

# A Critical Examination of the Persistent and other Priority Scheme

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**The aim of this paper is to explore the Persistent and other Priority Offenders (PPO) Scheme. The paper will critically examine the scheme paying reference to the potential contradictions in the aims of the strategy. Following this the paper will explore the issues raised by the selection method used within the PPO scheme. The paper will argue that there are some real tensions in relation to justice by geography and that the strategy is leading to a differentiated approach across England and Wales.**

In autumn 2002, the government announced the 'Narrowing the Gap' programme in order to bring the overall number of offences to justice. A key element of the strategy was a focus upon persistent offenders. As a result in April 2003, the Persistent Offender Scheme came into place, with the aim of targeting the most prolific adult offenders (those who had been convicted of six or more recordable offences in the last year) and other offenders identified as persistent on the basis of local police intelligence. In broad terms, the scheme was welcomed by practitioners, however, concerns were soon raised that the offenders identified by the scheme were not the right ones as the scheme did not always fit local experiences of offending. Furthermore, practitioners reported that the scheme captured too many offenders and in particular those guilty of persistent minor crimes, rather than those who were deemed as the most problematic. As a result the Prolific and other Priority Offenders Strategy was launched in March 2004 and rolled out nationally on the 6th September 2004. The programme is led by Crime and Disorder Reduction Partnerships (CDRPs) in England and Community Safety Partnerships (CSPs) in Wales, working closely with Local Criminal Justice Boards (LCJBs). PPO schemes are now established in every CDRP and CSP area and feature a joined-up multi-agency offender management model involving representatives from the local Police and Probation Services, Local Authorities and Youth Offending Teams. The programme focuses upon three areas:

1. Prevent and Deter — *Aiming to stop young people from engaging in offending behaviours and graduating to become the prolific offenders of the future.*

2. Catch and Convict — *Aiming to prevent PPOs from offending through apprehension*

*and conviction, and through licence enforcement, by ensuring a swift return to the courts for those PPOs continuing to reoffend.*

3. Rehabilitate and Resettle — *Aiming to rehabilitate PPOs who are in custody or serving sentences in the community through closer working between all relevant agencies and continued post-sentence support* (Home Office, 2007: 1).

It is argued by the Government that combining these aims and objectives will result in support for those who want to change their behaviour and punishment for those who do not. On the face of it, most would agree that this sounds like a sensible strategy, however, what this assumes is that such a dichotomy exists and that on the one hand there are those that want to change and on the other those that do not. The problem of course is that such compartmentalisation does not exist within the real world. Moreover, desistance is not a single, simple event as implied within the PPO strategy.

In research in north-east of England, based upon interviews and follow up interviews several years later with individuals involved in criminal and/or drug careers, for example, we describe the fragility of desistance as a *process* (see MacDonald, 2007, Webster et al, 2004). The biographies of the individuals interviewed were littered with failed attempts because success was contingent on several factors beyond individual motivation. Similarly, as noted by Pitts:

*It can take a long time for a young person who is seriously, persistently or chronically involved in offending, to resolve problems, take advantage of legitimate opportunities, and move on to maturity and independence. Too often, politicians and funders take a simplistic view of the tasks confronting criminal justice personnel and young offenders, expecting positive change to occur quickly, and ignoring the reality that seeing these youngsters [and adults] through 'relapses', and consolidating and reinforcing success, for 'as long as it takes', may be the only way to ensure long-term desistance from offending. (2003: 17).*

Yet despite this, as noted above, the strategy works on the assumption that those who want to change are supported to do so, but those who don't will be brought to justice. This is a very powerful message and will appeal to politicians, the public and sentencers alike. Interestingly, the 'help' provided is often welcomed by the PPOs themselves. For example, one PPO in Dawson and Cuppleditch's research noted that:

*There was no support in the past — you had to go once a week to see a probation officer for two minutes — it was like clocking in and out once a week. All that it did was keep you out of prison for a certain amount of time until you got nicked again. Now you get all the help you can (2007: 12).*

