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## Enforcement and Recall

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A thematic inspection by HM Inspectorate of Probation  
February 2018

Thematic Inspection  
Enforcement and Recall

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This inspection was led by HM Inspector Mike Ryan, supported by a team of inspectors, as well as staff from our operations and research teams. The Assistant Chief Inspector responsible for this inspection programme is Helen Davies. We would like to thank all those who helped plan and took part in the inspection; without their help and cooperation, the inspection would not have been possible.

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## Foreword

We reported initial teething problems in enforcement soon after *Transforming Rehabilitation*, with cases moving to and fro between the National Probation Service (NPS) and Community Rehabilitation Companies (CRCs) unnecessarily. Local leaders and staff worked hard to iron out those early difficulties. It is a credit to them that arrangements for CRCs to transfer cases to the NPS for enforcement (as they must) now work as well as they do, time after time.

At the start of my tenure, magistrates and others were expressing concerns about an apparent reluctance of CRCs to enforce. We alerted the Ministry of Justice last year to our evidence that enforcement was not always happening when it should. CRCs were paid less if too many cases were cut short by enforcement, an incentive not to act. The department acted quickly to redress matters, but understandably, magistrates and others still lack confidence, not sure of effective enforcement.

I hope that more recent concerns at the other end of the spectrum – that individuals released from prison on licence are being recalled to prison too readily by probation staff – are abated by our inspection findings. There have been increases in recall numbers, most recently following the extension of supervision in the community to those sentenced to less than 12 months. In this inspection, we found almost all NPS and CRC recall decisions were good decisions, with the NPS particularly good at considering alternatives to recall beforehand.

Often, the level of disengagement or deterioration in the person's behaviour were such that they could not be safely managed in the community. Recall was appropriate, even when the individual had committed a relatively minor further offence. There is still every reason to be anxious about CRC enforcement, however. We found that NPS cases were sufficiently well-managed, whereas too many CRC cases were not. While it seems odd that we found CRCs notably better at recall than enforcement, we think we know why that is.

Recall procedures are generally clear and well understood, and people on licence are more likely to be supervised by higher-grade staff who are experienced at making the necessary judgements.

What is more, good enforcement relies on good quality probation supervision. CRCs focused on contract compliance, but not seeing people often enough, or not engaging meaningfully with them, are inevitably behind the curve on enforcement, as staff may not know when enforcement is called for, or when purposeful work to re-engage the individual would be better for them and for society. I suspect this is the biggest issue undermining effective enforcement today: that, in many CRCs, the case management itself is insufficient to enable good enforcement decisions. Instead, poor supervision is more likely to lead to reoffending and, for some, another round of imprisonment.

Once again, we found CRCs stretched beyond their capacity. We hope that the recommendations in this report provide an impetus for change, so that enforcement decisions can be made fairly and appropriately, as part of good, integrated probation practice designed to tackle entrenched reoffending patterns.



**Dame Glenys Stacey**

HM Chief Inspector of Probation  
January 2018

# Key facts

**268,062**

Offenders on probation supervision at the end of March 2017 (includes community orders, suspended sentence orders, post-release licence and post-sentence supervision)<sup>1</sup>

**29,718**

Community orders or suspended sentence orders returned to court due to failures to comply, further offences or other reasons in the year to March 2017<sup>1</sup>

**70%**

Suspended sentence orders terminated satisfactorily (2016/2017)<sup>1</sup>

**21,721**

Licence recalls in the year to March 2017<sup>2</sup>

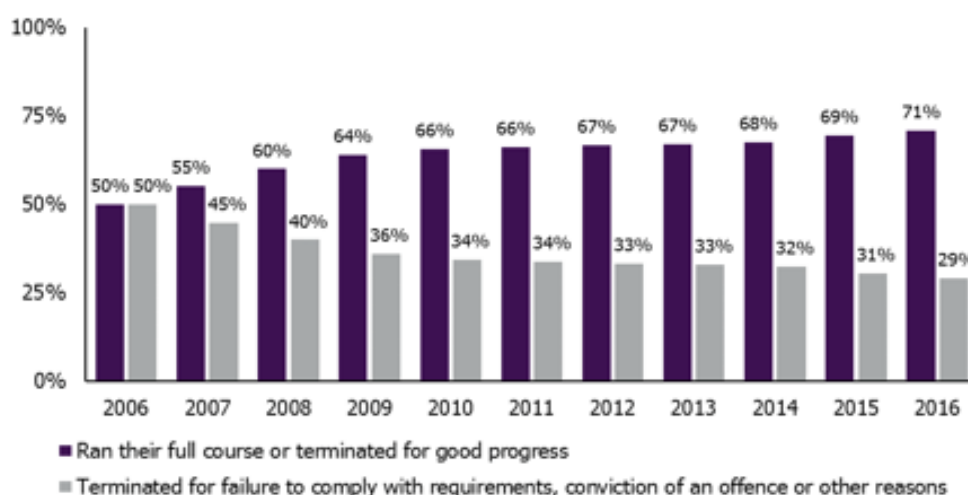
**37%**

The proportion of these recalls that were for individuals who had been under probation supervision having served a sentence of less than 12 months<sup>2</sup>

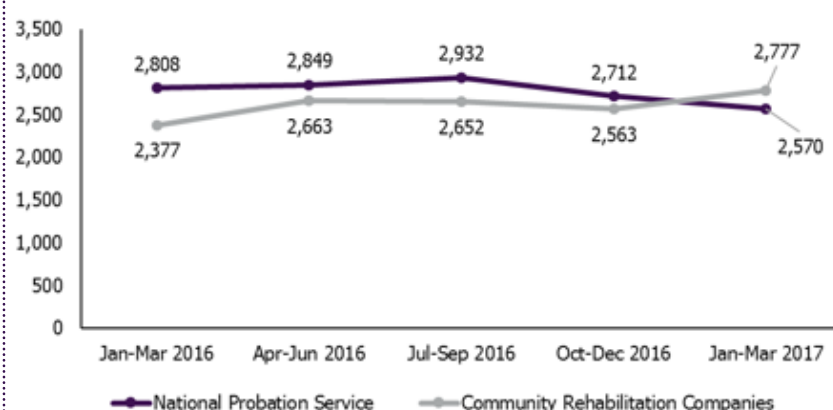
**72%**

Community orders completed satisfactorily (2016/2017)<sup>1</sup>

**Figure 1: Community orders and suspended sentence orders - reasons for termination 2006 to 2016<sup>1</sup>**



**Figure 2: Number of offenders recalled from licence by supervising body<sup>2</sup>**



<sup>1</sup> Offender Management Statistics Quarterly, England and Wales, Quarter: January to March 2017, Ministry of Justice, July 2017.

<sup>2</sup> Offender Management Statistics Quarterly, England and Wales, Licence recalls: January to March 2017, Ministry of Justice, July 2017.

## Enforcement and recall explained

Probation services (CRCs and NPS) supervise individuals sentenced by the court, either on a community sentence or as part of a licence following release from prison. The primary purposes of supervision are to protect the public, prevent further offending and to deliver the sentence as the court intended. There were some 268,000<sup>1</sup> offenders on probation supervision at the end of March 2017, 45% of whom were subject to community orders (including suspended sentence orders). 26% were subject to post-release licence and 29% were in custody being prepared for release.

Community sentences may include requirements to undertake rehabilitative activity such as drug treatment, or to comply with restrictions such as electronic monitoring. The same applies to a suspended sentence order – where the court imposes a custodial sentence but may choose to suspend it for up to two years. This means that the offender does not go to prison immediately, but is given the chance to stay out of trouble and to comply with supervision in the community.

Almost all individuals sentenced to imprisonment are released on licence under probation supervision. This part of the sentence is served in the community. As with community sentences, this may also contain restrictions and/or requirements to participate in rehabilitative activity.

The *Offender Rehabilitation Act 2014* extended supervision in the community to all adults sentenced to more than one day in prison. Formerly, only those sentenced to more than 12 months were supervised in this way. As a consequence, the number of individuals under supervision increased by 45,000 people each year, an approximate 23% increase.

Supervision in the community is delivered initially through a period on licence, followed by what is known as post-sentence supervision, for the purposes of rehabilitation. In many ways, these are the most difficult people to supervise in the community – often characterised by homelessness, substance misuse, poor health and limited employability. Many have long records of convictions and a history of disengagement with a range of statutory services. The quality of the working relationship between the probation worker and the individual and the continuity of contact are key. Likewise, engagement with local partner agencies, including housing services, health services and specialist services often provided by the voluntary sector, is likely to be most effective in rehabilitating people in this group.

Responsible officers are required to make judgements about the individual's level of compliance on both community sentences and post-custody licences. Where individuals do not comply with the requirements of their community order, they will return the case to court for further adjudication. In licence cases, the responsible officer has the option of recalling the individual to prison to serve a proportion or the remainder of the prison sentence. This is not always a straightforward decision, as often it involves balancing the merits of rehabilitation in the community and retaining accommodation or employment with the need to protect the public.

Supervision and compliance are inter-related. Research evidence indicates that breaches, warnings and missed appointments are associated with higher reoffending,

particularly when they occur earlier in the sentence<sup>3</sup>. Those who have a poor relationship with their responsible officer are more likely to breach, and the fairness of enforcement decisions may affect this relationship.

Most probation supervision is completed satisfactorily. This inspection considered cases where supervision had broken down to the point where the individual was returned to court or the licence was revoked and the individual returned to prison. The procedures in place for the enforcement or recall of the three categories of sentence subject to this inspection are set out below.

### ***Community order and suspended sentence order breach:***

The desired outcome is that community orders and suspended sentence orders are enforced in a timely and proportionate manner that promotes effective risk management and the rehabilitation of offenders.

There is no longer a prescribed number of failures<sup>4</sup> to report that will automatically activate breach proceedings. Instead, the responsible officer is required to decide whether to breach an offender if they fail to comply with their order by the sixth working day of a second alleged unreasonable failure to comply, or after one alleged unreasonable failure to comply where the responsible officer takes the view that it is a serious breach.

If the responsible officer decides to breach the offender, the matter will be returned to court to determine what, if any, sanction should be imposed. The sanctions range from financial penalties to custody, depending on the circumstances of the case. Processes for enforcement are set out in Appendix 3.

### ***Licence recall:***

As with community orders, there is no longer a prescribed number of failures to report that will automatically activate breach proceedings. If the responsible officer considers that the person subject to licence has failed to comply with the conditions of the licence or presents a high risk of causing serious harm or further offending, the individual will be recalled to prison without going back to court. The decision is approved by an NPS or CRC manager and then passed to Her Majesty's Prison and Probation Service (HMPPS) Public Protection Casework Section for endorsement and, ultimately, for an arrest warrant to be issued<sup>5</sup>. Processes for recall are set out in Appendix 3.

HMPPS has recently issued guidance to help improve rehabilitative outcomes for offenders on licence by keeping them under supervision in the community where possible and recalling them only when this is necessary to protect the public (Improving Rehabilitative Outcomes, HMPPS, 2017). Following pilot work in the NPS, further guidance has been issued in the form of Alternatives to Recall (2017). This

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<sup>3</sup> Hearnden, I. and Millie, A., Home Office (2003) and Pamela Ugwuodike (2010) in McNeill et al, *Offender Supervision*, Willan.

<sup>4</sup> National Standards for the Management of Offenders (2007), replaced by National Standards for the Management of Offenders (2015).

<sup>5</sup> Probation Instruction (PI) 27/2014 sets out the decision-making steps and processes for recalling offenders.

sets out a range of strategies aimed at securing compliance, including transferring the authority to vary licence conditions to senior managers. Recall will continue to be used whenever the level of risk cannot be safely managed in the community.

### ***Post-sentence supervision:***

Responsible officers will return individuals to court should they fail to comply. There is, however, an expectation that professional discretion will be exercised in deciding whether the individual has complied or not. The final decision on whether an individual has failed to comply with a supervision requirement and what, if any, sanction there should be for that breach falls to the court. If the matter is proved then penalties range from up to 14 days' imprisonment, a fine or a supervision default order (either unpaid work or a curfew)<sup>6</sup>. Processes for enforcement are set out in Appendix 3.

