, Resettlement Team, 7 years).

For one participant the loss of the relationship was a contributory factor in their risk escalation determinations:

‘It is the whole sort of people panicking that a medium is now a high and then what is a high is not a high in other people’s definitions. That’s the main difficulty, whereas before, whilst you’d have them in different categories, you’d manage them differently, for me, it was still going to be your case, so if a manager knocked back your assessment of high, you knew you were still going to manage that case, or if he accepted it, you knew you were still managing it’. (PO, Resettlement Team, 5 and a half years).

Here the participant believes that a rejection of escalation will not affect the management of the offender as they have the ability to continue to work with their risks regardless however, as already highlighted their capacity to do this is limited by the new modes of working and access to resources.

**False Positives**

It has already been noted that the conflation of risks through the competing tier four definitions could result in risk escalations that do not meet the NPS threshold of high risk of serious harm, thereby culminating in false positives and the research did provide some evidence that this was potentially occurring however, it was on the part of management not practitioners:

‘we seem to try to risk escalate more cases than I would have thought we would have done previously, so mine’s going a little bit...cases that I kind of think maybe would have been medium risk of serious harm but you’ve got managers saying, no, no, they need to be high, they need to go to NPS’. (PO, Resettlement Team, 11 years).

‘I’m getting told by certain managers, you need to risk escalate it so we can say we tried to do it’. (PO, Resettlement Team, 5 and a half years).

Such actions by the CRC managers could be attributed to payment by results. Deering (2015) noted that for the CRC agenda to be successful risk overestimation may occur to remove those offenders that are less likely to complete. This raises the issue of defensive institutionalism, with Halushka (2016, p.3) noting that NPM can result in the filtering of the ‘client pool.’ Tuddenham (2000, p.179) argues that probation practice is now defensive, not defensible, and that the emphasis is on ensuring that all reasonable steps have been taken rather than whether someone commits an act of serious harm. TR has added a new layer of fear and accountability for both the CRC and the NPS.
‘inappropriate’ use of risk escalation will ultimately affect the CRC’s legitimacy as a probation organisation in the eyes of NPS who are in receipt of such referrals. The maintenance of status and professionalism is in jeopardy when CRCs show themselves to lack an understanding of high risk of serious harm. In addition to this there is more accountability placed upon practitioners who are arguably more so than ever working in a climate of fear, which can also result in defensive rather than defensible practice (Kemshall, 2003):

‘I think it’s a fear, isn’t it, that if there is a serious further offence and you’ve not escalated them to high risk, then you’re fearing for your own job, really, because it’s like, well, why were you dealing with that case in the first place? It should never have been with your service. So it’s kind of covering your own work, really’. (PSO, Rehabilitation Team, 4 years).

‘That’s been a real difficult one for the POs in our resettlement team is they’ve been tearing their hair out when there’s been a couple of cases that they are convinced are high risk and the PSOs have had as well and they haven’t been able to escalate them’. (PO, Assessment Team, 6 years).

‘If it’s rejected, it’s rejected; there is nothing you can do with that. I mean, you can keep putting it in, but if you keep putting it in for the same reasons, it’s just going to keep getting thrown back. And then, it’s a case of, okay, fine, I’ll keep managing the case, but then if something serious does happen, you are the one then in firing line, well, why wasn’t that escalated in the first place, why did it get to that point…one of my colleagues, one of her cases committed an SFO recently and she felt horrible about it because she felt like she was being interrogated, what have you, you know, how did you let it get to this point. And she had tried escalating it before and it didn’t go through.’ (PSO, Rehabilitation Team, 4 and a half years).

Previous research (Hood and Shute, 2000; Tuddenham, 2000) has shown the potential for practitioners to ‘err on the side of caution’ and up risk to be on the safe side and arguably TR has further exacerbated the potential for this to occur. The accountability felt is also exacerbated by the perceived response of the CRC to serious further offence even though they are a more likely occurrence within the low-medium risk offender group (Craissati and Sindall, 2009):

‘Having said that, of course, most serious further offences happen with low and medium risk offenders. Now, we had the first SFO that CRC have dealt with, in our office, for somebody on rehab, and it was very clear that they were quite concerned about the front page of The Daily Mail, much more so than about the staff or about the risk issues’. (PSO, Resettlement Team, 18 years).

Defensive institutional and practitioner practice raises the question of proportionality. The bifurcation of risk and the risk escalation process has produced new ways of framing responses to criminal acts and offender behaviours in relation to the future, complicated by a need to determine
agency responsibility. The process is compounded further because ‘new criminologies tend to view crime prospectively and in aggregate terms’ (Garland, 2001, p.128). It is therefore important to consider why risk escalations have not been accepted and how and why the risk of serious harm was assessed as such by the CRC and NPS.

**Barriers to Risk Escalations**

The participants were asked to provide examples of risk escalations and the factors that triggered it and to comment on the process itself. Most described it as convoluted and had led to a loss of professional discretion and legitimacy with the determination of risk decisions being seen as out of their control:

‘I think for me, it’s that line between medium and high, whereas before it was a, you know, two-minute discussion with your line manager, if that, or you would just review OASys. Now to move someone from medium to high is now a massive issue, and you have to get agreement not just from your manager but from a manager in the NPS because you’re then asking them to take work, and that line seems to...whereas it used to be quite fluid, it is now a very solid, firm, if you can’t meet these criteria to prove to me that this person is high risk then it’s not happening, and that’s the biggest thing for me’. (PO, Rehabilitation Team, 8 years).

This provides further evidence that offenders and the fluidity of their risk is now ‘boxed’ off. New risk borders exist not just in relation to the formation of CRCs and the NPS but in terms of risk as a dynamic concept. Kemshall (2008) comments how the fragmentation of work through specialisms and high-risk can leave ‘staff working in functional silos and failing to take a joined-up approach to risk’ (2008, p.54) and the observations by participants support this assertion.

The classification of high risk of serious harm concerns likelihood – that the behaviours could take place at any time, or imminently (very high) thus immediate action is required to manage these before an offence occurs however, TR has culminated in protracted risk decisions that hinder required actions being taken by the ‘right’ probation organisation:

‘Which is where it seems so clunky at a point where you feel the risk is at its height, you’re then trying to negotiate with NPS about taking the case over at probably the most crucial point in the management of it’. (PSO, Rehabilitation Team, 19 years).

‘I just found it very frustrating then, you had to call a member of the NPS team, discuss it with them, who don’t know the case at all. And they’re just sort of...it feels like they’re ticking certain boxes and they want to avoid taking cases, so it just felt like I was...’
getting pushed from one end, by a manager saying, we need to risk escalate, getting pushed by the other saying, well, we don’t think it’s worth it. And I’m sat there thinking, well why can’t I just manage it? (PO, Resettlement Team, 5 and a half years).

Risk escalations require CRC and NPS management approval and such observations highlight not only the conflict in assessments of risk of serious harm between the two agencies but also the potential for practitioners to hold onto cases. In this case the participant was a qualified probation officer who had lost some of their previous working practices but believed they remained capable of managing high risk of serious harm and this view was held by most POs:

‘Because some people who you try and escalate are refused. Me, I’m perfectly happy with our risk offenders. I’m used to very high-risk offenders [laughing]. I miss them but some of the decisions made by the NPS on accepting escalation seem slightly arbitrary and lack of communication between the two is not helpful’. (Agency PO, Rehabilitation Team, 15 months).

‘And I do think at times, cases that you think maybe they could be high, because of the rigmarole of the process, people maybe think, well actually, is it worth trying to go for this when actually, they could be held as a medium and justified as a medium?’ (PO, Resettlement Team, 5 and a half years).

One participant felt that the process itself had led to colleagues being reticent to escalate:

‘I guess the one big thing that I’m aware of is so the escalations. I haven’t done one myself but I’ve got a lot of cases that are really close, I think. I know it’s such a big piece of work and really time consuming to escalate somebody to the NPS and I get the feeling maybe that people might be assessed as higher sometimes if it weren’t for the implications of the case not being accepted to the NPS, I think. I haven’t had direct experience of that myself, but I guess I’ve overheard that’. (PSO, Resettlement Team, 18 months).

The implications of such assertions are two folded. There is the potential for high risk cases not to receive the level of expertise and multi-agency working that informed and justified the TR process, thereby placing victims/society at greater risks. Additionally, the holding on to cases allows practitioners to maintain working practices no longer afforded them and as such reaffirms their practitioner identity and legitimacy.

All of the participants commented that the difficulties in attaining a risk escalation could be attributed to NPS being understaffed and that they had been told to actively reject escalation where possible:
‘It wasn’t that quick because it was an email argument that was ongoing and as soon as the issue came in I think I spoke with about four different managers over the course of it, going backwards and forwards and some agreed with me and then the NPS manager didn’t and it was just it felt very convoluted. I think there’s a few criteria where they just have to accept it straightaway and other ones where they’ve got room to manoeuvre. But, like I said at the beginning, one of the NPS managers, told me that they’ve been told they’ve got too many cases so if there’s a reason to say no to something then they’ll say no to it’. (PO, Rehabilitation team, 14 years).

‘If we think somebody’s very risky, we’re then linked into quite a bureaucratic system, for risk escalation, and different places within the CRC, NPS, they’re seems to be a blanket barrier, to say, no nothing is a risk escalation. Now, that says more about the pressures and strains on the NPS, I think, than on the risk escalation...I’m not sure that PSOs have the skills or the knowledge to actually argue that case well, between themselves and the NPS, and I’m not sure that we’ve got that right yet. But we can’t force them to take a case, all we can do is put the case to them and hopefully a decent OASys, and then hope that they make a decision based on risk, rather than on capacity’. (PSO, Resettlement Team, 18 years).

Here, it is not just the CRC that has become more resource focused. The NPS received more cases than were anticipated and as such they do have staffing issues (HMI Probation, 2017), further highlighting how NPM has resulted in NPS also having to be survival and capacity minded. Additionally, Robinson (2016, p.48) highlighted that the bifurcation of risk has led to a ‘power imbalance’ which could result in the ‘creation of a potential battleground at the interface between the two organisations on which definitions of “high risk” may be contested and fought over’ and there are examples within this research (see hierarchy section) that support the creation of such a ‘battleground’ but it is not just a power imbalance that has culminated in this but also the reconfiguration of risk and of probation roles.

The final area of concern regarding escalation relates to what information and behaviours now constitute a high risk of serious harm categorisation:

‘A lot of the time it’s based on, you know, what the conviction is at the moment, and they don’t take into account previous convictions or just their behaviour in general. I mean, we had one that his conviction at the moment wasn’t actually that serious, but we had intel based on what his behaviour was at the moment and it was that that was making him risky, and they did eventually take him up to high risk, but it was a bit of a fight to get him up there’. (PSO, Rehabilitation Team, 4 years).

This participant felt that the escalations were based on the offence that had led to them being subject to probation however, an offence does not by itself constitute risk or a rise in risk. As the NOMS guidance states, behaviours are fundamental to the determination of escalation (NOMS,
2014) and notes that new information can also be used, such as in this case, but there is nonetheless still an apparent clash in assessments. Since TR there is now much more of a need to provide concrete evidence that something has happened which can be problematic when you are dealing with future behaviours

‘It’s been all right, but you have to be very, very clear, which isn’t a bad thing, about the evidence of why this person is now high risk, and you know, there’s one of mine that I think is going high risk but it’s a gut reaction. He’s breached his non-molestation order three times in the last...no, four times now in the last month, but he hasn’t done anything other than talked to her or shout at her, and so because he hasn’t actually been violent to her, I can’t evidence that there is a risk escalation, so I think that’s the trickiest bit for me is that kind of...whereas actually in the past I probably would have reviewed OASys and put him up at high risk by now, I can’t do that... so I have absolutely no doubt that there is an imminent risk of harm because he will, the second he’s out in two days’ time go back but I cannot prove that he will cause her serious harm from which she might struggle to recover and that’s the problem.’ (PO, Rehabilitation Team, 9 years).

The SFO Dichotomy

Whilst the concept of a serious further offence is not a new phenomenon it was only introduced formally in 2003 and relates to an offender under the management of the National Offender Management service who has been charged and convicted of committing a serious offence. The offence categories are:

- Murder;
- Attempted Murder;
- Arson where there is an attempt to endanger life;
- Manslaughter;
- Rape;
- Kidnap/abduction or attempted kidnap/abduction;
- Any other serious violent or very serious violent sexual offence, armed robbery, assault with a deadly weapon and hostage taking;
- Any other violent or sexual offence where the offender/offence is likely to attract significant local or national media interest;
- Any other violent or sexual offence where the offender is under the consideration of MAPP Panel level 3 or local risk management procedures.

(Home Office, 2003, p. 3)
The implementation of SFO terminology and guidance was so that there was a structured process in place to review the offence, the offender and their supervision and management highlighting the gravity with which the government, probation and the public perceive the commission of serious offences when the perpetrator is subject to criminal justice measures. Given this it is concerning that probation agencies are potentially minimising the attributes that may be associated and lead to the commission of such an offence, potentially due to the newly implemented bureaucratic escalation process. The need for a serious further offence (SFO) to occur in order to evidence and justify a risk escalation is a dichotomy. The risk escalation process is to ensure that high risk of serious harm behaviours are managed and addressed by the appropriate agency, thus reducing the likelihood of an offence being committed. However, all the participants noted that the NPS nearly always require an SFO for it to be approved:

‘A lot of domestic violence, one of mine actually got arrested for a serious further offence recently for rape. He hasn’t been charged with it at the moment, so it’s only an allegation but that’s potentially, it has escalated the risk’. (PSO, Rehabilitation Team, 1 year).