Yet despite this appeal, there is an apparent danger with interventions, even those based upon welfarism, particularly when blended with tougher more punitive measures. The resultant reaction for PPOs when the welfare intervention is deemed to have failed is more often than not, incarceration. This raises two issues worthy of note here. Firstly, with an already overcrowded penal estate, any work to rehabilitate and resettle is placed under great strain and a straightforward catch and convict approach may simply amplify this situation by incarcerating greater numbers. Secondly, coupled to this, if an individual's chances of incarceration are increased because they are a PPO who is deemed to have failed, then questions are raised over due process and human rights. PPO is not a recognised legal label (Home Office, 2005) yet it clearly leads to increased surveillance and enforcement, therefore potentially increases the chances of being further drawn into the criminal justice system. Moreover, it may be the case that it also leads to differential sentencing. If individuals are seen to have had access to increased levels of welfare support, yet have continued offending, then their treatment may be harsher than it would have been if they had not had access to such support. Many may be reading this thinking quite right, if individuals have been offered support and not taken it and instead have continued to offend, then they should be dealt with differently to those that have never had such support. This supposition, however, is based upon the notion that the support offered is both appropriate and that there is clear evidence that it works at reducing

offending. Where this is the case, any failure could clearly be located with the individual. Of course, the problem is that the evidence of what works is at best patchy. Some things work for some people. Moreover, where there is evidence that a type of intervention works (e.g. drugs treatment), there is often geographical variation in both the type and availability of the support. Furthermore using this same example, whilst there is evidence that treatment works; there is variation in the evidence base across different treatment types. Thus success or failure maybe influenced by the treatment type offered as much as the individual's motivation.

Despite this, the strategy is clear, failure is located with the individual and such failure illustrates the individual's desire *not* to change and therefore they should be punished. Interestingly, this is not the same approach adopted across all drug intervention. In relation to smoking for example, there has been an acknowledgment that 'it may take several attempts before people can successfully quit smoking and they need to be encouraged in all of these endeavours' (NICE, 2007: 6). In light of this acknowledgement, smokers are given nicotine replacement therapy despite any

repeated failures. Acceptance of the addictive qualities of drugs is, therefore, context driven according to the users and their context rather than the drug itself.

### **Persistent and other Priority Offender: To be or not to be, that is the Question**

*A hardcore of persistent offenders clearly regards ASBOs as part and parcel of its way of life and to be shrugged off accordingly. (Edward Leigh cited in Woodcock, 2007).*

'Concern about persistent offenders is not new' (Hagell and Newburn, 1994: 127). At several points over the last hundred or so years, attention has focused around an alleged small group of criminal who commit a large amount of crime. Writing about the late nineteenth century restructuring of the Victorian penal system, for example, Weiner (1990 cited in Garside, 2004: 14) writes:

*[T]he image of the habitual criminal was bifurcating into a small group of hard-core professional outlaws and a much larger group*

*of inadequates, misshapen by both nature and nurture, who generally committed petty offenses (sic).*

This dichotomy is often discussed to this day with the government asserting that there are 100,00 'persistent offenders' who commit half of all crime. Thus the focus on persistent offenders is not new, what has changed over the years is both the way we categorise persistent offenders and once identified how we deal with them. This paper will now go on to explore the issues of categorisation in relation to the PPO scheme.

The PPO programme works by selecting offenders based upon their perceived risk. Analysis in 2004/5 revealed that in general, schemes from across England and Wales adopted a two-stage approach to do this. Initially, potential PPOs are identified from police intelligence, other agencies' knowledge, from Persistent Offender schemes data and from local needs that is that is local crime targets; following this a selection matrix is applied which explores factors such as criminal history, the type of offence, drug use, probation intelligence and Crime and Disorder Reduction Partnerships (CDRP) priorities and a list of PPOs for each area is drawn up (Home Office, 2005). What is perhaps crucial to note, is that the matrix vary between different schemes according to local priorities (*Ibid*).