### ***Performance management:***

Performance in relation to enforcement and recall practice is monitored and managed (under CRC contracts and an NPS service level agreement) by HMPPS.

## **Executive summary**

### **Introduction**

Good-quality case management should underpin effective decisions on enforcement and recall. We expect responsible officers to be able to assess risk of harm, risk of reoffending and individuals' needs. They should be able to plan work, implement or facilitate structured programmes of work and review the progress of that work. This should all be done in a way that is sensitive to the diverse backgrounds and needs of those under probation supervision, and that builds on identified strengths in a person's life. Evidence from effective practice and desistance theories suggests that these approaches provide the best platform for successful rehabilitation<sup>7</sup>.

### **Our findings – Community Rehabilitation Companies**

#### **Community orders and suspended sentence supervision orders**

Overall, the quality of offender management and consequent enforcement decision-making in our sample of community orders and suspended sentence orders was poor. Assessment was too often deficient. Plans, though timely, were not of

<sup>6</sup> Probation Instruction (PI) 24/2014 'Enforcement of the Post-Sentence Supervision Requirements' sets out the intentions of post-sentence supervision.

<sup>7</sup> Andrews and Bonta (2003), Ward and Maruna (2007).



good quality. Engagement with the individual in constructive work was insufficient in too many cases. Planned levels of contact were not always adequate to meet the individual's needs. Consequently, CRCs did not always know when enforcement was appropriate.

The task of building a competent workforce was constrained by the level of resourcing, with dwindling front-line resources to manage the work.

### **Licence recall**

We found better work in licence cases. We cannot be definitive about why that is, but we noted that the majority of the individuals were assessed as posing a medium risk of harm to others, and so were more likely to be allocated to an experienced member of staff at probation officer grade. We found that staff were clearer about the process for recall than for community enforcement.

Overall, the quality of assessment and planning was sufficient. The programmes of work then delivered should have been better tailored to reducing the risk posed to the public and the likelihood of reoffending, but in almost all cases the level of contact met the requirements of the licence.

Recall decision-making was good. Judgements about the acceptability of absences or individual behaviour were generally appropriate.

### **Post-sentence supervision**

We looked at a small sample of post-sentence supervision cases. Overall, the quality of case management and consequent enforcement decision-making in the sample of post-sentence supervision was poor.

We found that CRCs were struggling to provide adequate services for the range of complex needs of this group of individuals. In particular, responsible officers struggled to find ways to engage with them. Enforcement had the effect of compounding rather than lessening the sense of a revolving door between prison and the community.

## **Our findings – National Probation Service**

### **Community order and suspended sentence supervision orders**

Overall, the quality of assessment, supervision planning and consequent enforcement decision-making was good.

At the beginning of the community sentence, responsible officers outlined to individuals the consequences of non-compliance, including a return to court. Judgements about the acceptability of absences or individual behaviour were appropriate in most cases. However, better attention should have been paid to engaging individuals in the process of supervision. While staff had a heightened sensitivity to issues of risk, the level of contact set was based on considerations of the risk of harm posed to others in just under two-thirds of cases.

Overall, we found a good balance struck between purposeful work and the use of enforcement to re-engage individuals or to apply controls on behaviour when necessary.

### **Licence recall**

Overall, the quality of case management and consequent enforcement decision-making was good. The NPS had an organisation-wide process for managing these cases. This supported engagement and promoted compliance, and enabled staff to take recall action when necessary and appropriate.

More needed to be done to ensure that relevant information from the prison is incorporated into the plan of work undertaken in the community. Nevertheless, we considered that judgements about the acceptability of absences or behaviour were appropriate in all but one case. We also found that senior managers had applied sufficient checks and balances to ensure that recall was viewed as a last resort, with action only taken when the risks of continued supervision in the community were unmanageable.

### **Post-sentence supervision**

We looked at a small sample of post-sentence supervision cases. Overall, the quality of case management and consequent enforcement decision-making was good.

### **Are women treated differently?**

Within CRCs we found some evidence that staff responded positively to women's needs, but this was far from consistent. The identification of women-specific issues was better at the NPS. However, both had very limited access to appropriate women-only provision.

## **Recommendations**

### **Her Majesty's Government should:**

- ensure that probation services are sufficiently resourced to supervise individuals with complex needs (for example, many under post-sentence supervision) effectively.

### **Her Majesty's Prison and Probation Service should:**

- set expectations that Community Rehabilitation Companies and the National Probation Service develop partnership-based approaches with key local stakeholders to manage those released from prison on licence.

**Community Rehabilitation Companies should:**

- ensure effective assessment and planned and purposeful levels of face-to-face contact with those under probation supervision.

**Community Rehabilitation Companies and the National Probation Service should:**

- develop practice which engages individuals in the processes of assessment and planning of their sentence
  - jointly develop local partnerships that directly address service users' needs in relation to accommodation, health, education and substance misuse
  - jointly develop local services which are accessible to those with diverse needs, particularly women.
-

# **1. Introduction**

## 1.1. Why this thematic?

Public and judicial confidence in enforcement and recall is mixed. Judges and magistrates frequently tell us that they fear CRCs are not doing all that they should. The Justice Select Committee<sup>8</sup> has expressed similar concerns.

We have reported previously on early difficulties relating to the transfer of enforcement cases between the NPS and CRCs. Last year we expressed concern that some CRCs were not taking enforcement action because of an unintended financial disincentive. These issues no doubt affected confidence in enforcement and recall. They have been resolved, but judges and magistrates continue to express concerns to us about enforcement and recall.

Good enforcement and recall are important. In our regular inspections of the NPS and CRCs, we find that almost one in three individuals under supervision have not complied with requirements, and are either subject to enforcement proceedings or should be. We know that many CRCs are not delivering the quality of probation services we expect, and we know that this is likely to have a knock-on effect on enforcement and recall.

There is no available management information to show whether enforcement and recall are happening as they should. We decided upon a thematic inspection, to shed light.

## 1.2. Background

Public confidence in adult community supervision has been a long-standing interest of government. Until relatively recently, government aimed to build confidence in community supervision by applying exacting standards of contact and rigorous enforcement processes. However, after almost two decades of legislation detailing specific requirements, in 2014 the government legislated to allow for greater flexibility and a move away from established practice standards, to allow for innovation in tackling reoffending.

The *Criminal Justice Act 1991* defined community supervision as punishment (by restriction of liberty) and, for the first time, made it a sentence of the court. The Act also introduced post-release supervision following a custodial sentence for adult prisoners serving sentences of more than 12 months. Initially, these licences were enforced through the courts. The *Crime and Disorder Act 1998* extended the system of executive recall (without the need to return to court) to sentences of between 12 months and 4 years. Recall of licences for sentences of over 4 years' duration were overseen by the Parole Board.

The legal framework for enforcing community orders and suspended sentence orders is set out in the *Criminal Justice Act 2003*, for post-release licences in the *Legal Aid, Sentencing and Punishment of Offenders Act 2012* and for post-sentence supervision in the *Offender Rehabilitation Act 2014*. The 2014 Act also introduced greater flexibility in community sentences, creating a mixed economy of public, third sector and private providers of probation services. Government aimed to promote innovative practices to tackle reoffending. With this flexibility came a revised approach to the

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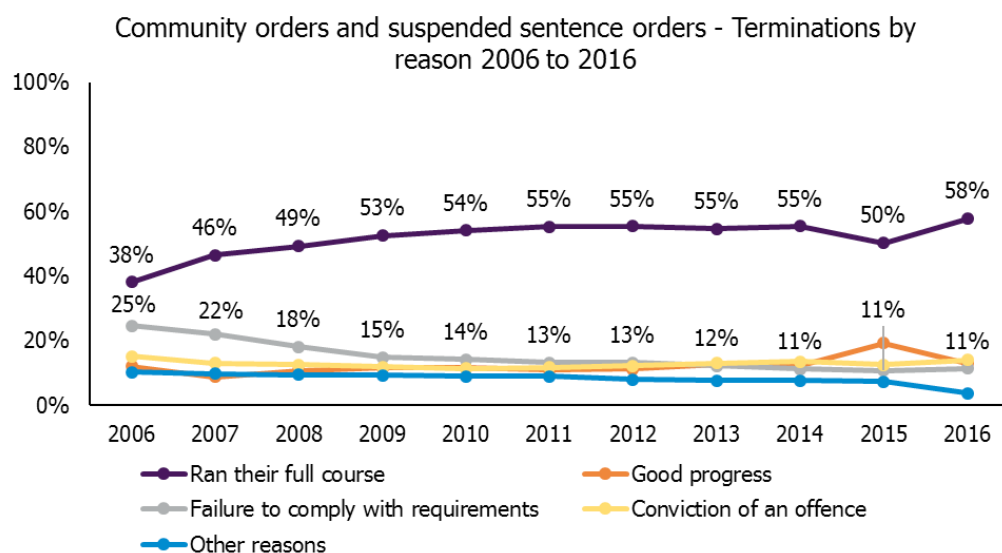
<sup>8</sup> Justice Committee, Oral evidence: *Transforming Rehabilitation*, HC 1018, 25 April 2017.

levels of contact required by community supervision. Frequency of contact is now informed by the professional judgement of the responsible officer or supervisor.

### Long-term trends in enforcement and recall

In the year to March 2017, **29,718** court orders terminated due to failure to comply, further offences or other reasons<sup>9</sup>. This averaged around 2,500 per month. Over recent years there has been an increase in orders successfully completing by either running their full course or being revoked on the grounds of good progress. The trend seemed to be disrupted shortly after the introduction of the *Offender Rehabilitation Act 2014* and establishment of new providers of probation services but the most recent figures show a return to the established pattern. This is illustrated below in Figure 3.

**Figure 3: Community sentence terminations**<sup>10</sup>



On 31 March 2017, 6,554 of 85,513 prison inmates were in prison because they had been recalled<sup>11</sup>. While the number of recalls is now starting to fall, the last quarter of 2016/2017 saw 5,347 offenders recalled to prison. Of these, 2,085 (39%) were individuals who had been under probation supervision having served a sentence of less than 12 months.

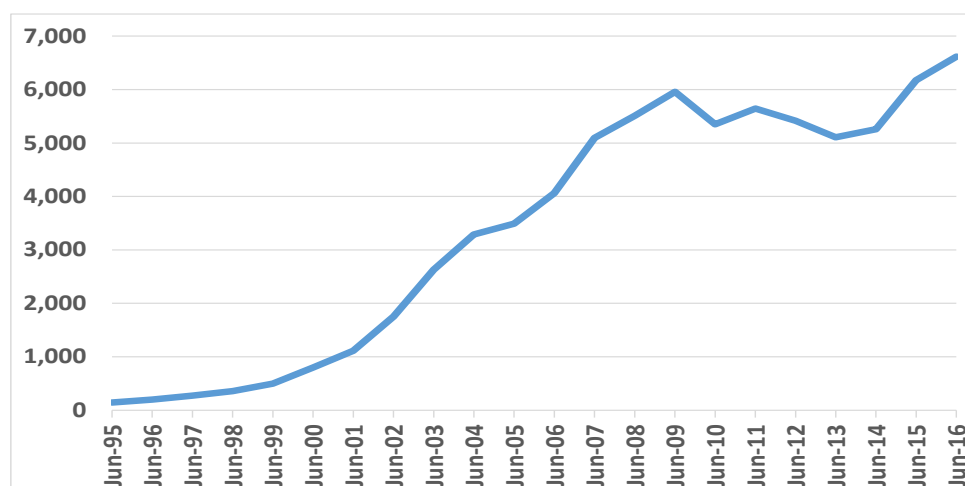
Long-term trends and the impact of extending probation supervision to those serving less than 12 months is shown in Figure 4.

<sup>9</sup> Offender Management Statistics Quarterly, England and Wales, Table 4.11, Probation Q1 2017, Ministry of Justice July 2017.

<sup>10</sup> Offender Management Statistics Quarterly, England and Wales, Ministry of Justice, July 2017.