As highlighted for the offender to be subject to SFO criteria they need to be convicted for the offence but the behaviours that are involved with such an allegation and arrest fall within the escalation remit, yet the lack of an actual offence appears to negate the need for other factors to be considered. This need for a conviction in relation to a serious sexual offence was not limited to this one participant:

‘And I’ve got one at the moment, for example, where NPS have said, so he’s due in court on rape offences, but they again, won’t accept a risk escalation now, they want to wait and see if he’s convicted’. (PSO, Resettlement Team, 6 years).

‘They want to have a conviction, because if they didn’t do anything, they weren’t convicted of it, then what’s the risk escalation?’ (PSO, Rehabilitation Team, 5 years).

A feature of governmentality within criminal justice is that the focus ‘shifts from actual behaviour change in the present to the management of future risks’ (Valverde, 2017, p.111). This is the governing feature of risk escalation and for it to be evidenced there must be a change to the current situation that results in likely or imminent risks of serious harm occurring. The alarming fact here is that seemingly a risk escalation cannot be for anything other than a new conviction, risk of serious harm is boxed off by virtue of offences and rigid borders and has once again lost its fluidity and
dynamic nature. Consequently, TR has led to an offence focused approach not a behavioural one and not just within the CRC but within NPS. When considering such a reductionist approach to risk escalation and potential SFOs (high risk of harm occurring) it is worth considering the notions of crime and criminality and how they are understood and used in assessing offenders’ risks. Nash and Williams (2008, p. 49) note that crime is often conceptualised in two ways and it is the first of these that has most relevance this being the presence of actus reas or the guilty act. This is important when considering SFOs because here there is a legal issue regarding the restrictive nature of defining crimes that is a core component in SFO inquiries because often those that are managing offenders lack the presence of an actus reas in the lead up to the serious offence. The offender may not show signs of their thoughts or intentions regarding committing a crime. However, post TR this now has a reverse issue. There are within this research clear examples of indicators of behaviours that may indicate the commission of an SFO or that one had already occurred. What prevents them from being managed as a high risk of serious harm is the lack of conviction. Now there is not just the issue of there being no prior warning but rather that when warnings are present they cannot be acted upon unless the offence occurs. There is a reduction in the opportunities to negate actus reas.

Whilst the concept of crime tends to focus on the construction of crime as a legal concept criminality is more concerned with criminal behaviour, most notably the propensity for a person to commit a criminal act. Whilst grounded in the positivistic the search for answers to this now predominantly lies with the formation of typologies that create risk assessments such as OASys. For Nash and Williams (2008) these standardised risk assessments and the ways that they are used continue to adopt a positivist approach to criminality and only identify a very narrow portion of behaviours that are linked to risk of serious harm, especially when undertaken with those assessed as medium to low risk who now make up CRCs caseloads. With arguably more limited, basic risk assessments being used in CRCs and a loss of risk of serious harm considerations and meanings within practice there is the potential that CRCs may contribute to the increase of SFOs by those that commit them the most, the low to medium risk of serious harm offenders. There is now an approach to risk and propensity that is even more narrowed. In relation to decision making processes it also illustrates new forms of defensible (Kemshall, 2008) and defensive decision making. The NPS is not adopting defensive practices by taking cases on for fear of the commission of an SFO following an escalation referral and the rationale that is used to defend their assessments (or rejection) has culminated in the reduction and narrowing of the risk factors used to determine the outcome with an emphasis on convictions. Whereas it could be argued that CRC practices have the potential to culminate in false positives conversely the practices by NPS have the capacity to culminate in false negatives.
The need for a conviction negates the purpose of a risk escalation from a public protection perspective:

‘It has changed, there's cases, particularly domestic abuse cases, that would have previously been high risk of harm which NPS are arguing are medium. I've got an example, I had a guy, a long history of domestic abuse and there was a new police call out in which strangulation was involved, so this has gone up to a high risk of harm. But because following the incident the partner kicked him out the NPS manager was arguing that he no longer lives in the property, therefore, the imminence hasn't increased, therefore, it shouldn't be high risk of harm. Whereas prior to the split that would definitely have been high risk of harm no matter what...one of the NPS managers, recently and he told me that they've actively been told if there's a reason to say no to a case being escalated then say, no, to it because their caseloads are...’(PO, Rehabilitation Team, 14 years).

It could be argued that this shows that risk is being thought of as dynamic, it escalated then declined within a short period of time. However, in this example the behaviour of strangulation on its own should be considered as a potential reason for risk escalation. The fact that the perpetrator has been removed from the house is considered solely as a protective factor and not a potential increase in risk to the victim, who has ended the relationship, which can in some circumstances be a catalyst for increased violence by the domestic abuser (Clare, 2015). Here, the determination of non-escalation by NPS adopts a very practical and factual approach towards risk of serious harm based upon situational rather than behavioural indices, however the guidance notes that victim vulnerability is also a core factor in a rise in risk of serious harm. For Gilbert (2013) it is for this very reason that all domestic abuse offenders should be supervised by NP, where there is the capacity for a multi-agency approach to risk.

The third Early Implementation Review (HMI Probation, 2015) found that there was concern from both CRCs and NPS regarding cases where an offender had been escalated but not convicted of a serious further offence and that this has left NPS holding cases that were not classified as a high risk of serious harm. Again, this demonstrate the lack of fluidity and appreciation of dynamic risk within TR because the NPS, once they have been allocated a case, cannot return them to the CRC if/when their risk reduces, further demonstrating that is has been reduced to inflexible categories resulting in the participants having to hold on to cases where there is potentially a high risk of serious harm but no SFO conviction. The NPS are having to wait for certainty which ultimately can only be attained once the high risk of serious harm is deemed correct (through a conviction) which in effect means that there is a loss of risk proactivity exacerbated by the fracturing of service providers.

One participant gave an example of how he worked with risk of serious harm dynamically:
‘I was going to escalate the young man I mentioned last week but by the next day I went and I’d saw him at home and the risk had diminished because he was intending to kill an individual and he was acutely psychotic’. (Agency PO, Rehabilitation Team, 15 months).

Here the risk has, for the participant, been addressed and is viewed as having a very finite time frame, in this case one day, and further supports the argument that practitioners now wait until something else happens. There is no sense of prevention or even anticipation of change. The participant gave a further example of an offender whose behaviours were viewed as high risk of serious harm and once more there was an expectation that it would be escalated after an offence had been committed, in this case after a sexual offence had occurred.

‘R: Well, I’ve got one case where every single offence he’s got has a sexual element to it. He has no sex offence convictions so I’m looking for parallel behaviours. He appears to...well, his presentations support a diagnosis of narcissistic personality disorder. He’s going to be quite impossible to work with apart from we do see him as a risk.
I: And how do you...what would need to happen for that...with that case to be immediately escalated?
R: He would need to commit a sexual offence’. (Agency PO, Rehabilitation Team, 15 months).

The lack of an actual sexual offence is preventing an offending behaviour analysis of his risk of serious harm from taking place. Again, the issues with risk escalation can be considered within a governmentality perspective where there is the desire to manage risks as calculable objects and a need to gather information in a specific ‘data’ form, or what Valverde refers to as ‘big data’ (2017, p.111). Such data without convictions is difficult for the CRCs to obtain. Knowledge (data) now holds the power and post TR it is the NPS that determines its validity and if and how it is used.

There is evidence within the research of acceptance, albeit resigned, of these new escalation prerequisites; that it was a waiting game to see if an offence occurs that falls outside of the CRC remit. For the CRC is does make sense that they pass on cases that they consider unmanageable both for practice and profit reasons, however there is evidence that risk escalations are hindered by a lack of understanding of the dynamic nature of risk by both the CRCs and NPS coupled with a reticence by NPS to accept escalations.

It is worth considering these observations within the context of how many serious further offences have occurred. In the two years prior to TR (2012-2013 and 2013-2014) there were a total of 409 and 429 SFOs (MOJ, 2017, p.14). Between 2015-2016, 222 SFOs were committed by offenders allocated to CRCs and 285 by those supervised by NPS (combined total of 507). In 2016-17 this rose to 233 and down to 284 respectively (combined total 517). According to these figures there has been...
an increase in SFOs of over twenty five percent. In the Guardian (2017) an MOJ spokesperson stated that the increase should be considered in light of the fact that all prisoners are now subject to probation supervision and would now fall within this category (SFO), however the creation of additional licences was to provide more support and lessen the revolving door syndrome and high reoffending rates of these offenders, so such a statement is contradictory in terms of justifying the increase. However, it is widely accepted that any statistics should be treated with caution and this is certainly the case with those that pertain to offending and SFOs. Nash and Williams (2008) note there are several methodological and epistemological questions associated with official data and it is worth considering the nature of these given the implications of this data. Coleman and Moynihan (2003, p.24) state that there are four key sources of data regarding offences and offenders in criminal justice in England and Wales: criminal statistics, probation statistics, prison statistics and judicial statistics, the primary one being criminal statistics. These are produced annually and provide information and analysis on notifiable offences, offenders found guilty or cautioned, sentencing, court proceedings, the use of bail and court remand and previous convictions (2003, pp. 25-26). The key to understanding the data is to understand that they are social constructs which are determined by the categories of crime in use, the means by which they are discovered, reported and recorded and whether they are subject to counting rules. When thinking of SFO data Nash and Williams (2008, p. 37) highlight that in addition to these factors consideration should also be given to the issues with obtaining precise figures when there are always a number awaiting trial or are part of ongoing court proceedings, therefore have not been allocated to an offence category which may or may not be one that meets the requirements of an SFO. Offences are also often reduced in severity and classification through plea bargaining. With the rise in reporting of offences and historic sexual offences it would be expected that SFOs would rise year on year given this. Additionally, Nash and Williams (2008) also note the improvements in data storage and recording and the implementation of more precise tools to measure and calculate data which has undoubtedly continued to play a role in the data figures. With such complexities within the data it is difficult to attribute an increase in SFOs to TR however, the practices that could potentially prevent them can be questioned and attributed to TR.

NPS Hierarchy

The escalation process has clearly been a difficult journey to navigate, both for the CRCs and the NPS, and the bifurcation of risk has had a detrimental impact upon their relationships:

'It was hard and, relations seemed to be stretched during those escalations. It's not a...from what I've seen it doesn't seem like it's something that's welcomed with open
arms. It seems to stretch relations, which is a shame, I think, yeah’. (PSO, Resettlement Team, 18 months).

The tensions between the NPS and CRC were perhaps inevitable given the opposition that existed to the commodification of probation. A consequence of the bifurcation is the creation of a probation hierarchy where the division of probation tasks has culminated in the NPS potentially feeling that they have more legitimacy and CRC staff feeling undervalued and their professional status undermined. Previous research has commented on the unwillingness of many staff to be allocated to and work for the CRC and this was also highlighted within this research:

‘I think because everyone wanted to be in the NPS, for some strange reason. I didn’t see it. I didn’t want to go down that route. At the end of the day I was quite happy doing what I was doing. It was very clear that only PPT cases, high risk cases and the breach team would remain. There was a very cut-throat approach about it. People were trying to stab each other in the back, step on everyone’s toes. Oh, I was holding that case because it was a higher risk, therefore I’ve worked with more high-risk cases therefore I should be in the NPS; therefore I should be... And I think people just were going at each other for a while’. (PSO, Rehabilitation Team, 10 years).

The collective culture of probation has been severely compromised by TR and the sense that they are still ‘the same’ has for some ceased:

‘I think obviously we’ve all got different targets now and I think it is probably quite clear that actually we’re two separate organisations.’ (PSO, Rehabilitation Team, 12 years).

CRCs and NPS are now separate organisations and separate entities, limiting the capacity for mutual working practices culminating in a them and us mentality where there is less collegiately and competing aims and goals. For example, the CRC would prefer and need more in-depth assessments at court whilst the NPS needs to complete many reports in a short period of time and may view the CRCs cases as less important due to their risk status. They will also be cases that the NPS has no responsibility for post sentence and thus may not have the same commitment towards ensuring that they are being given the most suitable outcome or may doubt the legitimacy and effectiveness of these new private companies. The bifurcation of risk has led to a potential bifurcation of priorities. In addition, it has also led to the participants feeling that the NPS has adopted a sense of superiority due to them being the risk ‘experts’:

‘Lots of reports are being kicked back, because they’re not suitable. And that, of course, attracts a fine (for the CRC). But its quite arbitrary about who reads it and who, some people will chuck it back for not having a capital, or a full stop, which is, you know? And
it hasn’t helped relationships between staff and course, and staff and the CRC’. (PSO, Resettlement Team, 18 years).

The National Audit Office (MOJ, April 2016) commented that many junior staff within CRCs considered their NPS contacts to be excessively critical and dismissive. Their NPS counterparts however, stated that the CRCs were omitting critical information and were too focused on commercial interests. Additionally, the HM Inspectorate (2018) found that NPS lacked faith in the specialist services that are (meant) to be offered by CRCs, believing them to lack quality. The inspection also notes that NPS is reticent to purchase services from private companies.

One participant expressed a feeling of being less important:

‘Yeah, and I think it is one of those things from NPS, I mean, there is nothing nasty in it, I mean, you still talk to them, they are still your colleagues and your friends and things. But, I think a lot of it is, oh, that’s CRC business we know we are better than them, sort of thing [pause]. Yeah, it’s a difficult one to deal with’. (PSO, Rehabilitation Team, 4 and a half years).

With CRC staff feeling de-legitimised and hindered by the CRCs own practices it was important that the NPS continued to work with them to ensure that the culture and ethos remained and that risk practices were consistent. The feeling that CRC work (and their offenders) is less relevant or pertinent is a shift in probation attitudes and an adoption of a new, fragmented probation culture. This is further exacerbated by the creation of private companies that require stringent processes in relation to data protection and information sharing, creating a chasm between the private and public-sector agencies where accountability and data confidentiality override mutual working relationships:

‘This is just an example. Our case admin person has gone over to NPS, and she came in to use the computer the other week, and she was told to get out because this was CRC property. It’s quite a big divide now, I’d say. Sharing information, I’ve noticed on a few cases, but I wouldn’t have said it was a lot, but yeah, there’s a big, big divide now, with information sharing’. (PSO, Rehabilitation Team, 5 years).