According to the Home Office (2005: 4):

*The selection criteria mean PPOs with diverse characteristics can be identified. An importance aspect of PPO scheme is the*

*ability to identify the offenders who are creating the most problems for a locality. A selection matrix that is systematic, consistent and accountable, while also flexible for the needs of an area, is crucial in implementing a scheme (my emphasis).*

PPOs are therefore largely regionally defined and as such 'persistence,' 'other priority' and 'risk' are relative to local crime levels and patterns. If we examine the most recent PPO Headline Measure (quarter ending June 2007) we can see regional variation in the makeup of PPOs based upon persistence of offending. The following tables illustrate the regional variation in PPO make up based upon court appearance and number of offences. Table One illustrates those with the fewest (1-3) court appearances and those with the most (10+) demonstrating the regional variation.

The following tables illustrate then that there is a clear differentiation in the makeup of PPOs across the country and this is likely to be further amplified

within the regions. Why this is so important is that it is possible to argue that what the scheme results in, indeed encourages, is justice by geography. Because there is no fixed threshold to become a PPO, the status is shaped by local crime patterns. Both persistence and priority are localised and therefore change from one region to another and over time. Due to this we see regional variation and the possibility of offenders gaining or losing PPO status simply by moving from one region to another.

A further issue relating to the local categorisation of PPOs is the potential for this scheme to encourage

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**Table One: Convictions in the two years Prior to Starting on PPO as Court Appearances (CA) (adapted from Home Office 2007).**

Area	% of PPOs with 1-3 CA	% of PPOs with + 10 CA
All	42 %	6 %
London	46 %	3 %
North East	27 %	9 %
North West	44 %	6 %
South East	41 %	4 %
South West	46 %	7 %
Wales	22 %	14 %
West Mids	39 %	8 %
Yorks and Humber	41 %	10 %

**Table Two: Convictions in the two years Prior to Starting on PPO as Offences (Off)  
(adapted from Home Office 2007).**

Area	% of PPOs with 1-4 Off	% of PPOs with + 16 Off
All	25 %	20 %
London	32 %	9 %
North East	13 %	38 %
North West	26 %	20 %
South East	23 %	22 %
South West	26 %	21 %
Wales	10 %	34 %
West Mids	25 %	18 %
Yorks and Humber	22 %	25 %

'persistent offenders' to become normative. As the category is created by taking those at the top of a list rather than those whose behaviour meets a fixed threshold, persistent offenders will always exist. There will, of course, always be differentiated offending and thus no matter what extent crime falls overall, a hierarchy of offending behaviour will exist, thus 'persistence' will be ever present. This point is illustrated by observing the national picture. Even in low crime areas PPOs exist. Their profile is markedly different from PPOs in high crime areas, yet they are viewed as PPOs all the same.

Finally, given the current focus on offences brought to justice, there is a real danger that any focus on persistence will simply lead to the further drawing in of young people who are persistent in their petty offending and are the 'low hanging fruit' (Morgan, 2007) who are most likely to be affected by this approach. Of course the PPO strategy pays reference to 'priority' to acknowledge this issue, but this is still framed within a focus on persistence.

This paper has argued that across the country there is evidence of justice by geography both in relation to the categorisation of PPOs but also their treatment and related support once they become a PPO. The paper has raised concern about due process as the PPO label leads to differential treatment, yet is not a legal label and is therefore not subject to the same levels of due process event within other criminal justice interventions. Whilst many may welcome the focus on persistent and other priority offenders we need to think carefully about how we target this population, cognisant of local need, whilst at the same

time ensuring equity across the system. Once identified, the system should provide equitable treatment for all PPOs. What clearly remains a challenge for the prison service, both in relation to PPOs and other offenders, is that of adequate throughcare when local services and provisions vary across the county and where mismatch occurs between provision on the outside and that within the prison estate.

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