<sup>11</sup> Offender Management Statistics Quarterly, England and Wales, Ministry of Justice, December 2016.

**Figure 4: Impact of recall on the prison population<sup>12</sup>**



### 1.3. Aims and objectives

The aim of this inspection was to examine the quality of case management and decision-making in cases where enforcement or recall action had been taken. The central questions addressed by this inspection are:

- Is enough work done to engage service users?
- Is the order/licence supported by adequate induction?
- Is there a sufficient assessment of risk, need, responsivity and the protective factors associated with desistance?
- Is the level of contact with a service user determined by risk of harm, risk of reoffending, national standards or other organisational imperatives?
- Is there a consistent and appropriate approach to decision-making, in particular regarding absences and unacceptable behaviour?
- Are enforcement and recall decisions different for women and men?

Our case sample reflects the proportions of orders, licences and post-sentence supervision cases in the probation caseload. In all cases, a decision had been made to prosecute a breach at court or recall the service user to prison. We did not include cases with high numbers of recorded absence that did not lead to breach or recall. Such cases are included in our routine inspections of adult offending work.

This inspection is focused on enforcement and recall for the main body of individuals under probation supervision. In cases of imprisonment, we limited the sample to those individuals given determinate sentences. Individuals given an indeterminate sentence (life sentence and indeterminate public protection (IPP) cases) represent a relatively small proportion of the prison population. On 31 March 2017, the prison population was 85,513, which included 3,528 IPP cases and 7,275 life sentence prisoners. In the 12 months between 1 April 2016 and 31 March 2017, a total of 21,721 individuals were recalled to prison, 481 of whom were IPP cases. Such cases

<sup>12</sup> Parole Board (2017).

constitute<sup>13</sup> an even smaller proportion of the probation caseload. To recognise the issues facing indeterminate sentence cases, and moreover to reach valid conclusions relating to case management for those individuals, would require further detailed examination of a big enough sample of cases, in a separate thematic inspection.

#### 1.4. Report outline

| Chapter  | Content   |
|--|---|
| 2. Enforcement of community orders and suspended sentence orders | The quality of case management and decision-making leading to the prosecution of breach action. |
| 3. Licence recall  | The quality of case management and decision-making leading to licence recall.                   |
| 4. Post-sentence supervision enforcement                         | The quality of case management and decision-making leading to enforcement action.               |

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<sup>13</sup> Offender Management Statistics Quarterly, England and Wales, Quarter: January to March 2017, Ministry of Justice, July 2017.



## **2. Community order and suspended sentence order enforcement**

In this chapter, we report our inspection findings on the quality of case management and decision-making when an individual had been prosecuted for breach of a community order or suspended sentence order.

## 2.1. Community Rehabilitation Companies

CRCs provide probation services to those assessed by the NPS as posing either a medium or a low risk of causing serious harm. This work includes managing community and suspended sentence orders, for which a responsible officer must be allocated.

### Case management findings

#### Assessment

The standard of assessment was poor in most cases inspected. We found cases where no assessment had been undertaken. In some instances, an assessment had been completed following management instruction, even though the responsible officer had not met the service user. There was an emphasis on undertaking activity to meet contractual targets rather than seeking to understand individuals' needs and motivation, as a starting point in the case management process.

**Table 2.1a: The quality of assessment in CRC cases sampled (53 cases)**

|  | Yes (%) | No (%) |
|--|---------|--------|
| Is there an accurate analysis of risk of harm?   | 37      | 63     |
| Is there is a good-quality assessment of the likelihood of reoffending?  | 37      | 63     |
| Does the assessment take sufficient account of enabling and protective factors to promote engagement and compliance? | 21      | 79     |
| Does the assessment identify the impact of any diversity factors on engagement and compliance?                       | 12      | 88     |

#### Planning and review

CRC contractual provisions include financial incentives to produce a supervision plan in each case. The CRCs produced timely plans (i.e. within contractually required timescales) in 82% of cases. Although this is likely to meet contract expectations, we judged the quality of those plans sufficient in only half of the cases inspected.

Where a plan was produced, in half of the sample it did not address issues of risk of harm or reoffending and there was limited evidence that the service user had been involved in the development of the plan. In most cases inspected (79%), the progress of the individual was not reviewed as would be expected following an enforcement decision.

#### Delivering the sentence

Individuals under supervision should be told at the start of their supervision what is expected of them, the opportunities supervision provides for them and

the consequences of non-compliance. Apart from anything else, that makes any subsequent decision about whether or not the individual is complying with the sentence more likely to be a fair decision in the eyes of the individual and the public. In almost half the cases we inspected, the person under supervision had not received a sufficient induction, with the CRC then missing the opportunity for early, effective engagement.

We found that services, activities and interventions were of insufficient quality to minimise the individual's risk of posing harm to others or their likelihood of reoffending in just over three-quarters of all cases.

**Poor practice example:** Michael is a man in his twenties who has migrated to the UK. He had committed an assault and received a suspended sentence supervision order.

After induction, no further appointment was offered to Michael for 10 weeks. No assessment or plan was completed. The next appointment he was offered was then cancelled due to staff sickness. A new letter was sent out, but it is not clear from the records whether Michael attended at this point. New instructions were sent by letter, but this was returned, indicating that he was no longer resident at the address. No follow-up action was taken.

Within two weeks, Michael appeared in court on a fresh assault charge and was bailed. However, the address he gave was not followed up by the responsible officer. After a further two months, breach action was started, but was abandoned a month later when Michael was sentenced for a new offence of assault on his former partner. He was re-inducted into the order, but his next appointment was cancelled again due to staff sickness.

At this point, Michael indicated that he would be leaving the country. The CRC agreed to rearrange his next appointment to facilitate this. He is now out of contact and no breach action is pending.

## Contact levels

The level of contact with each individual should be decided based on an assessment of their risk of posing harm to others, the likelihood of reoffending and the needs of the individual. We found these factors had not been considered in enough cases. In 57% of the cases we inspected, the planned level of contact was not sufficient to meet the requirements of the order.

**Table 2.1b: Contact levels in CRC cases sampled (53 cases)**

|   | Yes (%) | No (%) |
|---|---------|--------|
| Were contact levels based on consideration of risk of serious harm? | 58      | 42     |
| Were contact levels based on risk of reoffending?                   | 62      | 38     |
| Were contact levels based on assessed need?                         | 64      | 36     |

## Compliance decisions

We found that decisions tended to be formulaic rather than properly considered.

We found that in almost three-quarters of the cases the responsible officer reacted promptly when an individual failed to keep an appointment, but did little to find out what lay behind the lapse. Decisions to enforce were seldom based on the risk of harm posed or the likelihood of reoffending. We found instances where absences were recorded as unacceptable due to lateness for appointments, when other factors, such as complex issues around the case, should have been considered. In just over half of the cases inspected, we judged that the decision to enforce the order was not appropriate.

**Table 2.1c: Compliance decisions in the CRC cases sampled (53 cases)**

|  | Yes (%) | No (%) |
|--|---------|--------|
| Did the responsible officer take a timely approach to all instances of non-compliance?         | 72      | 28     |
| Did the responsible officer take an investigative approach to all instances of non-compliance? | 36      | 64     |
| Were judgements about the acceptability of absences/behaviour appropriate?                     | 58      | 42     |
| Were the decisions for enforcement action based on the assessed risk of harm posed?            | 22      | 78     |
| Were the decisions for enforcement action based on the assessed risk of reoffending?           | 27      | 73     |
| Was the decision to enforce appropriate?   | 48      | 52     |
| Was the decision to enforce clearly recorded?  | 83      | 17     |

We found that CRCs did not sufficiently explore the causes of non-compliance when considering enforcement action. They did not consider alternative means of securing compliance in enough cases and rarely considered or undertook home visits.

**Table 2.1d: Considering alternatives (CRC cases sampled, 53)**

|   | Yes (%) | No (%) |
|---|---------|--------|
| Had alternative approaches to securing compliance been considered?  | 42      | 58     |
| Had home visits been considered?  | 30      | 70     |
| Following enforcement, did the responsible officer make sufficient efforts to re-engage the service user with their planned objectives? | 60      | 40     |

## Considering alternatives

*“I don’t have people coming into the office to see me, I get out there and see them. Then there’s no need to breach them”.* (responsible officer)

Where alternatives were considered, this had a marked effect on progress, as illustrated below:

**Good practice example:** Alice was a 29-year-old woman with an entrenched history of theft to fund alcohol dependence. Her children had been removed from her care due to drug misuse, and she had a previous conviction for child neglect. She had been made subject to a community order for another offence of shop theft.

After sentencing, she failed to attend any appointments. The responsible officer quickly breached her, without making any attempts to locate or re-engage her with the sentence.

After being breached and failing to engage with the sentence for two months, Alice was given a new responsible officer, who used a different approach. She used text and telephone to arrange appointments with Alice. She rarely saw Alice in the office, instead meeting with her wherever she was, which included a hospital, a treatment provider and with supportive family members.

This approach resulted in improved attendance and engagement, which was a sharp contrast to Alice's earlier behaviour. Alice is now regularly attending alcohol awareness sessions, had detoxed from alcohol and was due to attend a community rehabilitation programme.

## 2.2. National Probation Service

### Case management findings

The NPS manages cases assessed as presenting a high or very high risk of causing serious harm, and those who are managed under Multi-Agency Public Protection Arrangements.

#### Assessment

We found that most cases were assessed to a sufficient standard, although staff did not pay enough attention to individual diversity issues that could affect compliance.

**Table 2.2a: The quality of assessment in NPS cases sampled (37 cases)**

|  | Yes (%) | No (%) |
|--|---------|--------|
| Is there an accurate analysis of risk of harm?   | 78      | 22     |
| Is there is a good-quality assessment of the likelihood of reoffending?  | 83      | 17     |
| Does the assessment take sufficient account of enabling and protective factors to promote engagement and compliance? | 84      | 16     |
| Does the assessment identify the impact of any diversity factors on engagement and compliance?                       | 61      | 39     |

**Good practice example:** Jeremy was a 35-year-old man with an active diagnosis of paranoid schizophrenia. There was some history of sexual molestation of adult females and offences that reflected his mental health state. His family had funded a private mental health intervention in another country, without success.

The responsible officer was consistent in seeking to secure compliance with the community order and treatment of Jeremy's illness. There were positive partnership arrangements in place, which included involvement of the police and the community mental health team in delivering contact together or in tandem. A well-structured assessment of need and harm was recorded. The initial plan was very clear, and the responsible officer had made sure that Jeremy understood and agreed to proposed actions.

However, Jeremy did not want to accept treatment or to be required to report at designated times. When he did not participate in supervision, breach action was taken to reinforce Jeremy's responsibility to his order. The breach of the community order was withdrawn at court, as by that time Jeremy had been detained under the Mental Health Act.

## Planning and review

In most cases, we found sufficient planning of the work to be undertaken and in almost all cases the plan was timely and informed by an assessment of the risk of harm to others and of reoffending. However, we were concerned that individuals were involved in the planning of their sentence in just over a third of the cases inspected. This echoes our findings in relation to the assessment of diversity, suggesting limited responsiveness to individuals' perspectives and needs.

In most instances where a review was required, it was undertaken to a good standard. All reviews were well-informed and most included an assessment of the extent of the individual's engagement and compliance.

## Delivering the sentence

In almost three-quarters of the cases inspected there had been sufficient induction at the beginning of the sentence and the sentence had been delivered as intended. Appropriate attention had been paid to addressing the risk of harm to others.

We also found examples where the breach process was used positively to encourage involvement with a programme of interventions:

**Good practice example:** Francis was a 19-year-old with autistic traits, who had recently been diagnosed with foetal alcohol syndrome. He had been assessed as presenting a high risk of harm to his parent, brother, partner and unborn child. He had highly complex needs because of his profound learning disability.

Breach was used to secure his re-engagement with a wide plan of action as he had stopped attending appointments with his responsible officer. The advice to court secured additional interventions, which included an adjusted domestic violence intervention, a young person's substance misuse intervention and leaving care provision.