‘when I first started they said it would be good, me and my colleague, we started on the same day, and they said it would be good for one day to just go up and sit in court, just for the day, watch probation, see how the court process works. And because we are in the court building that is fine, we can go up there. We approached our court team, I say our court team, they are the NPS court team, but they are in the same office around the corner, went up to them, hi, can we come up for the...yes, but you have to sit in the public gallery. We weren’t allowed to sit with probation officers in court because we were a private company and we weren’t probation. So, we could go up to court and view how probation works, but we weren’t allowed to sit with them, we had to sit in
the public gallery because we weren’t [pause] public sector, we were private.’ (PSO, Rehabilitation Team, 4 and a half years).

Such dynamics have led to a dislocation of probation practice. It also hinders if not prevents probation habitus as core probation roles are not even accessible to CRC staff, they are now an abstract activity undertaken by a separate organisation. The loss of relations with NPS has not only resulted in a different working relationship with NPS, but has also led to the participants feeling isolated from their former counterparts and probation practices due to the logistics of privatisation:

‘I mean, we don’t even have NPS colleagues in our address book anymore on the email system. They’ve all been taken off. We don’t have any of the court team’s email addresses or names. We can’t access it. So unless you know already who you want to talk to in the court team, because they’re not in the address book anymore because they’re not CRC’. (PSO, Rehabilitation Team, 5 years).

‘From what I understand, it’s because we are now a private company, so we don’t have access to that information, we’ve got no right to know what’s going on in the criminal justice system or that kind of thing because we’re not part of that anymore, we are a private company who just deal with some cases that get referred to us.’ (PO, Rehabilitation Team, 14 years).

The loss of legitimacy is perhaps best described by the following:

‘The communication is poor, it is very poor between NPS, you almost do feel like a poor relation to the NPS.’ (PSO, Rehabilitation Team, 1 year).

The notion of being a ‘second class’ probation was also evident within other research that showed the NPS to be considered the ‘elite’ organisation (Robinson et al. 2016).

Summary

The public protection agenda prior to TR was maintained through rigorous risk assessments and risk management but the commodification of probation practice has led to the creation of new agendas by/for the CRCs and NPS, with the protection of the public and the rehabilitation of offenders being potentially reduced to by-products of financial or distinct organisational pursuits. TR was based upon a premise that has actually undermined risk practices. It is predicated on a fundamental misnomer - that serious risk of harm now lies with the NPS. Indeed, the HMIP (2014) noted that the NPS actually manages many cases that are not high risk of serious harm but are subject to MAPPA. It also
commented that domestic abuse cases often do have public protection issues that may warrant NPS supervision such multi agency working but there was no evidence in the research that this was occurring as a matter of course.

Further compounding risk management issues are the new borders of risk classifications, which tend to be static rather than dynamic, and the new agency borders where risk and probation provisions have been bifurcated. Risk has become not just binary but heterogenic to the organisation with each CRC having its own risk definitions, assessments and terminology within a culture of profit. This has had a detrimental impact on the communication between NPS and CRC. Failures to share and effectively communicate information have been the hallmark in many high-profile inquiries into SFOs and in cases of child deaths when under the ‘care’ of social services (Fitzgibbon, 2011). The potential for practitioners and the CRC to have undue confidence in static and expedient risk assessments coupled with superficial compliance could result in practitioners having difficulty appreciating the significance of changes and behaviours that may with hindsight be clear (Prins, 1999). There is now even more potential for inappropriate sentencing/allocation, inaccurate risk assessments and an increased reliance on serious further offences for risk escalation, leading to a loss of proactivity in addressing risks before they occur. This is further compounded by the fact that risk escalations require an understanding of dynamic risk factors. As Moore (1996, p.5) comments ‘many calculations of risk are inevitably made at a crisis point in the management of the case and therefore in the life of the client’ when there will be anxiety and often mistrust and suspicion of probation. Therefore, the willingness and the ability, knowledge and understanding of the practitioners to explore offending circumstances and the offender’s risks is crucial but there is now less capacity for this to take place, not just in terms of logistics but in the use of professional discretion.

The hierarchy of NPS has exacerbated the loss of practitioner identity and status for those working within CRCs and severely curtailed the potential for probation to maintain its culture. Instead numerous cultures are emerging not just within each of the CRCs but also within the NPS, whose role, offender group and purpose have been overhauled too. Giddens (1998, p.30) comments that when there is ‘a clash of the different types of risk, there is a clash of values and a directly political set of questions.’ Now there are different values, purposes and political questions/expectations for each of the probation organisations. This thesis has discussed the need for an aetiology of risk within probation and TR has compromised such commonality in understandings and definitions and created new risk conceptions and competing agendas and ethos and as new staff are employed and new
practices adopted the ubiquitous understanding of risk within probation practice may become increasingly heterogeneous.
Chapter Ten: Conclusion and Wider Discussion

‘TR risks fragmentation, loss of expertise, conflicts of interest, inconsistent practices and the danger to the public safety’. (Senior, 2013:1).

This chapter will summarise and reflect upon the key findings that have been demonstrated and discussed within this thesis and how the above quote has been shown to be an accurate prediction of TR’s repercussions. In addition to this it will consider the wider implications that have emerged regarding CRC and probation legitimacy and the need for further research and policy considerations to take place.

Outsourced Probation and the Reconfiguration of Rehabilitation

Chapter Six discussed the rehabilitative intent and use of risk within the everyday workings of the CRC. The chapter demonstrated that many of the participants felt that the new team structures had culminated in the fragmentation of offender supervision and were based on a need to ensure the attainment of targets that did not necessarily facilitate rehabilitation or risk assessments. Indeed, many felt that risk considerations had been compromised, with less focus on areas pertaining to risk of serious harm. The participants also commented that their professional discretion had been curtailed since TR and that the interventions that had been adopted by the lacked a risk focus and were not ‘meaningful’ for their offenders. They were viewed as abstract and target driven rather than effective and responsive to offending needs. Burke and Collett (2010, 2014) have emphasised that interventions are not just technical exercises but are ‘ultimately a human and moral enterprise.’ The chapter shows that the capacity for interventions to remain grounded in such concepts is limited.

One possible reason for the implementation of a toolkit considered to be inadequate and oversimplified by some of those that use it is the misnomer that those offenders that are assessed as being a low to medium risk of serious harm (at the point of sentencing) are easy to manage. However, as McNeill (2013) notes offenders tend to have complex needs that take considerable time to address in a way that will reduce risks. TR, for McNeill (2013) overlooks the fact that those offenders that meet the CRC threshold will often be a high risk of re-offending which also requires skilled and intensive support. TR has adopted an assumptive approach that this level of expertise and support is not required due to the risk of harm levels and as such can be delegated to less
experienced, skilled and qualified supervisors (McNeill, 2013, p.84). This research supports these concerns and such an approach diminishes the possibility of a skilled navigation of supervision. Additionally, the chapter highlights that core probation requirements have become compromised and corrupted through privatisation, namely the reticence to breach and the wholesale requesting of accredited programmes on licences both of which are done to generate income. All these areas demonstrate the potential for offenders to be subject to inadequate, inappropriate and inconsistent supervision compounded by a need for the CRC to create or arguably impose a new culture that is more consistent and compatible with their background and the generation of profit. Interventions and offenders have become products for payment.

For some (see Collett, 2016, NOMS, 2013) TR had the potential to free CRC probation workers so that they could work more innovatively, creatively and closely with those that they supervise because they are no longer so heavily involved with risk assessments and court reports. However, within this research there has been a reductionist approach to complex needs and behaviours, distancing practitioners from risks of serious harm considerations.

The CRC Experience – Practitioners and Offenders

Chapter Seven considered the impact that TR and the CRC has had upon its staff and client group. It highlights that there is now a blurring of boundaries between the roles, with POs feeling deskilled and PSOs concerned regarding the lack of experience they have when working with cases that are often new to them (notably domestic abuse). The adoption of responsible officer was viewed as a loss of practitioner status and the participants felt that their ability to practice in their old ways had been compromised and limited by TR, with many feeling that they needed to continue to work in the ‘old’ ways to maintain not only their skill set and experience but also their identity, leading to the rapid emergence of two, culturally different organisations out of one.

Hall (2015, p.325) commented that whilst probation culture had seemingly endured relentless changes and remained grounded in a humanistic endeavour, the changes under TR were so fundamental they posed ‘substantial challenges to professional integrity and identity in the future.’ Mair and Burke (2012, p.192) commented TR had the potential for probation to lose ‘its roots, its traditions, its culture, its professionalism.’ This research suggests that these observations may well be true. The capacity for practitioners to be ‘culture carriers’ and continue to maintain an
honourable profession that ‘makes a difference’ (Mawby and Worrall, 2013, p.121) is not only being hindered but in some instances prevented. When considering culture carriers they are presented by Mawby and Worrall (2013, p.152) as being represented by the ‘idealism, vocationalism and intellectualism of the lifer; the life experiences, transferable skills and commitment to ‘making a difference’ of the second careerists; and the victim empathy, concern for the public protection and willingness to challenge offending behaviour of the offender manager.’ Within this thesis it is evident that the implementation of TR and new working practices adversely affect all of these practitioners’ ways of working. Many lifers left prior to TR and many of those that remain have continued to try to ‘get out’. For those resigned or happy to stay within the CRC their abilities to carry forward these traits are restricted, through the removal of practitioner discretion and the implementation of CRC mandated interventions. The second careerists are also curtailed, by an inability to use their transferable skills in the ways that probation of old allowed and there was evidence within Chapter Seven that they no longer felt that they were making a difference. Post TR this may lead to such people no longer choosing to join probation CRCs as a second career. The offender managers will most likely become the mainstay of CRC staff and will be ‘trained’ to change offending behaviour through the reductionist approach discussed in Chapter Six. The CRC has arguably subsumed probation cultures, rather than becoming a hybrid, and indoctrinated its own goals and agenda grounded in profit and auditing. The ‘why’ of governing has changed (Hardy, 2014). Grant (2016, p.80) undertook research regarding the *Durable Penal Agent* and found that ‘practice cultures, and therefore occupational behaviours, are underpinned by more than just knowledge and the skills required to do the job; practice appears to be guided by other factors such as inculcated values and principles.’ The old probation values and principles are arguably no longer espoused by the CRCs. For Hall (2015, p.331) it is the fragmentation of probation, rather than the privatisation, that will result in its foundation being eroded and this research highlights that this has and is occurring. The history, training and workplaces of probation are now heterogenous and CRCs are remote from NPS and other CRCs.

The changes that have occurred since TR have not just affected staff, but they have also affected the offender’s experience of probation. Offenders are now referred to as service users which was, for most participants, inappropriate and gave the offender a new status not appropriate to probation. Such terminology could be indicative of an NPM responsibilisation approach towards offenders. The chapter also demonstrates that the participants were concerned that the CRC was having an adverse effect on offender relationships and supervision, highlighting again the abstract nature of the toolkit interventions. Additionally, there were concerns around escalating offenders to NPS where they
would be subject to a new supervisor at a different location. Kay (2016, p.165) has raised some concerns regarding the impact on offenders from having their risk escalated to high. The change to their risk status and to whom they report has implications in relation to their own sense of self and their desistance, due to the attainment of a negative label – which Kay’s (2016, p.155) research suggests can be tantamount to telling an offender that they ‘can’t change.’ It also has the potential to undermine the CRC, as they may be perceived as being unable to assist and manage these offenders, de-legitimising them not just in the eyes of the offender but also in the eyes of NPS and other criminal justice agencies. Kay’s (2016) research noted that this has an additional knock on effect for the NPS, for they could now be perceived as the punitive agency.

CRC and the Reconfiguration of Risk – the Creation of New Risk Practices

This thesis has noted that practitioners and managers have been faced with significant challenges regarding risk decisions and have been working within a climate of limited resources and intense scrutiny. Power (2004) suggests that these issues produce risk averse cultures where organisations and practitioners become more concerned with managing reputational risk, which can take their attention away from the risks that they originally set out to manage and this research supports this assertion. Risk now predominantly concerns survival, profit and legitimacy. The risks that CRCs were ‘meant’ to address have been replaced by risk aversion regarding failure to secure targets, as highlighted within the new risk assessment tool and new tiering framework.

The new risk assessment tool has not seemingly been supported by any evidence. Information is often lacking or not deemed necessary through the adoption of a cursory approach to assessment and the generation of prescribed interventions. There are now new agendas linked to risk and consequently it has been narrowed. Risk has lost its resonance outside of profit concerns and where risk is identified it is often in relation to re-offending with additional reliance on actuarial tools. The risk assessment tool (and TR) renders offenders to calculable objects that have become commodified illustrating a rise in prominence of a technico-scientific approach.

This thesis has noted the need for defensible decision making however the research obtained demonstrates that TR and the CRC have curtailed the ability for practitioners to work in this way, through the loss of clinical assessment within the risk assessment tool. Defensible decisions around risk require appropriate levels of knowledge and skill, appropriate use of information, risk assessment that is grounded in evidence, communication with other relevant people, risk management plans that are linked to risks and risk levels and Information collected and thoroughly
evaluated (from Kemshall, 1997). All of these have been shown to have been compromised. The participants evidenced a lack of risk of serious harm knowledge, skills and experience and that the information obtained was primarily for auditing processes (Kemshall, 2010; Munro, 2004). Communication with other agencies was shown to be instrumental and undertaken to obtain information that needed to be logged. Compounding these issues, the implementation of a new tiering framework and terminology further reduces the capacity to work with risk in a flexible manner. Domestic abusers have become the key focus of risk assessments without any evidence of interventions being adopted to address and manage them outside of accredited programmes, which have declined (HMI Probation, 2017). Domestic abusers have become the risk carriers through the creation of new risk markers that are not utilised by NPS. TR has culminated in a risk resource nexus (Robinson, 2016) which has not just resulted in a recalibration of risk but its corruption. Technology and terminology are now relied on as the means of assessing and managing risk of serious harm.