There was also a specialist worker delivering one-to-one work adjusted to autistic traits working with Francis. This included work with Francis's mother. The extent to which work was adjusted to meet Francis's needs, manage his risk of harm and avoid a further breach of the order was impressive.

When assessment and planning were sufficient, the service delivered was often at an appropriate level for the individual's needs. In the following example, the need to enforce the order formed part of the management of risk of harm:

**Good practice example:** Arthur was a 23-year-old perpetrator of assault within a relationship and assessed as posing a high risk of serious harm to his former partner and young child.

External controls (including breach action) were applied well to manage his behaviour when he failed to notify the responsible officer of his living arrangements. A probation hostel placement was then secured to provide some temporary stability.

The responsible officer produced a well-constructed assessment and there was a helpful referral to the personality disorder team for assessment. The responsible officer will deliver a one-to-one intervention in respect of domestic abuse in line with the steer given by the specialist assessment of personality disorder. The action taken provides clear boundaries upon Arthur's behaviour and he is fully aware that swift enforcement action will follow should he fail to comply.

## Compliance and enforcement findings

### Contact levels

In most almost two-thirds of cases, contact levels were based on considerations of the risk of harm that the individual service user presented, but we had expected better performance, given the profile of the caseload. Further, we found service users' needs were only considered in just over half of the cases. Nevertheless, in the large majority of cases (83%) we found the level of contact was sufficient to meet the requirements of the court order.

**Table 2.2b: Contact levels in NPS cases inspected (37 cases)**

|   | Yes (%) | No (%) |
|---|---------|--------|
| Were contact levels based on consideration of risk of serious harm? | 64      | 36     |
| Were contact levels based on risk of reoffending?                   | 73      | 27     |
| Were contact levels based on assessed need?                         | 56      | 44     |

### Compliance decisions

In almost all cases, the decision to enforce was appropriate. In respect of orders with more than one requirement, compliance with some elements of supervision would still lead to breach decisions, for example if the service user was reporting to the responsible officer but had failed to comply with requirements to do unpaid work. A breach decision would still be appropriate, considering the overall requirements of the sentence.

The extent of consideration of risk of harm or reoffending in making decisions about enforcement was lower than we would expect in these cases. There was evidence of risk of harm informing the decision in less than half of the cases.

**Table 2.2c: Compliance decisions in NPS cases sampled (37 cases)**

|  | Yes (%) | No (%) |
|--|---------|--------|
| Did the responsible officer take a timely approach to all instances of non-compliance?         | 83      | 17     |
| Did the responsible officer take an investigative approach to all instances of non-compliance? | 64      | 36     |
| Were judgements about the acceptability of absences/behaviour appropriate?                     | 85      | 15     |
| Were the decisions for enforcement action based on the assessed risk of harm posed?            | 44      | 56     |
| Were the decisions for enforcement action based on the assessed risk of reoffending?           | 54      | 46     |
| Was the decision to enforce appropriate?   | 86      | 14     |
| Was the decision to enforce clearly recorded?  | 94      | 6      |

### Considering alternatives

In almost two-thirds of the cases inspected, we saw evidence of various strategies being used. These included the use of hostel placements to stabilise individuals and the use of prison visits to re-engage the service user following the activation of suspended sentences. Home visits were considered in half of the cases and, in most cases, either undertaken or correctly discounted as an option, for example where it was clear that the individual had changed address without notifying the responsible officer. Nonetheless, we would expect a higher level of consideration of home visits as a method of securing compliance.

**Table 2.2d: Considering alternatives (NPS cases sampled, 37 cases)**

|   | Yes (%) | No (%) |
|---|---------|--------|
| Had alternative approaches to securing compliance been considered?  | 62      | 38     |
| Had home visits been considered?  | 51      | 49     |
| Following enforcement, did the responsible officer make sufficient efforts to re-engage the service user with their planned objectives? | 60      | 40     |

## 2.3. Conclusions and implications

### Community Rehabilitation Companies

Overall, the quality of case management and consequent enforcement decision-making in the sample of community orders and suspended sentence orders was poor in the CRCs.

Most (68%) of the staff interviewed considered that their organisation had a positive



culture of compliance. They were less clear what the operational methods and processes were that supported service user compliance. Less than a third thought that their operating model included such approaches.

Staff told us that resourcing was an issue affecting the quality of work. In some circumstances, the responsible officer may have had up to 250 cases, for example if the order was being managed in a 'hub' arrangement (where many of the unpaid work cases are administered). It was not uncommon for responsible officers to report managing between 70 and 100 cases.

Managers and leaders were more likely to consider the same problems as cultural. There was a consistent perception that staff had yet to adjust to the new working environment of the CRC and they should no longer think that office-based working was the main method of working with service users. We considered that the focus on contract compliance rather than the true quality of supervision was inevitably having an impact on culture. It is undermining the established values of probation professionals and changing what is expected of them.

There was a stated management commitment to pursuing alternatives to breach whenever this was possible. The CRCs have considerable work to do, however, to deliver effective probation services and restore confidence in the enforcement of community sentences.

## **National Probation Service**

Overall, the quality of case management and consequent enforcement decision-making in the sample of community orders and suspended sentence orders was good in the NPS. However, although managers and leaders expressed a strong commitment to finding ways to engage service users, we found that the extent to which individuals participate in the process of supervision fell considerably short of the expected standard. There are also clear improvements required in understanding and assessing individuals' diverse needs.

Almost all NPS staff interviewed took the view that the organisation had a positive compliance culture and that processes for enforcement and supporting compliance were clearly understood.

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## 3. Licence recall

In this chapter, we report our inspection findings on the quality of case management and decision-making when a service user had been recalled to prison. We followed the recall process from the probation service initiating a recall decision through to the Public Protection Casework Section endorsing the decision and arranging for an arrest warrant to be issued. The numbers inspected reflect the distribution of caseload between the two organisations. The processes for recall are outlined in Appendix 3.

### 3.1. Community Rehabilitation Companies

#### Case management findings

##### Assessment

We found that the quality of assessments of risk of harm and reoffending was sufficient in most cases, significantly better than for the community enforcement sample. We found that CRCs were more likely to allocate licence cases to probation officer grade staff. These cases also tended to be assessed as a higher risk than community order cases and hence attracted more scrutiny (Figure 13). This was illustrated in one case:

**Good practice example:** *Lionel had multiple and complex needs, including learning difficulties, a personality disorder, mental health problems and physical health needs. To compound this, he was homeless.*

*The responsible officer had made an extensive assessment of Lionel's offending behaviour, risks and needs. The officer found creative ways of maintaining contact with Lionel, and included him in planning the work. The custodial part of the sentence was only a matter of days. However, the responsible officer arranged positive plans for re-release, including a mentor. This was discussed with the prison.*

*Unfortunately, Lionel did not comply with reporting and this led to recall as there was no known address. Services again focused on practical needs, such as accommodation, and offending behaviour. A mentor was used successfully to pick up Lionel from prison, following release after recall.*

However, few of the cases took account of issues that would support effective rehabilitation, for example individual diversity.

**Table 3.1a: The quality of assessment in CRC cases sampled (27 cases)**

|  | Yes (%) | No (%) |
|--|---------|--------|
| Is there an accurate analysis of risk of harm?   | 84      | 16     |
| Is there is a good-quality assessment of the likelihood of reoffending?  | 63      | 37     |
| Does the assessment take sufficient account of enabling and protective factors to promote engagement and compliance? | 29      | 71     |
| Does the assessment identify the impact of any diversity factors on engagement and compliance?                       | 20      | 80     |

##### Planning and review

As was found with community orders, almost all the plans inspected were timely. Some two-thirds sufficiently addressed the risk of harm to others and likelihood

of reoffending. This was better than in the community order sample, where this had been done in half the cases. However, hardly one in three individuals had been meaningfully involved in creating their plan. Practice was driven more by organisational targets to get a plan completed than the need to engage the service user in planning the service.

Although otherwise well-informed, only 27% of cases where a review was needed considered whether work undertaken sufficiently addressed engagement and compliance.

## **Delivering the sentence**

The service user was properly inducted in only half of the cases inspected and, in a similar proportion, insufficient services were delivered to minimise the risk of harm to others or to reduce the risk of reoffending. We found many examples where the method of contact did not match the complexity of the case, with telephone contact arrangements in cases with marked complexities such as chronic substance misuse, mental health problems or extensive histories of non-compliance, for instance. In the following case, the effect of disruption of responsible officer is demonstrated:

**Poor practice example:** Lucia was a 33-year-old female who served a six-week custodial sentence for an offence of shop theft. She was due to be released on licence, with a period of post-sentence supervision. Lucia had a long-standing heroin and crack cocaine habit and a prolific offending history. At least five of her children had been removed from her care due to neglect. At the point of release from custody, she was 33 weeks' pregnant and taking prescribed methadone.

The responsible officer had no contact with Lucia while she was in custody, either by letter, in person or by video link. There was no evidence that robust plans were made to ensure a smooth transition into the community. The responsible officer did make a referral to a local provider, which provided a 'meet at the gate' service on the day of release. However, this was not followed up, as the responsible officer went on long-term sick leave. No-one was given responsibility for the case in her absence. As a result, calls from social services and prison healthcare regarding their concerns about the mother and unborn child's health were not returned and no services were put in place for release.

Lucia did not report to the CRC on the day she was released from prison, which the licence required her to do. Subsequent appointments were also missed and no enforcement action taken. The social worker expressed serious concern for the well-being of the unborn child, given that Lucia was now known to be injecting heroin and misusing other illegal substances, in addition to the prescribed methadone. Lucia had a stable long-term address, but the CRC did not attempt to visit the home. Only when the social worker reported that Lucia's prescription for methadone had been stopped after missing drug treatment appointments did the newly assigned responsible officer recall Lucia to prison.

In contrast, the example below demonstrates the painstaking work required to make small amounts of progress:

**Good practice example:** Kylie was a 31-year-old woman with a long history of acquisitive offending to fund a drug addiction. She was 11 when she first smoked cannabis. By the age of 14, she had started injecting heroin. Her two children had been removed from her care. She was regularly recalled to prison soon after release, after failing to attend probation appointments or because of reoffending. She had been sentenced to a short period in custody for an offence of shop theft.

The Integrated Offender Management team managed her, because of the high risk of reoffending. When she failed to report to probation on the day she was released from prison, the responsible officer did not immediately recall her to prison. Instead, she confirmed with the prison the time of release, what travel arrangements had been put in place, and the release address that Kylie had given to them. The responsible officer then visited each of the three potential addresses that Kylie could have been at, asking the inhabitants whether they had seen her. She left details of an appointment at each location, which Kylie could collect if she went there. She also telephoned Kylie's mother and father, to find out whether Kylie had been in touch.

The responsible officer recalled Kylie to prison only after she failed to attend the next appointment. Once Kylie had returned to prison, the responsible officer visited her to talk about obstacles to compliance and how they could get around them to ensure that Kylie engaged when she was next released. As a result, Kylie reported to the responsible officer on the day she was released and for a subsequent appointment, which was a significant improvement for her. She also started speaking more openly about the extent of her problems and appeared, for the first time, willing to admit she needed help. The responsible officer did not give up on Kylie. She told Kylie she believed in her ability to change and consistently sought to engage her.

## Compliance and recall findings

### Contact levels

The contact levels planned or delivered were appropriate in almost all cases and in line with considerations of risk and need. In almost all cases the level of contact was sufficient to meet the requirements of the licence. This was considerably better than the findings for community enforcement.

**Table 3.1b: Contact levels in the CRC cases sampled (27 cases)**

|   | Yes (%) | No (%) |
|---|---------|--------|
| Were contact levels based on consideration of risk of serious harm? | 85      | 15     |
| Were contact levels based on risk of reoffending?                   | 81      | 19     |
| Were contact levels based on assessed need?                         | 82      | 18     |

## Compliance decisions

In almost all cases, the decision to enforce was appropriate, there was a clear rationale for the enforcement decision and case recording was sufficient. However, although the process was being followed appropriately (see Appendix 3), staff did not investigate reasons for non-compliance in enough cases.

The following good practice example illustrates repeated efforts to engage with the service user and provide a purposeful service. This is a typically complex case and one in which a high level of inter-agency working was required and delivered:

**Good practice example:** Julian was in his forties. He had recently been released from a prison sentence for fraud offences. His offending had supported his drug habit. The responsible officer liaised with the prison to have conditions added to Julian's licence to comply with drug testing and a curfew. He was deemed to be a prolific priority offender (PPO) and managed by the multi-agency PPO team.

Julian attended well through his time on licence. His responsible officer gave him clear boundaries and explained what was required. She included him in planning for his sentence and spelled out the consequences of him not sticking to his licence. Julian relapsed into drug use immediately after his release. The responsible officer used home visits, police intervention, GPS tracking and drug testing to monitor and encourage him. She warned him formally twice, following up concerns about his poor behaviour quickly. Work with Julian's partner gave a clearer picture of how entrenched his drug use was. He appeared to be running up drug debts and was pressurising his partner (a victim of his offending) for money.

When all other attempts to motivate Julian had been tried, and concern for his partner was increasing, the officer recalled him to custody. After 14 days in custody, he was re-released. The pattern continued, and he was recalled to custody for a second time. He voluntarily presented himself for arrest. Throughout, the responsible officer maintained a positive, professional working relationship with Julian and sought to protect his victim. He has attended over 80 appointments with his responsible officer and the police over the last year. This is an impressive amount of engagement and a firm foundation upon which to address his offending.

**Table 3.1c: Compliance decisions in the CRC cases sampled**

|  | Yes (%) | No (%) |
|--|---------|--------|
| Did the responsible officer take a timely approach to all instances of non-compliance?         | 89      | 11     |
| Did the responsible officer take an investigative approach to all instances of non-compliance? | 56      | 44     |
| Were judgements about the acceptability of absences/behaviour appropriate?                     | 89      | 11     |
| Were the decisions for recall action based on the assessed risk of harm posed?                 | 71      | 29     |
| Were the decisions for recall action based on the assessed risk of reoffending?                | 93      | 7      |
| Was the decision to recall appropriate?  | 89      | 11     |
| Was the decision to recall clearly recorded?   | 93      | 7      |

## Considering alternatives

We found that CRCs were more likely to consider alternative approaches to secure compliance in licence cases than community orders, and that this included undertaking home visits. One staff member expressed a commonly held view that,

*“it is now more difficult to recall or enforce orders in terms of management oversight – they will make sure that steps are taken to avoid recall if we can. There is a change in culture. If there is a risk to the public we will be supported in taking recall decisions”.*

However, insufficient efforts were made to re-engage service users following enforcement and very few of the cases considered behaviour and work undertaken in custody as part of the assessment at the point of release.

**Table 3.1d: Considering alternatives in the CRC cases sampled (27 cases)**

|  | Yes (%) | No (%) |
|--|---------|--------|
| Had alternative approaches to securing compliance been considered?   | 64      | 36     |
| Had home visits been considered?   | 59      | 41     |
| Following recall, did the responsible officer make sufficient efforts to re-engage the service user with their planned objectives? | 46      | 54     |
| Does behaviour and work undertaken in custody form part of the assessment at the point of release?                                 | 30      | 70     |

## 3.2. National Probation Service

### Case management findings

#### Assessment

Almost all licence recall cases inspected in the NPS were assessed appropriately. Once again there is room for improvement in the attention given to the diverse needs of service users (Table 7a).

The complexity of these cases and the standard of work being undertaken are illustrated in the following good practice example:

**Good practice example:** Shaun was 32 years old and on licence for serious offences of violence. He had a long history of troubled intimate relationships, including convictions for harassment and violence towards partners. He also had a history of substance misuse and undiagnosed mental health issues.

This was his third short custodial sentence since 2015. The three sentences had been eight weeks, three months and four weeks' long. He had not engaged well with licence supervision, although for a period in this sentence he had attended appointments and made himself available for some home visits.

The responsible officer clearly felt frustrated about the limits of what could be achieved and, in respect of public protection, the limited sanctions available for non-compliance. It appeared that the case was too complicated and that there was too much associated risk of harm to be managed effectively within post-sentence supervision.

Nevertheless, there was good access to accommodation services, which had yielded a number of options. These arrangements had, however, all been sabotaged by Shaun's behaviour. Shaun was recalled due to failure to report to the responsible officer and not participating in arrangements to secure accommodation.

There had been three further convictions since release from the inspected sentence, leading to a further short prison sentence of four weeks.

**Table 3.2a: The quality of assessment in NPS cases sampled (25 cases)**

|  | Yes (%) | No (%) |
|--|---------|--------|
| Is there an accurate analysis of risk of harm?   | 92      | 8      |
| Is there is a good-quality assessment of the likelihood of reoffending?  | 96      | 4      |
| Does the assessment take sufficient account of enabling and protective factors to promote engagement and compliance? | 95      | 5      |
| Does the assessment identify the impact of any diversity factors on engagement and compliance?                       | 59      | 41     |

## Planning and review

Planning was sufficient in most of the cases inspected, yet there was a relatively low rate of service user engagement in the planning process. Where planning involved the individual, there were positive results. We saw good examples of the use of video link to involve the service user in plans for release, securing hostel accommodation and arranging additional licence conditions to protect known domestic abuse victims. Overall, cases were reviewed as required.

## Delivering the sentence

In three-quarters of the cases inspected, there had been a sufficient induction. Services, activities and interventions were of sufficient quality to minimise the risk of harm to others in most cases.



There were only a small number of women in this NPS sample (3) and so general conclusions cannot be drawn. However, we did not identify a clear NPS pathway for women's services. One senior manager suggested,

*"I think we'd score 10 to 15 out of 100 in terms of getting gender-specific, informed services for women. There are bespoke services for women locally but these are not collated or pulled together. There is a women's programme that the CRC delivers but it is hard to get NPS cases to be accepted. It's difficult with the way things are".*

## Compliance and recall findings

### Contact levels

As we would expect, in most cases the levels of contact required for the case were determined by considerations of the risk of harm or reoffending posed by the service user and their needs. We found, also, that in the large majority of cases contact levels were sufficient to meet the requirements of the licence.

**Table 3.2b: Contact levels in the NPS cases sampled (25 cases)**

|   | Yes (%) | No (%) |
|---|---------|--------|
| Were contact levels based on consideration of risk of serious harm? | 84      | 16     |
| Were contact levels based on risk of reoffending?                   | 88      | 12     |
| Were contact levels based on assessed need?                         | 76      | 24     |

### Compliance decisions

The standard of work inspected in relation to compliance decision-making was very good (Table 8b) and illustrated in the good practice example below:

**Good practice example:** *On the face of it, Henry was a domestic abuse case who attracted a lot of relatively short custodial sentences. He was a complex individual who orchestrated campaigns of menace against victims, over decades in some instances. He had significant mental health issues, sometimes assessed as autism, sometimes schizophrenia and on other occasions sociopathy or psychopathy. This manifested itself in complex methods of securing information on victims and, at times, impersonating police officers or other officials.*

*The documentation submitted by the NPS to support the Parole Board review of the recall period reflected the complexities being managed by the responsible officer. The risk of causing serious harm was high – through terror-inducing attempts to locate, contact and unnerve victims. There was very active risk management of the case, including through MAPPA. Recall was used to limit Henry's opportunities to cause harm to known victims as there was evidence of attempts to breach the non-contact conditions of his licence.*

*The standard of assessment and provision of meaningful information to the relevant tribunals strongly supported efforts to minimise the harm that the individual could cause. This was supported by excellent work between police and probation services.*

**Table 3.2c: Compliance decisions in the NPS cases sampled (25 cases)**

|  | Yes (%) | No (%) |
|--|---------|--------|
| Did the responsible officer take a timely approach to all instances of non-compliance?         | 96      | 4      |
| Did the responsible officer take an investigative approach to all instances of non-compliance? | 83      | 17     |
| Were judgements about the acceptability of absences/behaviour appropriate?                     | 96      | 4      |
| Were the decisions for recall action based on the assessed risk of harm posed?                 | 83      | 17     |
| Were the decisions for recall action based on the assessed risk of reoffending?                | 88      | 12     |
| Was the decision to recall appropriate?  | 92      | 8      |
| Was the decision to recall clearly recorded?   | 100     | 0      |

### Considering alternatives

In most cases inspected, there was evidence that alternatives to recall had been sufficiently considered. This reflected the organisation's expectations. One staff member said,

*"The expectation in the office is that I always discuss recall with my manager before proceeding. I am usually told to do home visits and explore other options, pursue telephone contact and do all I can to avoid recall. We are encouraged to think of alternatives to recall".*

Home visits were used less often in licence recall cases, when compared with community orders. Further, too few of the cases inspected incorporated work undertaken in custody as part of the assessment at the point of release.

**Table 3.2d: Considering alternatives in the NPS cases sampled (25 cases)**

|  | Yes (%) | No (%) |
|--|---------|--------|
| Had alternative approaches to securing compliance been considered?   | 83      | 17     |
| Had home visits been considered?   | 42      | 58     |
| Following recall, did the responsible officer make sufficient efforts to re-engage the service user with their planned objectives? | 88      | 12     |
| Does behaviour and work undertaken in custody form part of the assessment at the point of release?                                 | 41      | 59     |

### 3.3. Conclusions and implications

#### Community Rehabilitation Companies

Overall, the quality of case management was sufficient in the sample of licence recall cases and enforcement decision-making good - significantly better than for community enforcement. CRCs tended to allocate licence cases to qualified responsible officers. Recall procedures were also more clearly laid out than the community enforcement process.

Many individuals (81%) were assessed as posing a medium risk of harm (having the potential to cause serious harm but unlikely to do so unless there is a change of circumstances). The level of complexity of these individuals was striking. CRC staff were clear about the recall process. However, it was evident that insufficient intervention was being provided to address the causes of offending.

Given the complexity of these cases and the associated level of risk of harm, the CRCs' approach to working with this type of individual is unlikely to reduce risk of harm and of reoffending sufficiently without better multi-agency arrangements.

#### National Probation Service

Overall, the quality of case management and consequent enforcement decision-making in the sample of licence recall cases was good. Some 40% of the cases were assessed as a high risk of causing serious harm to others.

Areas for improvement include the insufficient attention given to the diversity of individuals, the lack of clear service user involvement and engagement and the low levels of use of prison-based information (an important feature of some well-chronicled and high-profile cases)<sup>14</sup>.

#### Shared conclusions

Many of the cases we inspected were subject to Parole Board review processes because of the length of the custodial sentence. We found that almost all the individuals had been appropriately recalled to prison, underpinned by proper decision-making. Where this involved further offending, it was often the case that the presenting offences were relatively minor but that the level of disengagement or deterioration in the service user's behaviour were such that the underlying risks could not be safely managed in the community. Concerns expressed as part of this inspection by the Parole Board that probation services appeared to enforce minor breaches too rigorously were not borne out in the inspection sample.

Across both agencies, it is of concern that in too few cases information from the prison part of the sentence informs the assessment and planning of work undertaken in the community.

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<sup>14</sup> HMI Probation (2006) *An Independent Review of a Serious Offence Case: Damien Hanson and Elliot White*. HMI Probation (2006) *An Independent Review of a Serious Offence Case: Anthony Rice*.

We also found that in both the NPS and CRCs there was too often a lack of sensitivity to individual issues relating to individual diversity, and this was characterised by low levels of participation, particularly in assessment and planning. Better use should have been made of home visits to ascertain the service user's whereabouts. In the small number of female recall cases inspected (six in total) we found an absence of clear pathways for women service users.

These were often complex cases. Issues of risk of harm, substance misuse, mental health, learning disability, poor educational attainment, poor employability and, above all, homelessness were prevalent. When strong multi-agency approaches were in place, these seemed to yield positive results and a sense of active risk management and progress.