The Bifurcation of Risk and New Risk Borders

This chapter illustrates that there are now new risk borders which are, at times, impenetrable. NPS has become a distinct organisation that is seen as having access to more resources and expertise, highlighting Aas’ (2014) ‘bordered penalty.’ Through the creation of multiple providers risk has become dissolved (Fitzgibbon, 2013) leading to the loss of a ubiquitous and homogeneous risk of serious harm definition. The commodification of probation and risk could result in CRCs wanting to ‘get rid’ of offenders that may be problematic (non-completers) thereby creating false positives. The increasing accountability on practitioners within CRCs may also lead to such outcomes with practitioners potentially playing it safe when it comes to risk (Tuddenham, 2000). Conversely NPS have potentially lost faith in the credibility and ability of CRCs to understand and determine risk levels which could result in offenders being inappropriately managed by a CRC. Furthermore, risk is now more rigid, with closed, boxed off categories that do not allow for fluidity, culminating in a need for concrete evidence of a risk escalation to high risk of serious harm leading to increasing reliance on serious further offences, negating the use of risk as a means of assessing and a managing risks of serious harm before they occur. No longer is there a proactive approach towards risk of serious harm. The new borders have culminated in a NPS hierarchy with CRC practitioners viewing themselves as second class (Robinson et al, 2016) and the NPS sceptical of both CRCs’ motivation and ability.
The chapter reinforces the fact that TR and privatisation has been grounded in the misnomer that risk of serious harm lies with the NPS. The number of serious further offences have increased since TR and given that the hallmark of such occurrences often lay with ineffective communication between agencies and professionals this increase may well be compounded and exacerbated by risk being bifurcated, with the research highlighting that one participant knew of a serious further offence that had occurred after it had been rejected by NPS.

Summary of Findings

This thesis posits that risk as a ubiquitous probation concept has become corrupted through commodification, leading to risk becoming reconfigured through the adoption of a NPM agenda. Risk is now viewed, within this CRC, through a new lens, that of profit and loss, and risk assessment and management is now the means by which the CRC ensures payment, thereby changing the rehabilitative intent of the work that is undertaken. Public protection and rehabilitation is no longer occurring from philanthropy nor from a risk agenda. TR as led to a devolution and narrowing of risk within practice and a loss of appreciation of risk of serious harm, the assumption being that this now lies with NPS. Risk has subsequently become ‘boxed off’ and lost its fluid and dynamic nature; it has not just been bifurcated but has the potential to become heterogenous to each of the CRCs (and NPS) through the adoption of their own risk assessment tools and interventions. TR has also culminated in the NPS becoming abstract to the CRC and not a partner agency, the relationship and practices between the two have become divergent and at times conflicting. New risk borders have been created that are inflexible and ill matched to risk as a dynamic concept which has resulted in a risk escalation process that has dichotomised its purpose. There is now an increasing need for a serious further offence to occur before an escalation is accepted, the borders are less penetrable negating the need to adopt a preventative, proactive approach to risk of serious harm. NOMS (2014, p.2) escalation guidance notes that external protective factors can fluctuate, thus the risk of serious harm levels may also fluctuate but the new processes in place are not sympathetic to this, exacerbated by the fact that CRCs can formulate their own, distinct, categories and definitions of risk. Consequently, there is no longer a homogenous probation aetiology of risk of serious harm.
CRCs and external legitimacy

The findings within this research have shown that there is a potential for CRCs to lose internal legitimacy (NPS, practitioners and offenders) as an effective and credible probation agency. It is therefore pertinent to consider the wider issues around external legitimacy.

CRCs and Re-offending Rates

The government cited unacceptably high rates of re-offending as a key justification for TR, arguing that for improvements to occur it was necessary to open up the market to a diverse range of new rehabilitation providers (Burke and Collett, 2016). However, the rates of re-offending have yet to demonstrate that this was the right course of action. Since the CRCs took ownership there have been two published proven re-offending statistics for the CRCs. The first pertains to the October to December 2015 cohort and the second concerns the January to March 2016 cohort. They are based upon a one year proven re-offending measure for adult offenders being managed in the community by CRCs under payment by results. The frequency is measured against an agreed baseline for the year 2011 (MOJ, 25th January 2018). As it stands only two of the 21 CRCs have managed to reduce the number of new offences committed by reoffenders (frequency rate payment), the average number of crimes committed in 2015-2016 went up in all other areas/CRCs. As such only two CRCs have yet to meet their targets and are in line for full payment. The remaining 19 could have their payment by results cut. Whilst more crimes are being committed by those offenders that reoffend there has been a decrease in the number of offenders re-offending (binary rate payment) in nine of the CRCs, including the one that has been used for this research.

The potential loss of payments to most of the CRCs has serious implications. It has been highlighted that they are already struggling to maintain their finances and secure a profit and this has contributed to them being unable to develop new innovative ways of working with offenders and commission the voluntary sector. Further financial constraints may well mean that CRCs continue to do little more ‘than signposting and form filling’ (HMI Probation, 2017). With risk already ‘taking a back seat’ the real concern is that to survive further reductionist approaches will be adopted in relation to risk and rehabilitation and the completion of paid targets and avoidance of fines will become ever more dominant. It could also exacerbate the ascendancy of risk of re-offending rather than risk of serious harm within CRC practices.
Court Relations

TR has not only led to a fractured relationship between CRCs and NPS but has also resulted in a loss of relations and legitimacy with the courts. Traditionally magistrates played an important part in the governance of the probation service and were members of probation committees, boards and trusts (Canton, 2011). However, since TR there is no comparable place for sentencers in the organisational structure of CRCs and given the conflicts of interest that would arise cannot be. Morris (2016) notes that, since TR, magistrates have little confidence in alternatives to custody and the proportion of sentences being served in custody have risen. Not only is this a crisis in legitimacy for CRCs but of community penalties and may result in offender’s having their sentence up-tariffed due to a loss of confidence in CRCs ability to provide appropriate interventions.

‘When you turn it into practical delivery, it is difficult when we do not know the CRCs and exactly how they are working, and we have had great difficulty in creating relationships between sentencers and CRCs. There has been excessive concern on the part of some about building relationships with organisations that have a profit motive. However, if they are not there, we have a lack of confidence… I would be surprised if it were not causing sentencers to think more carefully about whether to use a suspended prison sentence with a community requirement under it, so that the court maintains a greater degree of oversight or demonstrates to the probation services that the court takes this seriously and will take breach seriously….if the sentencer does not have confidence in the robustness of the alternatives to custody, they may conclude that there is no alternative to custody.’(Richardson, Chair of Magistrates Association, Justice Select Committee Oral Hearing, 21st March 2017).

Such observations were evident within this research:

‘I think the courts like to give out suspended sentence orders, much more, in the last two years, two or three years, than they used to’. (PO, Assessment Team, 10 years).

‘Challenges aren’t happening, and they’re just being agents of the court. Whereas before, some court staff would try and defend Probation. There’s certainly no defence of the CRC whatsoever.’ (PSO, Resettlement, 18 years).

Ludlow (2014), using empirical research on the privatisation of HMP Birmingham, suggested that privatisation could by its very process damage a public service. Here the damage extends to the perceptions of CRCs by other agencies within criminal justice and the public sector. The courts loss of faith in CRCs does not just affect the suitability and proportionality of sentencing and the legitimacy of community sentences and CRCs, but also affects the payments that the CRCs receive adding additional financial constraints and curtailing innovation further:

‘We are not paid per head for offender; we are paid per mix of the requirements they come
out of court with. That mix of requirements is what has dropped. We are still getting physical bodies to supervise, which we need to fund and pay for, but they are not coming out of court with requirements that translate into the payment mechanism. (Elphick, Chief Executive Officer, Durham Tees Valley Community Rehabilitation Company, Justice Select Committee Oral Hearing, 28th March 2017).

Loss of Local

TR, despite being implemented to increase the use of the third sector, has culminated in a loss of local and impeded local partnership working and innovation, arguably due to CRCs being run by large private agencies that are reticent to commission external services, especially when they are currently making a loss (Morris, 2016):

‘It actually feels like it’s going the other way, it feels like we’re getting smaller and not embracing these other agencies who could be of use to us’. (PSO, Rehabilitation Team, 19 years).

The voluntary sector has expressed concern around a lack of knowledge and openness regarding the work undertaken by CRCs:

‘Thinking from the voluntary sector perspective, we would say that having some transparency about who is and is not funded in the system and what CRCs are delivering would help. Right now, it is very difficult to see who is doing what in each CRC. It is very opaque. We would love to see some of that.’ (Dick (Clinks), Justice Select Committee Oral Hearing, 21st March 2017).

The HM Inspectorate (2018) also expressed their frustration at the loss of local third sector specialist services stating that it had never been as limited as it is now, noting the knock on effect of this on NPS: ‘The NPS can commission rehabilitative services directly, in compliance with European Union and civil service rules. The NPS division is not resourced to do this, and in practice is reliant on directly commissioning rehabilitative interventions from a CRC’ (HM Inspectorate Probation, 2018:8). As such, TR and the creation of CRCs has compromised the work of the NPS and the rehabilitation of high risk of serious harm offenders.

This lack of credibility, effectiveness and legitimacy has for some demonstrated the need for probation to become controlled by local, non-private agencies once more:

‘There is a view among many police and crime commissioners that the oversight of these contracts, at least in the interim, should accrue to them. We know that Sadiq Khan, the
London Mayor, has gone in on the task force that the MOJ sent into the ailing London contract, following the inspectorate’s report before Christmas, but he has said, “If it can’t be turned around, I want control of probation in London.” That must be right. Unison’s view is that we must revert to local democratic control. Probation is a local service. It has good links with local statutory providers, all of which have been totally fragmented.’ (Priestley (NAPO), Justice Select Committee Oral Hearing, 28th March 2017).

Given these concerns regarding CRCs ability to perform and their suitability as a provider of criminal justice services is it vital that research concerning CRCs and NPS is continued.

**Recommendations**

As outlined in the introduction, there is a paucity of research and information regarding the practices that occur within probation – there exists a ‘governmentality gap’ (McNeil et al, 2009, p.421), where there is a chasm between the intricacies of government rationalities and technologies and the practices and discourses that make up the field. Dominey and Gelsthorpe (2018) note that too little is known about the operating models of CRCs and how the probation culture that sees offenders as people will be continued, ‘that the prime providers have yet to reveal detail of their operational philosophies or explain the values that they bring to practice’ (2018, p.26). This research has contributed significant, unique and ground-breaking data and knowledge to this end and to knowledge regarding probation risk practices and culture. Of importance and consequence is that the research and data stems from practitioners. The knowledges attained comes from those that work on the front line. Whilst the research pertains to one CRC it is important to consider whether some of the issues highlighted may not be isolated to the case study; they may represent changes and practices that are relevant to all CRCs: the prioritisation of profit; the development of new risk assessment tools; the implementation of a new culture that governs practice; fractured communications with NPS; increased reliance on SFOs and a loss of risk of serious harm considerations and understandings within practice. CRCs have been reticent to allow outsiders to observe their practices and with the current climate of uncertainty regarding their future it is possible that this will remain the case outside of obligatory government inspections. As such there is a need for more knowledge and understandings regarding the ways that penality is enacted in practice within a culture of bifurcation from those governing and from those within probation agencies. The following actions/requirements are therefore recommended:

1. The thesis has raised concerns in relation to how risk is conceptualised and applied. This will require ongoing training and risks being explicitly differentiated and addressed throughout
2. Whilst risk assessment models are subject to MOJ approval there needs to be governmental review and monitoring of the application of the risk assessment tools and the relationship that their components have with payments to ensure that their core focus is to ensure effective assessment and management of offenders and not the avoidance of fines or attainment of profit.

3. There is a need for HM Inspectorate Probation and for CRCs themselves to monitor quality (content and processes) and not just timeliness and completion, thereby reducing the potential for CRCs to adopt cursory practices and limit the omission and loss of importance regarding information required to effectively manage offenders and their risks, as shown in this research.

4. This thesis has also raised concerns in relation to risk escalations and the formation of heterogeneous notions of risk through the adoption of a new tiering framework and assessment tools, which are not necessarily compatible with NPS and other CRCs practices. This also requires further monitoring and addressing at a governmental and organisational level, in combination with NPS. The research has shown that the criteria for risk escalations are not being adhered to and that there is a conflict between escalating an offender for high risk of serious harm supervision and the need for an SFO conviction. This tension is compounded by the MOJ’s own inspections that note the inability to re-tier an offender so that they can be referred back to a CRC (the loss of fluidity within risk). The government needs to consider its current policy and whether the escalation process has been compromised by the very nature of bifurcation. Clear instructions and monitoring are required so that the NPS and CRCs have guidelines that ensure the SFO dichotomy highlighted in this thesis is avoided. If the government does consider an SFO as a core component of escalations then the rationale and criteria for them must be altered to reflect
this. It is also recommended that the NPS and the CRCs develop a working relationship whereby the definitions and requirements of the NPS are understood by the CRCs. This research shows that in this case there is a division in processes and understandings of core risk terminology.