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## 4. Post-sentence supervision enforcement

In this chapter, we report our inspection findings on the quality of case management and decision-making when a service user had been returned to court following failure to comply with post-sentence supervision. The cases in the inspection sample were precisely those for which *Transforming Rehabilitation* intended to break the cycle of reoffending – often characterised as the revolving door to prison. Following short sentences these service users are released on licence followed by a period of post-sentence supervision that lasts until the 12-month anniversary of the custodial sentence being passed. Following breach, the court has the following options:

- no action – the offender continues with the requirements of supervision
- a fine
- committal to prison for up to 14 days
- a supervision default order, which can be either unpaid work (minimum 20 hours, maximum 60 hours) or an electronically monitored curfew (with a minimum of 20 days and no longer than the end of the post-sentence supervision period)<sup>15</sup>.

Due to the sample size, the data presented are the actual numbers inspected rather than percentages.

## 4.1. Community Rehabilitation Companies

### Case management findings

*“We are doing a lot more to avoid breach and recall but post-sentence supervision is a real problem. We are dealing with substance misuse, homelessness, and mental health issues. Breach can lead to a short period in custody. This means a bed, three meals a day and sometimes superior drug interventions for the service user”.* (CRC staff member)

### Assessment

Assessments (when undertaken) were often rudimentary. Six of the cases were identified as presenting a medium risk of causing serious harm. Four were supervised by probation officer grade staff.

**Table 4.1a: The quality of assessment in CRC cases sampled (8 cases)**

|  | Yes | No |
|--|-----|----|
| Is there an accurate analysis of risk of harm?   | 4   | 3* |
| Is there is a good-quality assessment of the likelihood of reoffending?  | 3   | 4  |
| Does the assessment take sufficient account of enabling and protective factors to promote engagement and compliance? | 1   | 6  |
| Does the assessment identify the impact of any diversity factors on engagement and compliance?                       | 1   | 6  |

\* for 1 of the cases there was no assessment

### Planning and review

Six plans were drawn up but they did little to address risks and there was no evidence of service users' involvement in the planning process. In many of the cases inspected there had been no contact with the service user. None of the cases had been reviewed as required.

### Delivering the sentence

Induction took place more often than not in these cases, but only one case was judged to have received sufficient quality services, activities and interventions.

The following example is a typical account of the journey of this type of case:

**Poor practice example:** Arnold was a man in his forties who had a long history in the criminal justice system. He had learning difficulties, was homeless and had a long-standing heroin problem. His mobility was restricted and he used crutches.

The responsible officer undertook little liaison with the prison before Arnold's release. On the day of release from a short prison sentence, he phoned to say that he could not attend his appointment and that he was homeless. He was told to come in six days later. He then only attended for one appointment. The responsible officer made attempts to contact Arnold by phone. After several months of not seeing him, an arrest warrant was applied for. The responsible officer felt too busy to follow up the situation more quickly or thoroughly.

The breach matter was dealt with two months ago, but the responsible officer was not aware of this. No contact was made with Arnold during this time. He is said to be living in a new area, and no attempts have yet been made by the responsible officer to contact him.

## Compliance and enforcement findings

### Contact levels

The primary consideration in setting contact levels was the risk of serious harm. Insufficient attention was paid to the level of need presented in these cases.

**Table 4.1b: Contact levels in the CRC cases sampled (8 cases)**

|   | Yes | No |
|---|-----|----|
| Were contact levels based on consideration of risk of serious harm? | 6   | 2  |
| Were contact levels based on risk of reoffending?                   | 5   | 3  |
| Were contact levels based on assessed need? *                       | 4   | 3  |

\* for 1 of the cases there was no assessment

### Compliance decisions

Decisions were generally clearly recorded. However, those made in respect of these service users seemed borne of frustration with the difficulty of securing any form of compliance, rather than the active management of risk issues or attempts to deliver meaningful and helpful interventions (Table 4.1c).

These were often difficult cases, as the following example demonstrates:

**Poor practice example:** Trevor, a man in his thirties, had a history of mental health problems, including depression. Late in 2016, he was detained under the Mental Health Act and treated for paranoid schizophrenia. After coming out of hospital, he was supported by medication and a mental health nurse. His offences were stealing and being racially abusive to people. He received a prison sentence, where plans should have been made to help him resettle into the community after his release.

There was little liaison between the prison and the responsible officer. Trevor did not attend his appointment on the day of his release. His landlord contacted the probation office to let them know that Trevor was living at a new address. The landlord gave the details of this address and the contact number of Trevor's mother. No efforts were made to contact Trevor or his family to encourage him to attend, or to check whether he was unwell again.

A week later, Trevor was arrested and charged with a racially aggravated abuse offence. After talking to a manager, the responsible officer decided that Trevor should be returned to court. The new offence was dealt with by way of a discharge at court. However, Trevor is now back in custody.

**Table 4.1c: Compliance decisions in the CRC cases sampled (8 cases)**

|  | Yes | No |
|--|-----|----|
| Did the responsible officer take a timely approach to all instances of non-compliance?         | 5   | 3  |
| Did the responsible officer take an investigative approach to all instances of non-compliance? | 2   | 6  |
| Were judgements about the acceptability of absences/behaviour appropriate?                     | 4   | 4  |
| Were the decisions for enforcement action based on the assessed risk of harm posed?            | 1   | 7  |
| Were the decisions for enforcement action based on the assessed risk of reoffending?           | 3   | 5  |
| Was the decision to enforce appropriate?   | 5   | 3  |
| Was the decision to enforce clearly recorded?  | 6   | 2  |

## Considering alternatives

There was limited consideration of alternatives to enforcement in these cases, and an absence of activity to re-engage with the service user and incorporate work undertaken in custody.

**Table 4.1d: Considering alternatives in the CRC cases sampled (8 cases)**

|  | Yes | No |
|--|-----|----|
| Had alternative approaches to securing compliance been considered? | 3   | 5  |
| Had home visits been considered?                                   | 1   | 7  |



|  |   |   |
|--|---|---|
| Following enforcement, did the responsible officer make sufficient efforts to re-engage the service user with their planned objectives?* | 0 | 6 |
| Does behaviour and work undertaken in custody form part of the assessment at the point of release?**                                     | 0 | 2 |

\* two service users did not engage at all

\*\* In 6 cases custodial sentence was so short no work was undertaken e.g. released at court

## 4.2. National Probation Service

### Case management findings

#### Assessment

Seven of the NPS cases were assessed as a high risk of causing serious harm. The remaining five were assessed as medium risk. The standard of assessment in these cases was generally sufficient.

**Table 4.2a: The quality of assessment in NPS cases sampled (12 cases)**

|  | Yes | No |
|--|-----|----|
| Is there an accurate analysis of risk of harm?   | 10  | 2  |
| Is there is a good-quality assessment of the likelihood of reoffending?  | 11  | 1  |
| Does the assessment take sufficient account of enabling and protective factors to promote engagement and compliance? | 9   | 3  |
| Does the assessment identify the impact of any diversity factors on engagement and compliance?*                      | 4   | 3  |

\* In 5 cases no diversity factors needed to be taken into account

#### Planning and review

Overall, sufficient plans were in place to address the risk of harm to others and likelihood of reoffending. We found better levels of service user engagement in the process than for other sentences, possibly because many of the cases had continuity of responsible officer throughout several sentences.

Where continuity of responsible officer was not maintained, the service delivery suffered. One service user described the experience in this way,

*“... the post-sentence supervision is a short period of time for people to be involved. They want to take control but they don’t know my history*

*– I was in institutions for 11 years. I am very concerned about having to explain myself every time I get a new probation officer. In the last licence, I had seven probation officers in a short period of time”.*

Overall, case reviews were of a good standard and formed an appropriate part of the overall management of the case.

## Delivering the sentence

We found that almost all individuals had been inducted appropriately into the supervision of their sentence. In most of the cases we inspected, there was good evidence of purposeful work being started or delivered. Service delivery was responsive and supportive to working with chaotic individuals. The necessary persistence to engage and sustain service users with multiple problems is noted in the example below:

**Good practice example:** Raymond was 33 years old, with a history of serious sexual offending and violence as a sex worker who targeted men vulnerable to manipulation. He was subject to post-sentence supervision in the community. Further offending led to a further sentence of imprisonment of less than 12 months. Everything that could be done to minimise harm was in place, including substance misuse services and residence at a probation hostel.

Raymond had many problems associated with substance misuse, begging and detachment from family support. The case required tenacity and an inquisitive approach to working with Raymond. This included the vigorous pursuit of information concerning the mental health issues that had led to him being transferred from prison to a mental health establishment in an earlier six-year custodial sentence.

When Raymond did not comply with supervision requirements, he was recalled to prison owing to the underlying risk of posing serious harm to the public. This was a complex case, where he was returned to custody only when ways to manage him in the community had been fully explored.

## Compliance and enforcement findings

### Contact levels

There were clear reasons for the level of contact planned in almost all cases. This was based on assessed levels of risk and need. In the large majority of cases, contact levels were sufficient to meet the requirements of supervision.

**Table 4.2b: Contact levels in the NPS cases sampled (12 cases)**

|   | Yes | No |
|---|-----|----|
| Were contact levels based on consideration of risk of serious harm? | 10  | 2  |
| Were contact levels based on risk of reoffending?                   | 10  | 2  |

|   |    |   |
|---|----|---|
| Were contact levels based on assessed need?   | 10 | 2 |
| Does the assessment identify the impact of any diversity factors on engagement and compliance?* | 1  | 6 |

\* In 5 cases no diversity factors needed to be taken into account

## Compliance decisions

In almost all cases, the standard of decision-making was sufficient and balanced concerns about risk of harm with efforts to engage the service user.

**Table 4.2c: Compliance decisions in the NPS cases sampled (12 cases)**

|  | Yes | No |
|--|-----|----|
| Did the responsible officer take a timely approach to all instances of non-compliance?         | 12  | 0  |
| Did the responsible officer take an investigative approach to all instances of non-compliance? | 10  | 2  |
| Were judgements about the acceptability of absences/behaviour appropriate?                     | 12  | 0  |
| Were the decisions for enforcement action based on the assessed risk of harm posed?            | 10  | 2  |
| Were the decisions for enforcement action based on the assessed risk of reoffending?           | 10  | 2  |
| Was the decision to enforce appropriate?   | 10  | 2  |
| Was the decision to enforce clearly recorded?  | 12  | 0  |

The following example is representative of the balanced practice we saw:

**Good practice example:** Mark was a 21-year-old male sentenced to 27 weeks' custody for his first offence of robbery and assault.

Mark was reluctant to engage with the requirements of his licence. The responsible officer sought to overcome this by arranging appointments at times when Mark would find it easier to attend and by conducting home visits and three-way meetings with the housing provider.

Despite these efforts, Mark disengaged, persistently failing to attend appointments. This was dealt with constructively through enforcement action leading to a supervision default order, which marked the seriousness of the breach without involving a return to custody.

In some cases, the supervision element of the case was simply unworkable as illustrated below:

**Practice example:** Kenny was a 35-year-old male. He had been sentenced to three months' custody for theft from shops. Kenny had a history of violent offending and was appropriately assessed as presenting a medium risk of harm to the public and to a known adult (domestic abuse). Kenny was street homeless and a drug misuser. He did not appear to have the capacity to comply with licence requirements to attend probation appointments.

Kenny repeatedly breached his licence and post-sentence supervision and was returned to prison for fixed 14-day periods on two occasions.

One senior manager remarked,

*"I call it a statutory revolving door. The cases are all supervised but we can't do much to manage change".*

### Considering alternatives

In most cases, alternatives to enforcement action had been considered. The NPS has developed a national electronic repository for all of its key work processes and this includes clear enforcement and compliance processes. One practitioner reflected,

*"The process management system we have, called EQuIP, is like Google for probation. For compliance, we have old National Standards. We have daily enforcement lists but engagement is about using your own skills – Pro Social Modelling and Motivational Interviewing – and we've got brilliant managers".*

Efforts to re-engage the service user were poorer here than in licence recall cases. Once again, behaviour and work undertaken in custody had not been given sufficient consideration.