5. The new modes of supervision such as the toolkits devised and adopted by CRCs need to demonstrate a clear rationale for their use and an evidence base that it is made clear to the MOJ, practitioners and the wider community to ensure effectiveness and promote legitimacy to those working with it, something that was absent within this research. In addition to this the CRCs should make the training relating to the toolkit more detailed regarding how it is to be used, why and the significance of information obtained through them in terms of how offenders are supervised and their risks managed and addressed. In the case of this research most participants considered them as limited at best with some considering them pointless and patronising with a distinct lack of risk focus. The toolkits should therefore also make risk of serious harm explicit in terms of where it lies within the worksheets and again how the information obtained should be used within their risk assessments and management of the offender.

6. The CRCs need to ensure that the courts and NPS are aware of and understand the new modes of supervision in use (toolkit, new group work or offending programmes) to assist in the sentencing of offenders prior to sentencing. If achieved this may increase their confidence in imposing community-based sentences, which both inspectorates and this research highlighting their reduction in use.

7. To ensure that the local and third sector are utilised in the way that TR envisaged MOJ should consider making the use of them a mandatory part of the CRC contracts and part of the payment process, with minimal contact guidelines/instructions, to both ensure and incentivise that the expertise that they provide is utilised. Within this research there was a diminished use of the third sector and an approach whereby they were signposted rather than actively used or referred to.

8. In order to promote and share good working practices and safeguard a homogeneous probation it is recommended that CRCs share models and working practices with each other and with the NPS without concerns regarding branding and intellectual property. This needs to be considered at a governmental level in relation to the logistics and limitations of privatisation and the current CRC contracts.

9. The CRC researched for this thesis was adamant that the voice of the offender be heard and as such utilised UserVoice. However, the participants all stated that their thoughts and
experiences had been either ignored or negated. The research shows that participants therefore felt undervalued and underutilised. Given the knowledge that they possess and their frontline roles where they deliver and work with the new modes of practices it is strongly recommended that CRCs work together with its staff and that staff play an active role in the development of new modes of working. Not only will this foster greater levels of trust and job satisfaction but will also aid in the validity and effectiveness of the CRC.

10. Further research and monitoring of CRCs and NPS by both government and social scientists would also allow for cultural considerations of probation and risk because there remains a need to advance ‘our understandings not just of penalty in practice but of how and why penal-professional cultures, practice and habituses change and resist change’ (McNeil et al, 2009, p.436). This research has illustrated that the capacity to resist change has been reduced through TR but there are practitioners who are trying to work in the old probations ways, using their experience and training. However, the sustainability of this is questionable and requires further consideration therefore it is recommended that CRCs are encouraged by HM Probation and HM Prisons and Probation service to collaborate in research regarding staffing experience, confidence and job satisfaction.
References


Halushka, J. (2016). Managing Rehabilitation: Negotiating performance at the frontline of re-entry service provision. Punishment and Society, 0(00), pp.1-21


Ministry of Justice. (2017a). Investigation into changes to Community Rehabilitation Company contracts by the National Audit Office. London: National Audit Office


NOMS. (2014). *Process for Community Rehabilitation Companies to refer cases in custody of the community to National Probation Service for Risk Review, including escalation*. London: Ministry of Justice


Appendix One - Transforming Rehabilitation – A Chronology

1997  Labour government formed
2003  Criminal Justice Act and the creation of NOMS implemented
2007  Offender Management Act implemented
2010  Coalition government formed
2010  Green Paper Breaking the Cycle published
2011  Introduction to NOMS Offender Services Commissioning published
2012  NOMS Commissioning Intentions published
2012  Punishment and Reform: Effective Probation Services published
2013  Transforming Rehabilitation: A Strategy for Reform published
2014  May – staff identified as CRC employees are transferred to the private sector
2014  June CRCs and NPS formed
2014  October 21 successful CRC bidders announced
2014  December – Early Implementation – An independent inspection setting out the operational impacts, challenges and necessary actions report is published
2015  February CRCs take ownership
2015  May – Early Implementation 2 – An independent inspection of the arrangements for offender supervision is published
2015  November – Early Implementation 3 – An independent inspection of the arrangements for offender supervision is published
2016  January - Early Implementation 4 – An independent inspection of the arrangements for offender supervision is published
2016  May - Early Implementation 5 – An independent inspection of the arrangements for offender supervision is published
2016  April – National Audit Office publishes Transforming Rehabilitation
2017  August – the Conservative government adjusts CRC contracts and payments
2017  December – National Audit Office publishes Investigation into the changes to Community Rehabilitation Company Contracts
2017  HM Inspectorate of Probation England and Wales publishes its Annual Report – Probation
2018  HM Inspectorate publishes Probation Supply Chain: A thematic inspection
1. **Study Title and Key Dates**

   **1.1 Title:**

   The shaping of risk – a qualitative study of probation practitioners to investigate how risk is conceptualized, understood and applied within a Community Rehabilitation Company.
1.2 Date of submission: 22/10/2015

Ethics Committee Reference Number:

1.3 Date of study commencement: September 2008

Date of study completion: April 2017

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2. Applicant Details

2.1 Principal Investigator (Member of staff)

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Telephone: Email:

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2.2 Principal Investigator (PGRS or other student)

Name: Suzie Clift

Title /Role: Student

Department: ICJS

Course of study: PhD part time

Telephone: 07980 801*** Email:S.A.Clift@Brighton.ac.uk

Main Supervisor's Name: Professor Mike Nash Telephone 02392 843062 Email:mike.nash@port.ac.uk

Names and contact details of any other supervisors (if relevant)

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2.3 Co-Researchers / Collaborators

N/A
2.4 Independent or Peer Reviewer

N/A

3. Funding Details

Self-funded by PhD student

4. Research Sites

The research will involve interviewing practitioners in a private room located in their office location or an office location that is not their base of work but part of the organisation. Burns (2000 p.17) notes that professionals can feel troubled by ethical issues, the main areas of concern being confidentiality and research, including unethical procedures, informed consent, harm to participants, deception, and the deliberate falsification of results. Participation within this project will be voluntary (non random sample) with informed consent. An email will be sent to all staff within the organisation outlining the project and an information sheet will be provided. Full contact details will be provided so anyone that wishes to find out more or participate can contact the researcher direct and use a personal email account should they wish. Their details will not be made known to anyone else. There is no role conflict in undertaking this research, or identifiable risks to the researcher or the participants. All interviews will be voluntary and not involve disclosure of any personal details/information and will focus solely on their professional understanding and use of risk. The participants are criminal justice professionals and pose no risk to the researcher, physically or psychologically.

Any case files viewed will be identified by the host organization and will not include information that is not relevant to the research topic. They will also be anonymised and the original documentation will remain at the organization at all times. The researcher will not be provided with any access to electronic records/data or to any case files that are not pertinent to the research. Should the researcher be presented with information that is not within the research threshold or contains personal information the researcher will immediately inform the host agency and not read the document. The host organisation will undertake a DBS check before this take place.

5. Insurance Arrangements

N/A
6. Study Summary

6.1 Study Summary

Whilst a relatively new concept within criminological discourse it is clear that risk has become increasingly prominent and fundamental to criminal justice practice, policy and research. Much has been written in relation to the definition and use of risk; however this has tended to focus on a governmental and actuarial justice perspective concerning the accuracy and predictability of risk assessing tools. As such, it is acknowledged that there is a paucity of research and understanding of how practitioners conceptualise, understand and use notions of ‘risk’ in their professional practice. As Dean (1999: 177) comments, the significance of risk does not lie within risk itself but ‘with what risk gets attached to.’ As such it is the knowledge behind it, the technologies used to govern it and rationalities that deploy it that are significant. In February 2015 Community Rehabilitation Companies (CRCs) came into being and represent a significant change for Probation. These ‘rationalities’ will be considered in relation to ‘cultural theory’ and these newly privatised host organisations’ ethos and values. Adopting a cultural theory perspective not only allows for recent changes to the very nature and purpose of Probation to be taken into consideration but allows the researcher to consider how front line workers respond to them and if/how this affects the core work that they do in relation to risk. Mawby and Worral (2013) note that despite the many changes that have occurred in a relatively short period of time, probation practitioners continue to feel secure in and maintain a sense of their own professionalism and culture, constructing an identity which permits them to continue to both do their job and perceive it to be worthwhile. This research will allow further consideration of these findings post privatisation, and specifically in relation to risk.

Debate surrounds the notion that risk has become conflated with seriousness, dangerousness and punishment and, through the many changes that have occurred to practice and policy, has potentially lost its ‘truth’ for those that work on the front line. Recently this premise has been contested through empirical data (Hardy, 2015). There is evidence that practitioners do feel confident both with the meaning of risk and its application and continue to utilise clinical judgment alongside the statistical tools that are core to probation work. Again this has yet to be considered following the privatisation of Probation and how new ways of thinking and managing offenders have affected this reality.

The current changes within the field of probation provide a unique opportunity to contribute further to this evidence and debate. The creation of CRCs has resulted in the coming together of non statutory agencies, each of whom brings a vast, different/unique range of knowledge and experience. In addition to this they also bring a potentially new way of working with offenders, with some CRCs now calling offenders ‘service users’, demonstrating a change in rhetoric and ethos in relation to the construction of those it works with and the compatibility of this with pre determined notions of risk (pre privatisation) needs to be considered. CRCs continue to supervise the vast majority of offenders, including all those subject to a custodial sentence following the Offender Rehabilitation Act 2014. In addition to this they have the responsibility of identifying escalation of risk and the transfer of those deemed high risk of serious harm to the NPS. NOMs have provided instructions for the sentence planning of offenders (PI 13/2014) and for referrals to NPS for risk review (PI57/2014). This again is a huge shift in the nature of how risk is worked with and in a climate of privatisation and payment by results will be integral to the CRCs. The implementation of these new frameworks, as well as the development of new tools and resources, are crucial to all CRCs and provide an important basis for exploration of how practitioners are applying their skills and knowledge to ensure public protection.
As such, this research concerns how risk is understood (mentalities, conceptualised (thought about) and applied (rationalities) in a newly formed Community Rehabilitation Company.

6.2 Main Ethical Issues

The main ethical issue relates to the use of case files (offender case files) within the research. As noted the host organisation will undertake the relevant security check of the researcher before this is permitted and all personal case information will be removed/anonymised from the file so only information pertinent to research (risk) will be seen by the researcher and used in the study.

6.3 Other Risks or Concerns

The research topic concerns using a newly formed private probation trust as a case study. The trust that will be studied is subject to payment by results (through NOMs) and as such it is important that the data is not used in a way that could compromise the credibility of the work that is being done in relation to their performance or retaining the contract as a probation provider. The research does not seek to obtain information in relation to efficiency or results (i.e. a reduction in re-offending), it is concerned with the ways in which practitioners understand and apply risk within the newly formed private probation community rehabilitation company. As such it is concerned with the ontology of risk and is not to be used to make judgments as to whether it is being used rightly or wrongly. The research organization has been provided with details of the research and use of their resources.

In terms of reputational issues for the University, the research will be conducted in line with the ethics and research protocols and involve close liaison with the supervisor. The area to be researched is not considered a risk or controversial and relates to and compliments the University’s work and as such has the ability to make a contribution to the work of the department (ICJS). There are no identifiable issues in relation to the researcher; any issues would therefore only arise from deviation of purpose and/or ethical approval.

7. Compliance With Codes, Guidance, Policies and Procedures

The research will take place in accordance with the Concordat and as such it will adhere to the core principles of honesty, rigour, transparency and open communication and care and respect for all participants. It will comply with ethical, legal and professional frameworks and incorporate and utilise reflexivity throughout the process. All participation will be informed and consented to and all information anonymised and stored securely.
8. Study Aims and Objectives

### 8.1 Main Aim / Research Question/Hypothesis

To investigate how the significant change in probation culture through its privatisation impacts on the conceptualisation and application of ‘risk’

### 8.2 Primary Objective

To investigate and identify the ways in which risk informs the assessment and subsequent supervision of offenders, including the ‘risk review’ of cases to National Probation Service

### 8.3 Secondary Objective(s)

To investigate and identify how previous and current organisational cultural knowledge, practice and perspectives inform and/or change the conceptualisation and application of risk (does an ontological reality of risk exist for practitioners?)

9. Research Methods

### 9.1 Research Method(s)

The research will be exploratory in nature as it will attempt to find out what is happening and ask questions (Robson, 2008: p.59). As such it will be an inductive process meaning that the themes will emerge naturally (Patton, 1990). Due to the fact that it is concerned with understanding and attitudes rather than effectiveness it takes the form of a flexible research strategy (Robson, 2008:81), thus the detailed framework will emerge during the study and the various activities are likely to all occur at the same time. The research will take the form of a case study, using a newly formed private probation trust as the host organisation. Whilst the results will be limited to this organisation and not generalisable, the use of a case study will allow in depth research to take place at an organisational and institutional level, supporting the findings from individual practitioners.
Because research involves obtaining data in relation to knowledge and understanding it will utilise qualitative research methods and the epistemology will be interpretivist and the ontological stance constructionist (Bryman, 2008). The research will take the form of focus groups and semi structured interviews with practitioners and managers. Alongside this case files will be reviewed where the risk has been identified as high and a referral to the National Probation Service made.

Focus groups will be the first stage of the research and provide an opportunity for the researcher to identify key themes for more detailed discussion in the semi structured interviews (Bryman, 2008). In addition to this they also allow the researcher to discover what the collective think about key phenomena, which is integral to a cultural theory analysis. They will involve a group 5-7 members of staff and take place in the 3 geographical areas that form the probation trust. They will last between 60-90 minutes. The ground rules and topic/question schedule are attached (see appendices A and B).

Semi structured interviews will also take place and will allow for the cross checking of sources as the research progresses (Richards, 1996) and for a full exploration of the participant’s opinions (Fielding and Schreier, 2001, p.124). Given the subjective nature of the concepts being researched and the individual nature of clinical assessments this is the most appropriate method to employ in order to obtain the required information. The research aims to interview 15-20 practitioners for approximately 60-90 minutes at an office location suitable for the participant (appendix C).