**Table 4.2d: Considering alternatives in the NPS cases sampled (12 cases)**

|   | Yes | No |
|---|-----|----|
| Had alternative approaches to securing compliance been considered?*   | 8   | 3  |
| Had home visits been considered?  | 7   | 5  |
| Following enforcement, did the responsible officer make sufficient efforts to re-engage the service user with their planned objectives?** | 7   | 3  |
| Does behaviour and work undertaken in custody form part of the assessment at the point of release?***                                     | 6   | 5  |

\* 1 case was not considered and this was appropriate

\*\* In 2 cases this was not possible

\*\*\* In 1 case it wasn't possible to identify

### **4.3. Conclusions and implications**

#### **Community Rehabilitation Companies**

Overall, the quality of case management and consequent enforcement decision-making in the sample of post-sentence supervision cases was poor. We found that several things had a bearing on this: workload pressures, the complexity of the cases, organisational upheaval and the limited opportunities to engage with service users who were reluctant to be supervised.

It is far from the case that nothing can be done. It had been possible to access useful services as part of supervision in cases in the wider sample, particularly if there were well-developed partnership arrangements in the locality. However, the current arrangements far too often fail to make an impact on these difficult cases.

#### **National Probation Service**

Overall, the quality of case management and consequent enforcement decision-making in the sample of post-sentence supervision cases was good in the NPS.

The complexity of cases being managed was remarkably high, and the proportion of individuals assessed as a high risk of causing serious harm striking. Despite good probation work, most individuals in the sample remained locked in a cycle of brief periods in the community and frequent return to prison.

#### **Shared conclusion**

There were marked limitations to what could be achieved for these individuals and wider society. Far from turning around people's lives, the additional elements of supervision seemed to make no tangible difference.

High-quality case management by itself did not deliver effective outcomes in most cases. Where positive progress happened, this was attributable either to the persistent efforts of individual practitioners or to the existence of multi-agency approaches aligned to the localities in which the service was delivered – the key partner agencies of police, local authority and health service providers. In some areas such working arrangements were in place. In others they were non-existent. Again, we found no clear pathway for female service users.

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# Appendices

1. Glossary
2. Methodology
3. Community order and suspended sentence enforcement process maps and recall process charts (PI-27-2014)

# 1: Glossary

|                  |   |
|------------------|---|
| Allocation       | The process by which a decision is made about whether an offender will be supervised by the NPS or a CRC  |
| BBR              | Building Better Relationships is a nationally accredited groupwork programme designed to reduce reoffending by adult male perpetrators of intimate partner violence   |
| CAS              | Case Allocation System: a document that needs to be completed prior to the allocation of a case to a CRC or the NPS   |
| Child protection | Work to make sure that that all reasonable action has been taken to keep to a minimum the risk of a child coming to harm  |
| CRC              | Community Rehabilitation Company  |
| DRR              | Drug Rehabilitation Requirement: a requirement that a court may attach to a community order or a suspended sentence order aimed at tackling drugs misuse  |
| E3               | E3 stands for 'Effectiveness, Efficiency, and Excellence'. The E3 programme was created following the <i>Transforming Rehabilitation</i> programme in June 2014. The basic principle is to standardise NPS delivery, redesigning the NPS structure with six key areas of focus, one of which is victims' services |
| ETE              | Education, training and employment: work to improve an individual's learning, and to increase their employment prospects  |
| HMPPS            | Her Majesty's Prison and Probation Service: the single agency responsible for both prisons and probation services. See note below on NOMS   |
| IOM              | Integrated Offender Management brings a cross-agency response to the crime and reoffending threats faced by local communities. The most persistent and problematic offenders are identified and managed jointly by partner agencies working together  |
| LDU              | Local delivery unit   |



|           |  |
|-----------|--|
| MAPPA     | Multi-Agency Public Protection Arrangements: where probation, police, prison and other agencies work together locally to manage offenders who pose a higher risk of harm to others. Level 1 is ordinary agency management where the risks posed by the offender can be managed by the agency responsible for the supervision or case management of the offender. This compares with Levels 2 and 3, which require active multi-agency management |
| MoJ       | Ministry of Justice  |
| nDelius   | National Delius: the approved case management system used by the NPS and CRCs in England and Wales   |
| NOMS      | National Offender Management Service: until April 2017, the single agency responsible for both prisons and probation services, now known as Her Majesty's Prison and Probation Service (HMPPS).  |
| NPS       | National Probation Service: a single national service which came into being in June 2014. Its role is to deliver services to courts and to manage specific groups of offenders, including those presenting a high or very high risk of serious harm and those subject to MAPPA   |
| OASys     | Offender assessment system currently used in England and Wales by the NPS and CRCs to measure the risks and needs of offenders under supervision   |
| OGRS      | Offender Group Reconviction Scale is a predictor of reoffending based upon static risks: age, gender and criminal history  |
| ORA       | Offender Rehabilitation Act 2014: implemented in February 2015, applying to offences committed on or after that date   |
| Partners  | Partners include statutory and non-statutory organisations, working with the participant/offender through a partnership agreement with the NPS or CRC  |
| Providers | Providers deliver a service or input commissioned by and provided under contract to the NPS or CRC. This includes the staff and services provided under the contract, even when they are integrated or located within the NPS or CRC   |
| PSR       | Pre-sentence report: this refers to any report prepared for a court, whether delivered orally or in a written format   |

|                     |  |
|---------------------|--|
| PO                  | Probation officer: this is the term for a 'qualified' responsible officer who has undertaken a higher-education-based course for two years. The name of the qualification and content of the training varies depending on when it was undertaken. They manage more complex cases   |
| PSO                 | Probation services officer: this is the term for a responsible officer who was originally recruited with no qualification. They may access locally determined training to 'qualify' as a probation services officer or to build on this to qualify as a probation officer. They may manage all but the most complex cases depending on their level of training and experience. Some PSOs work within the court setting, where their duties include the writing of pre-sentence reports |
| RAR                 | Rehabilitation Activity Requirement: from February 2015, when the Offender Rehabilitation Act 2014 was implemented, courts can specify a number of RAR days within an order; it is for probation services to decide on the precise work to be done during the RAR days awarded   |
| Responsible officer | The term used for the officer (previously entitled 'offender manager') who holds lead responsibility for managing a case   |

## 2: Methodology

**The inspection took place as follows:**

| Area        | Purpose   | Dates                    |
|-------------|-----------|--------------------------|
| Birmingham  | Fieldwork | <b>17–21 July 2017</b>   |
| Chelmsford  | Fieldwork | <b>24–28 July 2017</b>   |
| Bournemouth | Fieldwork | <b>7–11 August 2017</b>  |
| Southampton | Fieldwork | <b>14–18 August 2017</b> |

The inspection sites were chosen because of throughput of relevant cases, or because they were locations that were likely to be coterminous with police or local authority boundaries and were some of the largest of the CRC-owning companies: Sodexo, Purple Futures (Interserve), Reducing Reoffending Partnership and Working Links.

A pilot inspection was conducted in Liverpool during June 2017, to test our methodology.

### **Case inspection**

The main inspection method used was case assessment, involving scrutiny of files and interviewing responsible officers/supervisors and service users (where possible). A total of 162 cases were inspected across both organisations, broken down as follows:

Community orders/suspended sentence orders: **90 cases**

Licence recall: **52 cases**

Post-sentence supervision: **20 cases**

51 responsible officers were interviewed in the NPS and 59 in the CRCs. A total of 13 service users were interviewed.

Characteristics of the case sample:

- 25 (15%) were female
- 136 (83%) were white
- Where the data was recorded: 66 (70%) were of no religion; 19 (20%) were Christian; and 6 (6%) were Muslim
- Where recorded: 91% were recorded as heterosexual; 5% gay/lesbian; 2% bisexual; and, 1% other
- 68 (43%) were recorded by the responsible officer as having a disability
- 90 (56%) had been enforced within a community order/suspended sentence order; 52 (32%) were subject to licence recall; 20 (12%) had been enforced within a post-sentence supervision period
- 88 (54%) were being managed by a CRC and 74 (46%) were being managed by the NPS
- In relation to risk of serious harm to others, 1 had been assessed as very high risk; 26 high risk; 110 medium risk; and 25 low risk

## Focus groups/interviews

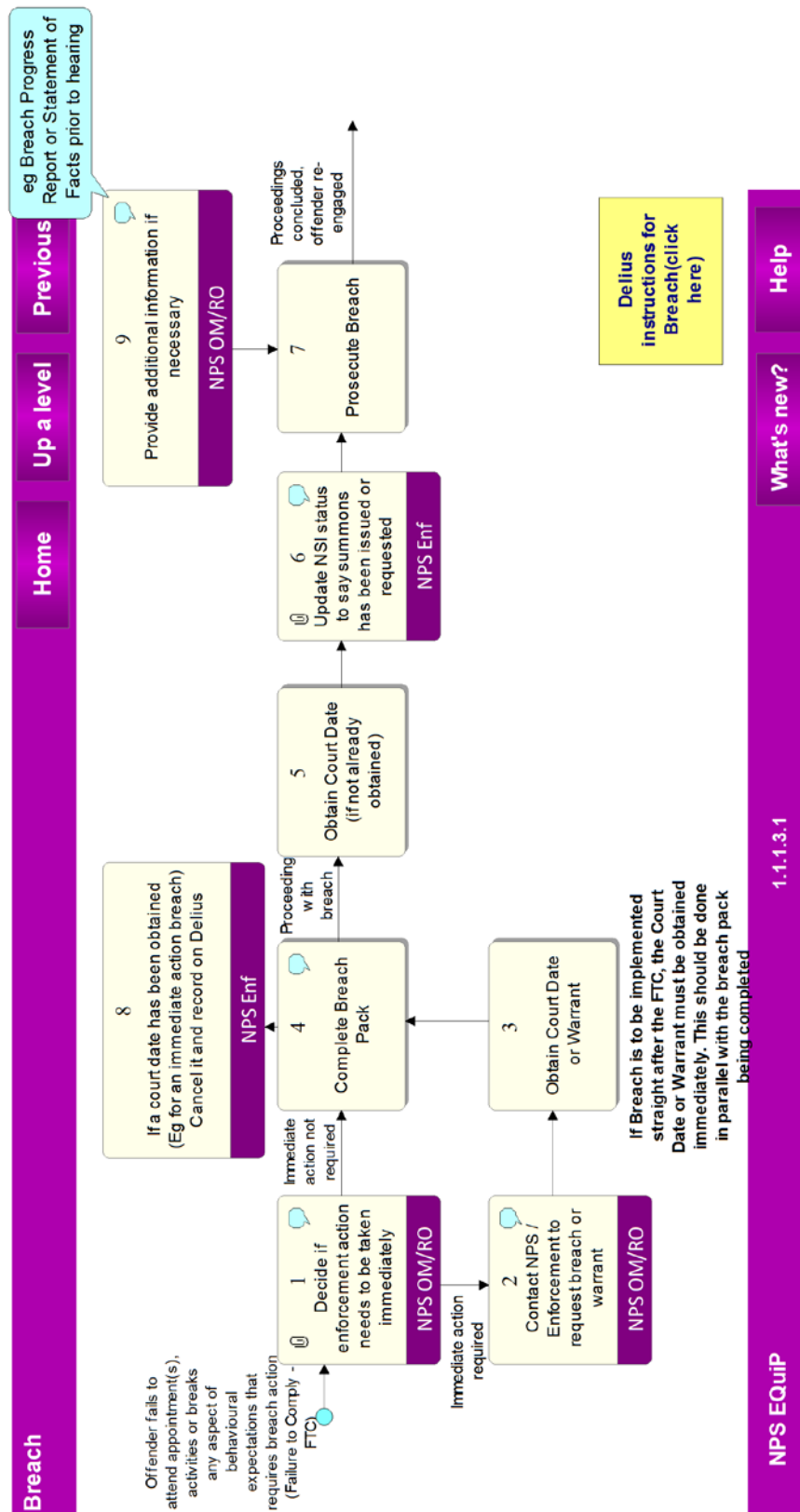
Issues of organisational policy and culture were addressed through policy review, focus groups and individual interviews.

|                                |                                   |
|--------------------------------|-----------------------------------|
| Chief Executive: Parole Board  | CRC managers: 4 (11 participants) |
| CRC staff: 4 (29 participants) | NPS managers: 4 (9 participants)  |
| NPS staff: 4 (28 participants) | PPCS staff: 1 (8 participants)    |