The research will also review sample case files and other organisational data (for example training materials, guidance, assessment forms) to see how risk is being ‘talked about’. The case files will examine the assessment of escalation in risk. It will identify what has caused the case to be re assessed as high and identify how risk has been conceptualised and applied (what was determined a trigger factor and why). It will be concerned with the qualitative nature of the referral and will therefore not include personal information nor will it be analysed in a quantitative framework. It will be used to inform the identification and subsequent analysis of the key themes. The cases will be identified by the host agency and the researcher will not have sight of records and information that is not pertinent to the risk review. All information obtained will be anonymised, including the practitioners’ who have completed the assessments.

9. Recruitment of Participants

10.1 General Considerations
A local CRC has been identified and agreed in principle to research, with an invitation letter to be sent (appendix D) following ethical clearance. Participation in the research will be entirely voluntary and open to all practitioners in the organisation. There will be no inducements and interviews will take place at an office location suitable to them and at a convenient time so that their work is not compromised. An email including information sheet and details of the researcher will be sent to all staff that work with risk (practitioners) who then have the option to make further enquiries or obtain clarification before agreeing to take part and will allow them to reply using their work or private email address.

### 10.2 The Research Population

The focus group will involve approximately 15-20 members of staff and the interviews will involve approximately 15-20 members of staff, all of whom will be practitioners within the organisation and all teams/office locations will be able to participate. The host organisation will have sight of the information sheet and consent form prior to it being sent to staff in case staff wish to consult line managers/senior management regard it or participation. They have been informed of the design of the research in advance and have given the researcher approval for the ethical consent application to be made on this basis.

### 10.3 Sampling Strategy

**Inclusion Criteria:** all practitioners within the organisation that work with risk assessments.

**Exclusion Criteria:** Those staff that are not practitioners working with risk assessments (e.g. administrators/support staff)

The research is specific to a specific criminal justice agency (Probation Community Rehabilitation Companies), and to practitioners (staff that work with risk) therefore a non probability, or purposive, sampling plan has been adopted. Within the context of this research non probability sampling is both acceptable and useful because there is no intention to use it in making a statistical generalisation to any population beyond the sampled population (Robson, 2008:265). The gatekeeper is the Chief Executive of the host organisation. In terms of conflict the gate keeper has not set an agenda for the research that is take place within the host organisation and asks that they receive feedback on the findings through a formal presentation and a copy of completed thesis. The involvement of those participating will be confined to the length of the interview and no preparatory work will be required of them. The sample size allows for research to be undertaken across the various offices and teams whilst not having a detrimental impact upon staffing levels and core work. It is also adequate in size for a case study approach, where findings are specific to an organisation and as such not intended to be generalisable. The only screening involved will be to ensure that the participants work as practitioners and as such work with risk as part of their role.
10.4 Recruitment Strategy – Invitations to Potential Participants

Given that the research pertains to Community Rehabilitation Companies the recruitment of a host organisation has been aimed solely at these, and who are located within travelling distance to the researcher. The host organisation senior manager/chief executive will act as the gatekeeper and will provide the researcher with a generic email address that will allow an email to be sent to all staff within the organisation. The email will include a participant information sheet and a consent form and full contact details. It will clearly explain that it is looking for practitioners working with risk. Participation is voluntary and will not be monitored by the host organisation as contact from potential participants will be made directly with the researcher.

With regards the case file data, all personal and irrelevant information will be anonymised by the host organisation and therefore no additional consent is required. The files will be checked by the organisation to ensure that they are suitable (involve a risk escalation) and the name of the practitioner involved will be anonymised with the case details.

No staff will be required to travel anyway that it is not suitable or convenient to them and no funds or inducements will be offered. The interviews, with the permission of gatekeeper, will take place during their normal working day.

10.5 Obtaining Consent

As stated the participants will be contacted by email and the address used will be generic to the CRC staff and not identify any individual staff. The email will include the participant information sheet (see appendix E) and a consent form (see appendix F) and contact details for the researcher, whom they will contact direct regarding participation. The staff will be asked in the first instance to contact the researcher stating that they are interested and any questions will be answered before agreeing to/negotiating a time and venue. Participants will be asked to sign the consent form at the start of the interview, allowing them the opportunity to ask further questions or withdraw in the intervening period. The emails received from staff will be sent to an email account that is password protected and will be stored in a discrete file. The consent forms will be kept in a locked filing cabinet/unit. Participants will be offered a copy of the findings once the thesis has been submitted. They will also be offered a de-briefing session.
### 10.6 Organisational Consent

The intended host organisation is Kent, Surrey and Sussex Community Rehabilitation Company. The chief executive is Nigel Bennett who has provided written confirmation and permission that the researcher may have access to staff and data (case files, training materials, risk assessment tools) that are relevant to the research and this is attached as PDF. The head office (and Nigel Bennett) is based at Invicta House, Brighton Corporate Centre, Tel 01273 627833.

### 10.7 Participant Withdrawal

The participants will be free to withdraw from the study at any time up until the point of data analysis. Should the researcher or supervisor consider that the nature of the research questions are causing distress the interview will be stopped immediately and the data acquired from that person immediately destroyed and will not be used.

### 11. Research Data Management

#### 11.1 General

The research will take place in accordance with relevant University Policy as outlined in the Research data Management Policy (see appendix G). In addition to this it will comply with the Data Protection Act and with the host organization’s own policies and procedures in respect to security checks and to access to only specific anonymised hard data. Data will be stored securely and for a retained for a period of ten years. Future publications that utilize the data will continue to be anonymous. None of the participants will be identified without express written consent from them.

#### 11.2 Data Analysis and Collection

The data collected will be interview recordings, interview transcripts and case file information highlighting factors that have caused an escalation in risk (anonymised risk assessment forms), consent for this data has been obtained from the organization.

With regards the analysing of the research data this research concerns themes so takes the form of a thematic analysis. As such analysis will be completed using Nvivo, with coding taking place throughout the research process. The research will consider the data from a cultural theory perspective and from a risk theory perspective (actuarial and clinical risk factors).

The researcher will ensure validity through the adoption of more than one method of obtaining data (focus groups, semi structured interviews and case files), allowing for data triangulation. Theory triangulation will be achieved by considering multiple theories and perspectives as a point of analysis.
### 11.3 Data Storage

The researcher is not a member of staff and as such the data will be encrypted on a password protected computer that only the researcher has access to. Any hard data (anonymised risk assessments) will be kept in a locked unit and only the researcher will have access to this.

### 11.4 Personal Data – Confidentiality and Anonymisation

The data obtained through interviews will require no personal information from the participant other than their job role. Additional personal information will only relate to their name and office location and this will be only known to the researcher in order for the research to be organized and take place. This information will be available through email correspondence and signed consent forms. The emails will be sent/stored in a separate folder on a password restricted email account used only by the researcher. The consent forms will be kept in a locked unit. The researcher will be the only person to have access to these. The data will be anonymised through the coding and data analysis process (using assigned letters/numbers). Should the participant disclose personal information during interview the researcher will ensure that this is anonymised when transcribing.

### 11.5 Destruction, Retention and Reuse of Data

The research does not have a funding body – it is self funded by the researcher. The research will be used for further publications (journal submissions) and disseminated at academic/professional conferences, and this has been outlined to participants in the information sheet. The original consent forms will be retained securely by the researcher for 10 years after completion of the study. The research data will be retained for 10 years in accordance with the UoP Retention Schedule for Research Data. Paper records may be scanned and originals destroyed.

### 12. Hazards and Risks

#### 12.1 Risks to Participants

There are no identifiable risks or hazards to participants.

#### 12.2 Risks to Researchers
There are no identifiable risks to the researcher. The interviews will take place in office locations and during the day.

13. Publication Plans

The researcher intends to publish and share the research findings. This will be of value to the academic and criminal justice/public sector community and other probation community rehabilitation companies. The research is taking place during an important transition and will allow new knowledge and data to be collected in relation to a key criminal justice agency and in relation to a key aspect of criminal justice practice and therefore has the potential to inform new policy and procedures at a local and national level regarding how a key facet of offender supervision is being understood and used. The researcher intends to disseminate the research data/findings through publications in peer reviewed journals and potentially a PhD monograph, thereby reaching the appropriate audience.

14. References


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15. Appendices

Please complete the table below, providing a list of all the documents appended to this application. It is essential that this is accurate – the Ethics Committee Administrator will copy and paste it into the final opinion letter thus providing a clear record of the documents reviewed and approved by the Committee. Please make any necessary deletions or additions to the table.

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<td>Risk Assessment Form</td>
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<td>Principal Investigator's Response the Ethics Committee</td>
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<td>Other – please describe</td>
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16. Declaration

**Declaration by Principal Investigator, and, if necessary, the Supervisor**

1. The information in this form is accurate to the best of my/our knowledge and belief and I/we take full responsibility for it.

2. I/we undertake to conduct the research in compliance with the University of Portsmouth Ethics Policy, UUK Concordat to Support Research Integrity, the UKRIO Code of Practice and any other guidance I/we have referred to in this application.

3. If the research is given a favourable opinion I/we undertake to adhere to the study protocol, the terms of the full application as approved and any conditions set out by the Ethics Committee in giving its favourable opinion.

4. I/we undertake to notify the Ethics Committee of substantial amendments to the protocol or the terms of the approved application, and to seek a favourable opinion before implementing the amendment.

5. I/we undertake to submit annual progress reports (if the study is of more than a year’s duration) setting out the progress of the research, as required by the Ethics Committee.

6. I/we undertake to inform the Ethics Committee when the study is complete and provide a declaration accordingly.
7. I/we am/are aware of my/our responsibility to be up to date and comply with the requirements of
the law and relevant guidelines relating to security and confidentiality of personal data, including the
need to register, when necessary, with the appropriate Data Protection Officer. I/we understand that
I/we am/are not permitted to disclose identifiable data to third parties unless the disclosure has the
consent of the data subject.

8. I/we undertake to comply with the University of Portsmouth Research Data Management Policy.

9. I/we understand that research records/data may be subject to inspection by internal and external
bodys for audit purposes if required.

10. I/we understand that any personal data in this application will be held by the Ethics Committee,
its Administrator and its operational managers and that this will be managed according to the
principles established in the Data Protection Act 1998.

11. I understand that the information contained in this application, any supporting documentation
and all
correspondence with the Ethics Committee and its Administrator relating to the application:

- Will be held by the Ethics Committee until at least 3 years after the end of the study
- Will be subject to the provisions of the Freedom of Information Acts and may be disclosed in
response to requests made under the Acts except where statutory exemptions apply.
- May be sent by email or other electronic distribution to Ethics Committee members.

Principal Investigator S.A.H. Clift Date 23/10/2015

Supervisor…………………………….. Date…………………….
Appendix A

Focus group follow up invitation to be sent once participant has agreed to take part

You have been asked and agreed to participate in a focus group which forms part of a PhD. The purpose of the group is to try and gain information and an insight into how risk is thought about and used within your organization and if and how its creation has affected the ways in which risk is defined and applied. The information learned in the focus groups will be part of the research data that is analyzed and used within the PhD thesis. You can choose whether or not to participate in the focus group and stop at any time. Although the focus group will be tape recorded, your responses will remain anonymous and no names will be mentioned in the report.

There is no right or wrong answers to the focus group questions. I want to hear many different viewpoints and would like to hear from everyone. I hope you can be honest even when your responses may not be in agreement with the rest of the group. In respect for each other, I ask that only one individual speak at a time in the group and that responses made by all participants be kept confidential. Should you still wish to participate the group is provisionally taking place (location, date and time) and I would be grateful if you could let me know if you are willing and/or able to attend.

Thank for your time and consideration of this study

Ground rules for start of focus group

WELCOME

Thanks for agreeing to be part of the focus group. I appreciate your willingness to participate.

INTRODUCTION

My name is Suzie Clift and I currently work as a Senior Lecturer in Criminology at the University of Brighton. I am currently undertaking a PhD with the University of Portsmouth and this session will form part of the data that I use to complete it.
PURPOSE OF FOCUS GROUPS

The reason I am having these focus groups is to find out what your thoughts, perceptions and use understanding of risk is in relation to the work that you do and the organization that you work in. I would like to know about this and how you apply it within your duties. I need your input as practitioners who have the knowledge and experience in this area and I want you to share your honest and open thoughts with us.

GROUND RULES

1. I WANT YOUTO DO THE TALKING.
   I would like everyone to participate. I may call on you if I haven't heard from you in a while.

2. THERE ARE NO RIGHT OR WRONG ANSWERS
   Every person's experiences and opinions are important. Speak up whether you agree or disagree. I want to hear a wide range of opinions.

3. WHAT IS SAID IN THIS ROOM STAYS HERE
   I want people to feel comfortable sharing if sensitive issues or particular thoughts, opinions or experiences come up.

4. WE WILL BE TAPE RECORDING THE GROUP
   I want to capture everything you have to say. I don't identify anyone by name in my work. You will remain anonymous.
Appendix B

Focus group topics/questions

Engagement questions

I would like to start by asking each of you to tell the group what your current role is within the organisation.

Exploration Questions

What key changes have taken place within your organisation since it became a Community Rehabilitation Company?

How do you understand and define ‘risk’ in the context of your organisation?

Have any of these changes altered the ways in which risk is talked about and used within your organisation and your role...how?

Has the creation of CRCs and a separate National Probation Service had an impact on how you see yourself as a practitioner? If so how?

What do you know/understand regarding the referral process of cases to NPS?

What factors would you look for if a referral was considered? Do you feel confident with this process?

Exit Question

Is there anything else that you would like to say about any of these areas or about risk more generally?

Thanks for your participation and contributions, it is much appreciated.
Appendix C

Interview schedule for semi-structured interview

Thank you for being willing to take part. Can I first assure you that you will remain completely anonymous and no records of the interview will be kept with your name on them.