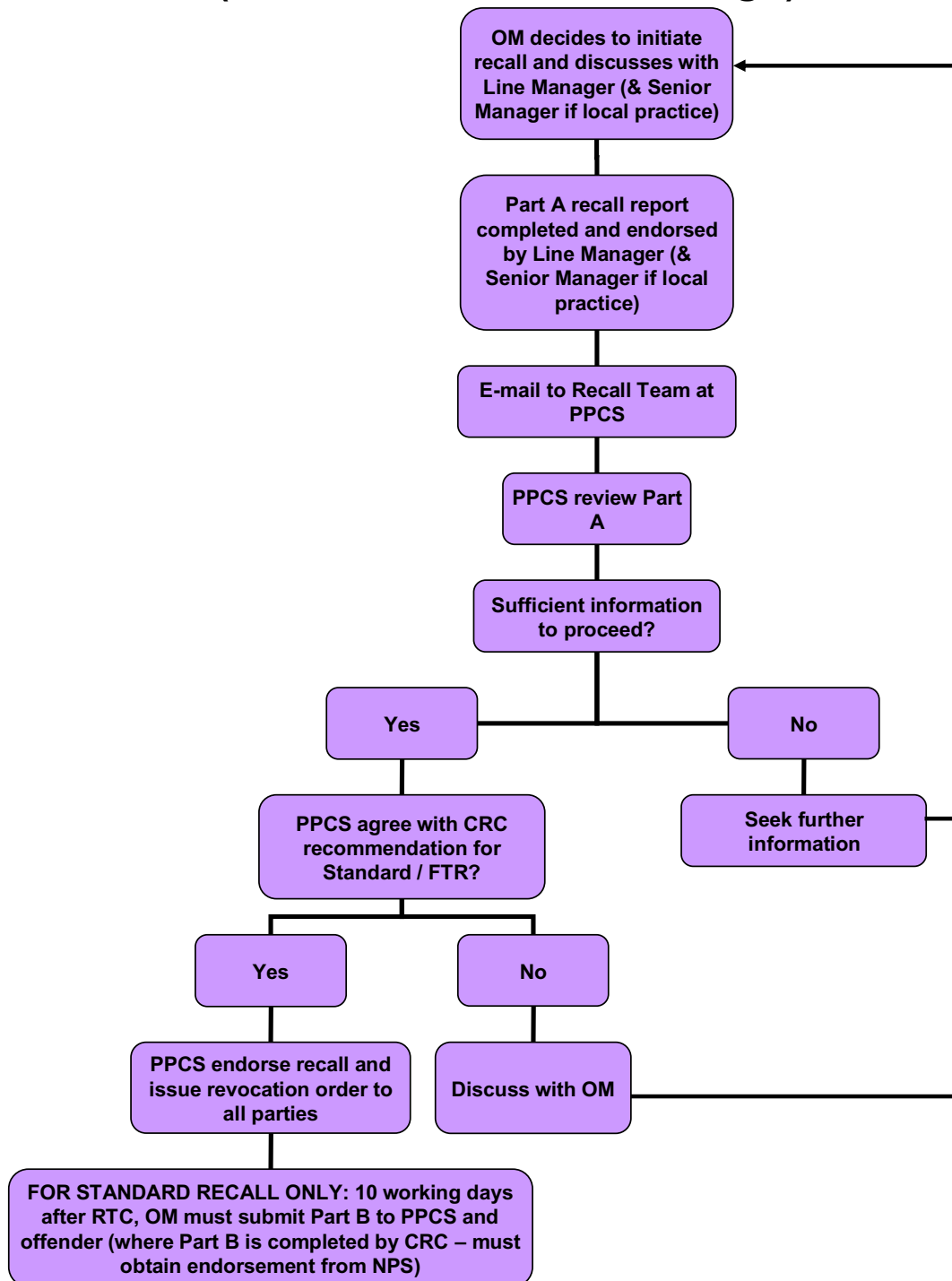
*NB: Throughout this report all names referred to in practice examples have been changed to protect the individual's identity.*

### 3: Community order and suspended sentence enforcement process maps and recall process charts (PI-27-2014)

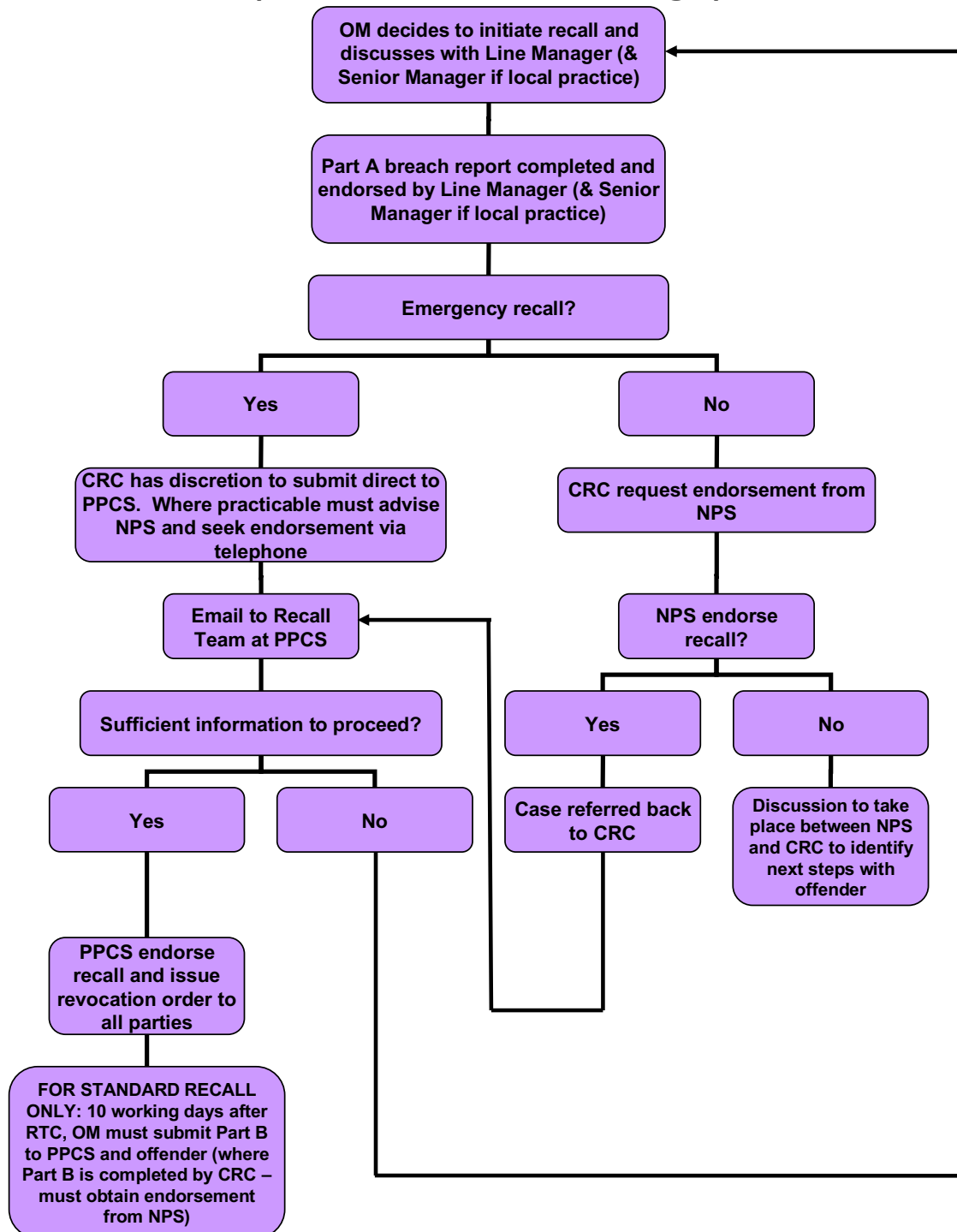
EQuiP Breach process map



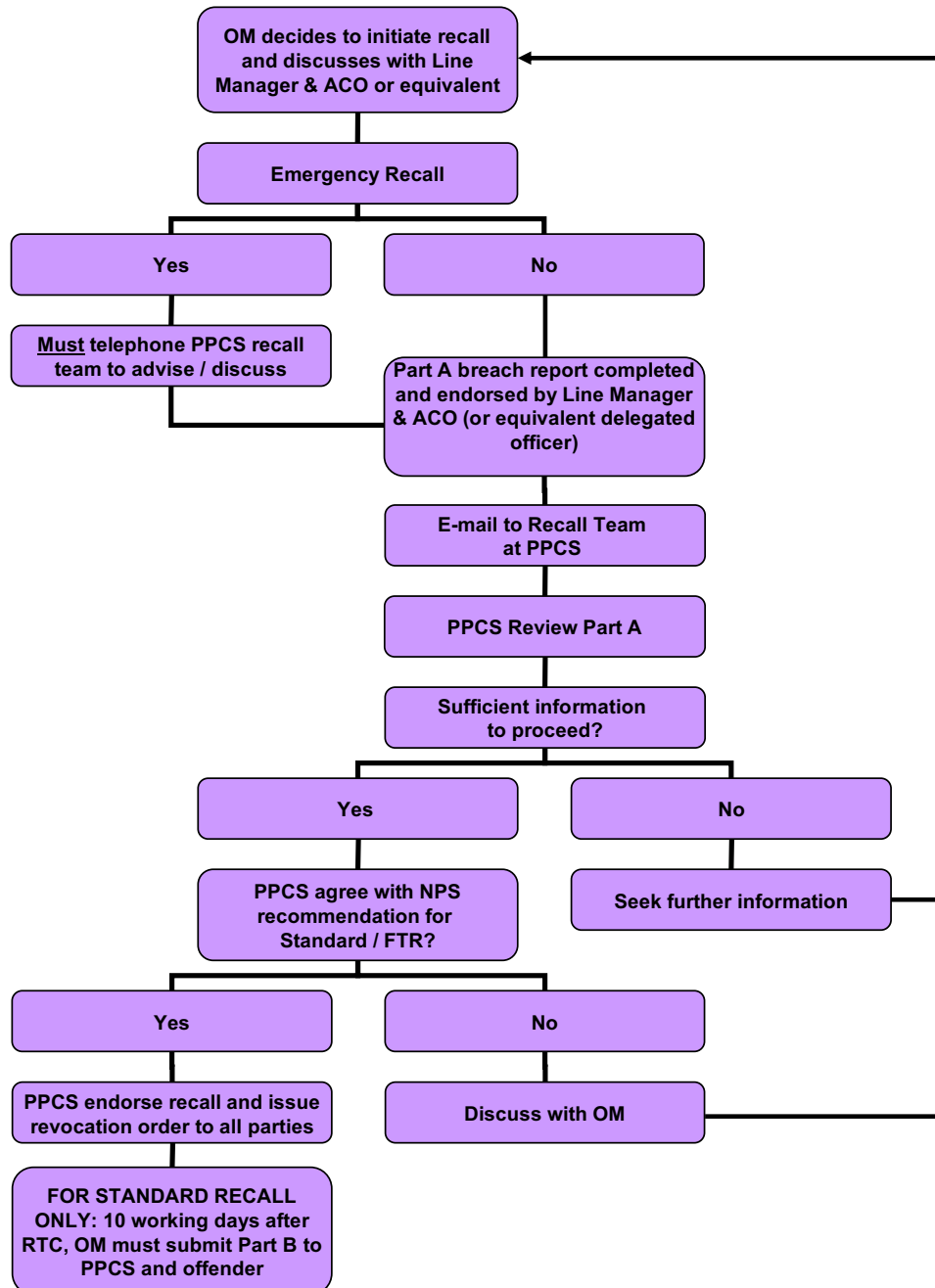
## CRC FTR / Standard Recall (No increase in ROSH to high)



## CRC FTR/Standard/Emergency Recall (ROSH increased to high)



## NPS FTR / Standard / Emergency Recall (Determinate)







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