Can I first ask you what your current role is?

What do you consider to be the main duties that this role requires of you?

How would you describe the current goals of your organisation? How have they altered since becoming a community rehabilitation company?

How do you understand risk in terms of your role and your organisation? Can you give a definition that you work to?

Where does your understanding come from (what informs it?)

How has this understanding and application changed since February 2015?

How do you feel that the changes to Probation have altered risk for the cases you work with (for example the way in which offenders are referred to, the programmes being brought in, new risk assessment tools,)

How confident do you feel in being able to identify an escalation to high risk of serious harm? What would trigger this re-assessment for you?

Thinking about your role and your organisational context what do you consider to be risk escalating factors (the rise in risk is not high risk of serious harm but an increase in other areas)?

Given all of this, what is your current perception of working and dealing with risk within your organisation?
Thank you very much for helping with this study and giving up your time. Can I finally ask you if you think there is any aspect of your experience of what this study is looking at that has not been covered in this interview?
Study title: The shaping of risk – a qualitative study of probation practitioners to investigate how risk is conceptualized, understood and applied within a Community Rehabilitation Company.

Dear Sir

I would like to invite your organisation to participate in a research study in relation to the conceptualisation and application of risk within the newly privatised probation trusts. I am a PhD Student with the University of Portsmouth and a Senior Lecturer in Criminology at the University of Brighton. Prior to this I worked as a Probation Officer and my research interests and teaching specialism concerns the ways in which risk is thought about and used within
criminal justice. I am approaching you as a potential organisational participant because you are the Chief Executive of a newly formed Probation Trust.

The research for my PhD pertains specifically to risk within probation, which has become increasingly prominent and fundamental to its practice, policy. Much has been written in relation to the definition and use of risk; however this has tended to focus on a governmental and actuarial (statistical) justice perspective concerning the accuracy and predictability of risk assessing tools. As such, it has been increasingly acknowledged that there is a paucity of research and understanding of how practitioners conceptualise, understand and use notions of ‘risk’ in their professional practice. The purpose of this research is to obtain a greater understanding of how practitioners think about (mentalities) and act (rationalities) upon risk and will look at if and how risk practice and knowledge is being transformed by the new cultural changes to the organization through privatization. Therefore the aim of the research is:

To consider risk from a practitioner perspective within a newly formed/privatised probation community rehabilitation company

Participation in the research is entirely voluntary and participants may withdraw at any point until data analysis. All of the participants will be provided with an information sheet and consent form (enclosed) and interviews will take place in their office locations at a time convenient to the organization and the practitioner. Any access to resources will be subject to security clearance from your organization.

Should you feel that this research is of interest or should you have any questions or concerns please do contact me or my supervisor, Professor Mike Nash. Our contact details are at the end of this correspondence.

Thank you for taking the time to read this.

Yours sincerely

Suzie Clift

Contact details for researcher
School of Applied Social Science
University of Brighton
219 Mayfield House
Falmer
East Sussex
Email: s.a.clift@brighton.ac.uk
Tel: 07980 801895
Staff profile: http://about.brighton.ac.uk/staff/details.php?uid=sac53

Contact details for supervisor
Professor Mike Nash
Mike.nash@port.ac.uk
ICJS
University of Portsmouth
St George's Building,
141 High Street,
Portsmouth
PO1 2HY

Tel: 023 9284 3062
PARTICIPANT INFORMATION SHEET

Title of Project: The shaping of risk – a qualitative study of probation practitioners to investigate how risk is conceptualized, understood and applied within a Community Rehabilitation Company.

Details of Researcher: Suzie Clift (S.a.clift@brighton.ac.uk, 07980 801895)

Name and Contact Details of Supervisor: Professor Mike Nash (mike.nash@port.ac.uk, 02392 843062)

Ethics Committee Reference Number:

Invitation

I would like to invite you to take part in my research study. Joining the study is entirely up to you, before you decide I would like you to understand why the research is being done and what it would
involve for you. I will go through this information sheet with you, to help you decide whether or not you would like to take part and answer any questions you may have. I would suggest this should take about 10 minutes. Please feel free to talk to others about the study if you wish. Do ask if anything is unclear.

I am a Senior Lecturer in Criminology at the University of Brighton and undertaking a PhD with the University of Portsmouth. This research will form the research data for my thesis.

Study Summary

This study is concerned with the conceptualisation and application of risk within Community Rehabilitation Companies (CRCs) which is important because they are newly formed probation trusts responsible for the supervision of low to medium risk offenders, both in the community and in custody. The formation of these CRCs has resulted in the potential for new and ways of working with offenders and with risk which I am looking to identify and to investigate if and how risk knowledge and practice is changing. I am seeking participants who are practitioners and therefore their role involves working with risk. Participation in the research would require you to attend an interview and would take approximately one and half hours of your time.

What is the purpose of the study?

The study involves asking current probation practitioners what their understanding is of risk; how they understand, think about and apply it. It also considers if and how the use and meaning of risk has changed or been affected by the creation of community rehabilitation companies. The study is part of a PhD and involves interviewing practitioners through focus groups and one to one semi structured interviews. The focus groups will involve approximately 15-20 staff over the three geographical areas. The interviews will involve approximately the same amount of staff and will take place in various office buildings.

Why have I been invited?

Your organisation has granted the researcher access to Kent, Surrey and Sussex Community Rehabilitation Company and to its staff. You are being invited as a practitioner within this company and your knowledge and experience is sought in relation to your role. It is estimated that approximately 20 people will take part.

Do I have to take part?

No, taking part in this research is entirely voluntary. It is up to you to decide if you want to volunteer for the study. I will describe the study in this information sheet. If you agree to take part, I will then ask you to sign the attached consent form, dated October 2015, version number one.
What will happen to me if I take part?

If you agree to take part a time to meet at a suitable office location will be arranged that is convenient to you. Should you be interested in participating you will be asked to take part in a focus group (a small discussion group with other staff) and/or a one to one interview with the researcher, both of which will last approximately one and a half hours. The interviews will be audio recorded. The questions will concern risk, your organisation and the work that you do. You will be required to answer a series of questions and to talk freely around topics pertinent to the purpose of the study. The information obtained from these interviews may be used verbatim within the thesis and may inform future publications but your identity will not be made known.

Expenses and payments

The researcher cannot provide you with any payment for participating. All interviews will take place at an office location within your organisation during your normal working day.

Anything else I will have to do?

No, there is no preparation on your behalf required.

What data will be collected and / or measurements taken?

The data that will be collected is your responses to topics and questions. These will be audio recorded, transcribed and then analysed by identifying and coding themes that emerge. No personal or sensitive information will be asked of you and you are not obliged to answer the questions or comment on topics presented.

What are the possible disadvantages, burdens and risks of taking part?

It is appreciated that your participation will be during your working hours and therefore may affect your workload. Consent is sought for the use of direct quotes to be used in related
publications, which may be viewed by your organisation. This is not obligatory and your details will be kept anonymous.

**What are the possible advantages or benefits of taking part?**

You will not receive any direct personal benefits from participating but your participation will allow for information to be obtained regarding how practitioners feel about the changes occurring within your organisation and the affect that they are having on your practice when working with risk. This may facilitate your organisation in working with this area, as well as contributing to wider discussions within academia and criminal justice.

**Will my taking part in the study be kept confidential?**

Any information that you provide will be anonymised, including your name and office location through coding and you will not be named within any of the documentation (transcripts will not contain personal details). The interviews will be audio recorded digitally and the transcripts stored in a locked filing cabinet, together with all other research documentation, to which the researcher has sole access. Electronic data will be encrypted and stored on a password protected computer that only the researcher has access and use of.

The data, when made anonymous, may be presented to others at academic conferences, or published as a project report, academic dissertation or in academic journals or book. It could also be made available to your organisation. Anonymous data, which does not identify you, may be used in future research studies approved by an appropriate research ethics committee. The raw data, which would identify you, will not be passed to anyone outside the study team without your express written permission. The exception to this will be any regulatory authority which may have the legal right to access the data for the purposes of conducting an audit or enquiry, in exceptional cases. These agencies treat your personal data in confidence.

The raw data will be retained for up to 10 years. When it is no longer required, the data will be disposed of securely, and electronic and hard copies destroyed.

**What will happen if I don’t want to carry on with the study?**

As a volunteer you can stop any participation the interview at any time, or withdraw from the study at any time before, without giving a reason if you do not wish to. If you do withdraw from a study after some data have been collected you will be asked if you are content for the data collected thus far to be retained and included in the study. If you prefer, the data collected can be destroyed and not included in the study. Once the research has been completed, and the data analysed, it will not be possible for you to withdraw your data from the study.
What if there is a problem?

If you have a query, concern or complaint about any aspect of this study, in the first instance you should contact the researcher(s) if appropriate. If the researcher is a student, there will also be an academic member of staff listed as the supervisor whom you can contact. If there is a complaint and there is a supervisor listed, please contact the Supervisor with details of the complaint. The contact details for both the researcher and any supervisor are detailed on page 1.

If your concern or complaint is not resolved by the researcher or their supervisor, you should contact the Head of Department:

- The Head of Department: Dr Phil Clements
- Institute of Criminal Justice Studies: 023 9284 5069
- University of Portsmouth: phil.clements@port.ac.uk
- St Georges Building
- Portsmouth
- PO1 2HY

If the complaint remains unresolved, please contact:

- The University Complaints Officer: 023 9284 3642 complaintsadvice@port.ac.uk

Who is funding the research?

This research is being funded by the researcher who will not receive any financial reward by conducting this study.

Who has reviewed the study?

Research involving human participants is reviewed by an ethics committee to ensure that the dignity and well-being of participants is respected. This study has been reviewed by the Humanities and social Sciences Faculty Ethics Committee and been given favourable ethical opinion.

Thank you
Thank you for taking time to read this information sheet and for considering volunteering for this research. If you do agree to participate your consent will be sought; please see the accompanying consent form. You will then be given a copy of this information sheet and your signed consent form, to keep.
CONSENT FORM

Title of Project: The shaping of risk – a qualitative study of probation practitioners to investigate how risk is conceptualized, understood and applied within a Community Rehabilitation Company.

Name and Contact Details of Researcher: Suzie Clift (S.a.clift@brighton.ac.uk, 07980 801895)

Name and Contact Details of Supervisor: Professor Mike Nash (mike.nash@port.ac.uk, 02392 843062)

Ethics Committee Reference Number:

I confirm that I have read and understood the information sheet dated 21/10/2015 (version 1) for the above study. I have had the opportunity to consider the information, ask questions and have had these answered satisfactorily.

1. I understand that my participation is voluntary and that I am free to withdraw at any time up until the point of data analysis, without giving any reason.
2. I understand that data collected during this study, could be requested and looked at by regulatory authorities. I give my permission for any authority, with a legal right of access, to view data which might identify me. Any promises of confidentiality provided by the researcher will be respected.

3. I consent for my interview to be audio recorded. The recording will be transcribed and analysed for the purposes of the research and stored on a secure, encrypted hard drive. The recordings and transcripts will only be accessible to the researcher and kept securely for a maximum of ten years following completion of the project.

4. I consent to verbatim quotes being used in publications; I will not be named but I understand that there is a risk that I could be identified.

5. I understand that the results of this study may be published and/or presented at meetings or academic conferences, and may be provided to Kent, Surrey and Sussex Community Rehabilitation Company. I give my permission for my anonymous data, which does not identify me, to be disseminated in this way.

6. I agree to the data I contribute being retained for any future research that has been approved by a Research Ethics Committee.

7. I agree to take part in the above study.

Name of Participant: Date: Signature:

Name of Person taking Consent: Date: Signature:
Note: When completed, one copy to be given to the participant, one copy to be retained in the study file
Appendix G

Research Data Management Plan

Data to be created/collected

The data that will be created is qualitative data that will take the form of focus groups and semi structured interviews. These will be transcribed and coded thematically. The data pertains to the working knowledge and practice of the participants and does not seek to obtain any personal or sensitive information.

The research will also obtain hard data in relation to the factors that triggered an increase in risk assessment. The data will again be qualitative. The host organisation will identify, anonymise and provide suitable examples of this from case files and no personal information will be given or sought in relation to the case manager or the case themselves.

Confidentiality and storage

Any information provided by participants will be anonymised, including the name and office location through the use of coding and the participants will not be named within any of the documentation (transcripts will not contain personal details). The interviews will be audio recorded digitally and the transcripts stored in a locked filing cabinet, together with all other research documentation (hard copies of consent forms, anonymised risk assessments), to which the researcher has sole access. Electronic data will be encrypted and stored on a password protected computer that only the researcher has access and use of.

Dissemination

The data, when made anonymous, will be presented to others at academic conferences and following completion of thesis will be submitted for publication in academic peer reviewed journals. The raw data will not be passed to anyone outside the study team without express written permission from the participant.

Retention

The raw data will be retained for up to 10 years. When it is no longer required, the data will be disposed of securely, and electronic and hard copies destroyed.

Data Steward: Professor Mike Nash (first supervisor).
Appendix Three – Ethics Approval

November 24th 2015

Dear Suzie,

<table>
<thead>
<tr>
<th>Study Title:</th>
<th>The shaping of risk – a qualitative study of probation practitioners to investigate how risk is conceptualized, understood and applied within a Community Rehabilitation Company.</th>
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<td>Ethics Committee reference:</td>
<td>15/16: 04</td>
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Thank you for submitting your documents for ethical review. The Ethics Committee was content to grant a favourable ethical opinion of the above research on the basis described in the application form, protocol and supporting documentation, revised in the light of any conditions set, subject to the general conditions set out in the attached document.

You must also attend to the following minor conditions:

- The researcher will clarify the system for anonymisation and will ensure there are no contradictions in the documentation
- Full reassurances will be given to the private probation trusts regarding the nature of the research intent (ie the research does not seek to obtain information in relation to efficiency or results)
- Agreement will be obtained in writing from the host organisation.

There is no need to submit any further evidence to the Ethics Committee; the favourable opinion has been granted with the assumption of compliance

It is the supervisor's responsibility to oversee that these conditional are fulfilled.
The favourable opinion of the EC does not grant permission or approval to undertake the research. Management permission or approval must be obtained from any host organisation, including University of Portsmouth, prior to the start of the study.

Documents reviewed

The documents reviewed by The Faculty of Humanities and Social Sciences Ethics Committee.

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<thead>
<tr>
<th>Document</th>
<th>Version</th>
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<td>22/10/15</td>
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<td>Focus group follow up invitation</td>
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<td>Focus group topics/questions</td>
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<td>Interview schedule for semi-structured interview</td>
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<td>Participant Invitation Letters</td>
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<td>Participant Information Sheet</td>
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<td>Research Data Management Plan</td>
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Statement of compliance

The Committee is constituted in accordance with the Governance Arrangements set out by the University of Portsmouth
After ethical review

Reporting and other requirements

The enclosed document acts as a reminder that research should be conducted with integrity and gives detailed guidance on reporting requirements for studies with a favourable opinion, including:

- Notifying substantial amendments
- Notification of serious breaches of the protocol
- Progress reports
- Notifying the end of the study

Feedback

You are invited to give your view of the service that you have received from the Faculty Ethics Committee. If you wish to make your views known please contact the administrator ethics-fhss@port.ac.uk

Please quote this number on all correspondence - 15/16: 04

Yours sincerely and wishing you every success in your research

*************** Chair
Jane Winstone
Email: ethics-fhss@port.ac.uk
After ethical review – guidance for researchers

This document sets out important guidance for researchers with a favourable opinion from a University of Portsmouth Ethics Committee. Please read the guidance carefully. A failure to follow the guidance could lead to the committee reviewing and possibly revoking its opinion on the research.

It is assumed that the research will commence within 3 months of the date of the favourable ethical opinion or the start date stated in the application, whichever is the latest.

The research must not commence until the researcher has obtained any necessary management permissions or approvals – this is particularly pertinent in cases of research hosted by external organisations. The appropriate head of department should be aware of a member of staff’s research plans.

If it is proposed to extend the duration of the study beyond that stated in the application, the Ethics Committee must be informed.

If the research extends beyond a year then an annual progress report must be submitted to the Ethics Committee.

When the study has been completed the Ethics Committee must be notified.

Any proposed substantial amendments must be submitted to the Ethics Committee for review. A substantial amendment is any amendment to the terms of the application for ethical review, or to the protocol or other supporting documentation approved by the Committee that is likely to affect to a significant degree:

(a) the safety or physical or mental integrity of participants
(b) the scientific value of the study
(c) the conduct or management of the study.

A substantial amendment should not be implemented until a favourable ethical opinion has been given by the Committee.

Researchers are reminded of the University’s commitments as stated in the Concordat to Support Research Integrity viz:

- maintaining the highest standards of rigour and integrity in all aspects of research
- ensuring that research is conducted according to appropriate ethical, legal and professional frameworks, obligations and standards
- supporting a research environment that is underpinned by a culture of integrity and based on good governance, best practice and support for the development of researchers
- using transparent, robust and fair processes to deal with allegations of research misconduct should they arise
- working together to strengthen the integrity of research and to reviewing progress regularly and openly

In ensuring that it meets these commitments the University has adopted the UKRIO Code of Practice for Research. Any breach of this code may be considered as misconduct and may be investigated following the University Procedure for the Investigation of Allegations of Misconduct in Research.

Researchers are advised to use the UKRIO checklist as a simple guide to integrity.
Appendix Four - Thematic Networks: An Overview

The following four appendices illustrate four thematic networks that were created through the adoption of a thematic analysis approach to the research data obtained. They illustrate four Global Themes, which represent each empirical chapter within this dissertation. Thematic networks illustrate the key themes of both textual data and the research findings/overall themes. This technique ‘enables methodological systemization of textual data, facilitates the disclosure in each step in the analytic process, aids the organisation of an analysis and its presentation, and allows a sensitive, insightful and rich exploration of a text’s overt structures and underlying patterns’ (Attride-Stirling, 2001: 386). They enable researchers to explore how an issue or area is understood and the significance of ideas.

The method starts with the formation of a Basic Theme which is derived from the textual data, they are the simple premises that characterise the data and, independently say very little, however when examined together with other basic themes they allow the researcher to formulate the Organising Theme (Attride-Stirling, 2001). The Organising Theme lies in the middle of the network and summarise core assumptions of (a group) of Basic Themes and so show more meanings within the text – what is going on. The themes are united and are used to formulate the final network – The Global Theme. These are ‘super-ordinate themes that encompass the principal metaphors in the data as a whole’ (Attride-Stirling, 2001: 389). Using this process prevents the researcher into not falling into a common pitfall identified by Braun and Clarke (2008) whereby the researcher uses or is unable to move away from the questions asked, using these as codes in themselves, as this is not analysis and impedes the emergence of themes and patterns. It also acts as a safeguard when ensuring that the themes are independent with little overlap (Braun and Clarke, 2008) and have internal coherence.

In the case of Chapter Six, the basic themes were textual data that commented upon the ways that TR and the CRC owners had altered (or not) practice. These illustrated that many practices had changed and often it was assumed by participants that this had been done due to the CRC acting like a business. The Organising Themes were based upon the business culture and the overall purpose of the CRC (to secure a profit) which ultimately led to a Global Theme of the rehabilitative intent of CRCs post TR. Chapter Seven considered the practitioner and offender experience with the Global Theme being the impact of TR on those that are working within it and their perceptions of how it had impacted upon those that they work with. The organising themes here were identity, resistance and the repositioning of the offender. Chapter Eight followed the same process in relation to how practitioners worked with and understood risk more specifically, with the text rhetoric of risk being
the Basic Themes, and the processes, definitions, assessments etc. being the Organising Themes. The Global Theme that encompassed these here is the recalibration of risk (and its consequences). Finally, Chapter Nine focused on Basic Themes pertaining to the relationship and communication with NPS. These led to Organising Themes of risk escalations, serious further offences and definitions of high risk of serious harm and a Global Theme of NPS hierarchy and expertise.
TR, public governance and the rehabilitative intent

CRC lack of probation knowledge
- Knowledge of client group
- Lack of risk talk
- Open plan offices
- Toolkit

Mandatory Programmes

CRC - business
- expediency
- Payment first
- Fines/targets
- Team structure

Loss of legitimacy
- Innovation and local
- Compliance
- Continuity
- Breaches

Appendix Five – Network of Chapter Six
Appendix Six – Network of Chapter Seven

- Practitioner and offender experience
  - Meaningful work
  - Towing party line
  - De-professionalisation
    - Loss of discretion
    - New title
  - Loss of voice
    - Defensive institutionalism
    - Reputation
  - New culture
  - Service user
    - Continuity
    - New status
  - Classicist approach
  - Culture carriers
    - Old ways
  - Identity and resistance
    - Internal and external identity
  - Inadequate training
Appendix Seven – Network of Chapter Eight

Risk rigidity
Risk markers
DV
Tiering
NPS
Risk tool
Generation of worksheets
Loss of clinical
cursory initial
expediency
Emphasis re-offending
actuarial
New risk practices
Risk isolated
High risk with NPS
Risk to profit
New definitions
Risk understandings
Appendix Eight – Network of Chapter Nine

The bifurcation of risk

- Escalation decisions
  - Chery picking
  - Evidence and SFO
  - NPS reticence
  - Accountability and defensive practice

- Escalation process
  - Different tiering
  - Lack of communication
  - protracted and convoluted
  - battleground

- NPS hierarchy
  - NPS has expertise and resources
  - Fractured relationship
  - CRCs lack ability
  - Second class - private

- Implications of escalations
  - Loss of continuity
  - False negatives
  - False positives
Appendix Nine – Fieldnotes from Risk Assessment Tool Briefing

CRC My solution assessment tool briefing 12th November 2015

Tool is designed to support practitioners and their judgments and is based upon the new structured conversation training. It will act as a repository for the MOJ who will approve the implementation and use of the tool.

The tool utilises the actuarial assessments used within OASys (OGRS, RSR and OVP).

The tool commences with an analysis of behaviour which is where the offence analysis occurs, and the risk of harm section puts risk of serious harm and risk of re-offending into one section, possibly diminishing importance of risk of serious harm and brining risk of re-offending into more focus/prominence. It does distinguish the two but possible complacency that risk of serious harm no longer their remit.

The sections included in the assessment tool correspond with the new toolkit (My Solution Rehabilitation Programme) modules: outlook, home, money, habit, future, support and health. These modules determine the supervision plan which is automatically generated using the information inputted (the assessor does not decide on supervision – technology does). The tool was described as ‘commissioning’ interventions.

There is a reduction in the free text because it was perceived to have lost its meaning and often filled in for the sake of it, thus it is not visible and has to be clicked to access, reducing clinical assessment used. There is no ‘white space.’ The free text is not drawn upon when determining interventions. It was stated that the information need to be ‘worked with as a business.’ The tool was promoted as being expedient and less convoluted than OASys and time and content proportionate.

There are now new ‘boxes’ in relation to gang violence and sex workers and migration issues. The use of ha new sofa surfing box allows for payments as homeless is a target to address under contracts.

The offender is referred to use as service user throughout, due to feeling that offender had issues with labelling and stigmatisation. They are to take more responsibility for own behaviours and a such they are part of the assessment. It is designed to be done on a tablet computer with the offender at
the interview stage and they will use a sliding scale to show how motivated they are to not re-offend. Completion with offender is inclusive but does not allow for wider checks to be made easily.

The tool has deliberately incorporated more protective risk factors such as housing and relationships with neighbours and friends and how close the offender is to their family (their support system). It is designed to promote these but not clear how it will. Uses ‘social capital’ and ‘key factors to support desistance.’

The language used is different to probation and new criminogenic terminology has been adopted such as ‘significant impulsivity need.’ Rhetoric has changed from risk to need, which was due to the CRC wanting to help the offender help themselves. It aims to see the offender as a person not as an offence but has potential to them minimise offending and risk needs.

The tool considers the fact that the CRC’s highest risk are now medium risk of serious harm offenders which may hinder assessment of risk escalations if not embedded into the tool.
Appendix Ten – Fieldnotes from Observation of Training Day

The structured conversation: Assessment skills for probation practitioners. Observation of training fieldnotes, December 2015

The training was from 9-5pm and is done in groups of ten. The training aims to promote useful conversations within supervision that ‘makes the most of every contact.’ The structure relates to a need to have a focused discussion so that it aids the offender in identifying the reasons for their offending and take the ‘necessary actions to stop this happening in future.’

The training states that practitioners should assess risk, needs and strengths and draws upon desistance literature and the need for ‘quality’ in the relationship so that the offender feels that they can trust the practitioner in order to disclose.

The training asserts that there are ‘the big eight risk and criminogenic need factors:

- History of antisocial behaviour
- Antisocial personality pattern
- Antisocial cognition
- Antisocial associates
- Family/martial circumstances
- School/work
- Leisure/recreation
- Substance abuse

Protective factors are listed as:

- Family and relationships
- Sobriety
- Employment
- Hope and motivation
- Something to give
● Having a place within a social group
● Not having a criminal identity
● Being believed in

The ways that building good relationships are promoted are through semi structured interviews, active listening and using different types of questions (e.g. socratic).

The training provided the participants with examples of questions that could be used and undertook many role plays to put them into action. Role plays were the mainstay of the day and participants were reluctant to join in. The participants all expressed the belief that they knew what they were being taught already and had been working in these ways before the CRC came along (this was expressed to the trainer and not to me).

The pack also included the probation/NOMs definitions of risk of serious harm, but it was noted by two participants that these are not being used by the CRC and that they were not compatible with the new tiering system, something which was not addressed by the trainer who was not familiar with the CRC and was a consultant.

The training did not discuss the new risk assessment tool and most in the group had not had sight of it. The training was mandatory and at the end the group collectively told the trainer that they had felt somewhat patronised, especially those that were qualified. It also was stated that most participants found the new worksheets ineffective and could not see how this training/technique would work with them given that the worksheets were rudimentary.
# Research Ethics Review Checklist

Please include this completed form as an appendix to your thesis (see the Research Degrees Operational Handbook for more information).

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<tr>
<th>Postgraduate Research Student (PGRS) Information</th>
<th>Student ID: 211019</th>
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<tr>
<td><strong>PGRS Name:</strong></td>
<td>Suzie Clift</td>
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<td><strong>Department:</strong></td>
<td>ICJS</td>
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<td><strong>First Supervisor:</strong></td>
<td>Professor Mike Nash</td>
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<td><strong>Start Date:</strong></td>
<td>2009</td>
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<td><strong>Study Mode and Route:</strong></td>
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<td><strong>Title of Thesis:</strong></td>
<td>Transforming Rehabilitation: The Reconfiguration of Risk within a Community Rehabilitation Company</td>
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If you are unsure about any of the following, please contact the local representative on your Faculty Ethics Committee for advice. Please note that it is your responsibility to follow the University's Ethics Policy and any relevant University, academic or professional guidelines in the conduct of your study.

Although the Ethics Committee may have given your study a favourable opinion, the final responsibility for the ethical conduct of this work lies with the researcher(s).

**Candidate Statement:**

I have considered the ethical dimensions of the above named research project, and have successfully obtained the necessary ethical approval(s).

**Ethical review number(s) from Faculty Ethics Committee (or from NRES/SCREC):**

15/16:04

If you have not submitted your work for ethical review, and/or you have answered ‘No’ to one or more of questions a) to e), please explain below why this is so:

Signed (PGRS): Date: 24/01/2019