

Public Protection & Safeguarding – an Inspectorate perspective



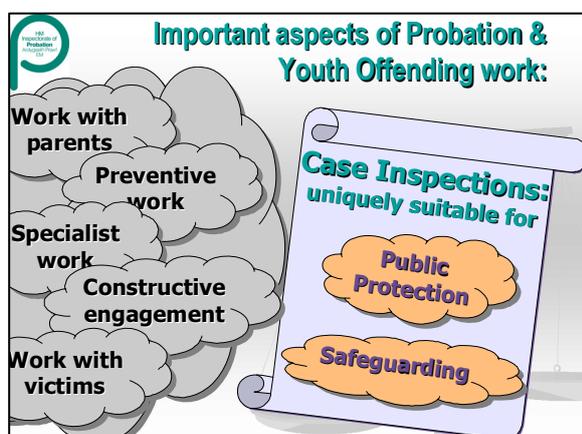
This paper aims to provide an Inspectorate perspective on Public Protection and Safeguarding. The theme throughout the paper is not about criticising practitioners and managers for *failing to do the impossible*, instead it is about encouraging a belief in *Achieving the Possible*, and illustrating what that looks like.

Public Protection and Safeguarding are two key aspects of work with individuals who offend, whatever the age of those individuals. We are not saying that they are the be-all and end-all of such work.

This Inspectorate supports the impressive range of (for example) preventive work, various specialist work, partnership work, and work with parents and victims etc. that we have seen undertaken within Probation and Youth Offending work.

We agree that all such 'other' work is important too, but this Inspectorate focuses principally on these two particular aspects of Probation and Youth Offending work because inspection itself has a unique *added value* in relation to *these two specific aspects* of work.

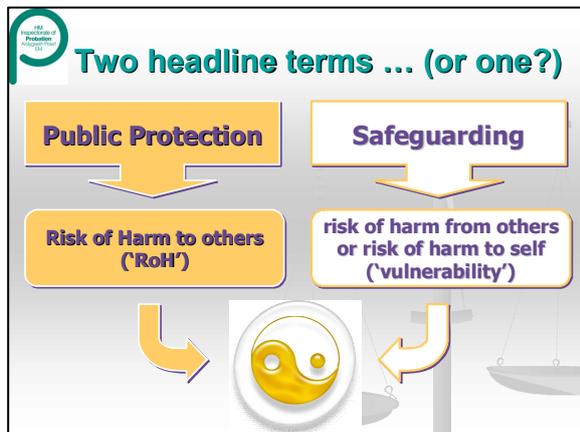
To put this point in a wider policy context: Inspectorates have been asked to focus their inspection activity on where it is most needed, and to avoid inspecting where it is not needed. Increasingly, the 'other' aspects of work on the left of the next slide are now being measured and monitored in a wide number of ways by other organisations such as the NOMS Agency and the Youth Justice Board. Under such circumstances, there is little need for any Inspectorate to come in and duplicate such work by those bodies, except when we have a specific 'added value' role to perform.



But inspection is uniquely well suited to focus on Public Protection and Safeguarding, work that cannot be readily measured by other means – as will be illustrated below.

So inspection is making this planned and specific contribution to a wider picture when we focus on Public Protection and Safeguarding, and it's not a case of us saying that these are the only things that Probation and Youth Offending work should focus on.

Our theme in this paper now is about *doing these two aspects well*, and how inspection should help that – and we start by making some introductory comments about language and terminology.



In this Inspectorate we find that Public Protection & Safeguarding are useful labels – specifically as headline labels. We sometimes use the term *Risk of Harm to others* when we are referring to Public Protection work, and we sometimes use the terms *risk of harm from others* or *risk of harm to self* when we're referring to Safeguarding work.

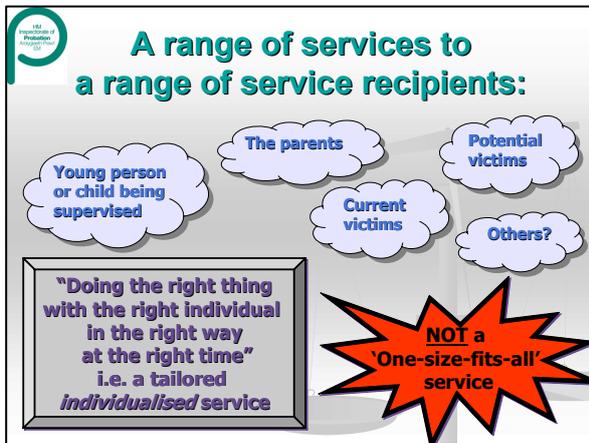
And in our world, if you see the abbreviation 'RoH' like that, on the left in this slide above, you should take it to mean *Risk of Harm to others* – so if you hear us saying “the RoH work is being done well enough two thirds of the time” you know what we're referring to; while on the right in the slide, under 'Safeguarding', practitioners will be familiar with the useful term 'Vulnerability'¹.

We would invite you to see these topics as twin topics: Although there are some very big and important differences between them, there are also some important striking similarities between them. Accordingly we sought an analogy to try and capture this that didn't imply that one was better or superior to the other. We came up with the yin and yang symbol above – it shows two opposite things that fit together to make a unified whole, but where you can still see the two separate components within that unified whole.

Please hold that idea while we now proceed to explore these twin topics, in particular as we endeavour to define what we mean when we talk about “doing this work well in practice”

But first, in the next slide, we make another general point:

¹ We are using *Safeguarding* and *Vulnerability* interchangeably here, though we're aware that some writers use the terms to distinguish between whether the risk of harm is *from self* or *from others*.



Working with people who have offended constitutes a whole range of individual services provided either directly or indirectly by the practitioner to a whole series of individuals, principally the person being supervised, but also often to their parents and/or partners, or to their victims, or potential victims, and to some others too.

As with any other individualised service it is about *doing the right thing with the right individual in the right way at the right time* – it's not a 'one size fits all' service.

But what is that 'Right Thing' that needs to be done at any particular time? – It's a particularly complicated picture with children & young persons under the age of 18:

Criminal Justice	<i>Make reoffending less likely while also implementing the sentence</i>
Children's Services	<i>Improve the wellbeing of the child or young person (CYP)</i>

With the under-18s, the range of different purposes to achieve with the young person under supervision is complicated but the purposes do helpfully cluster round two broad general purposes: **Children's Services** & **Criminal Justice**:

- **Children's Services** means that the practitioner has to *improve the wellbeing* of the child or young person, while
- **Criminal Justice** means that they must also *make that individual less likely to reoffend* while also implementing diligently the sentence of the Court.

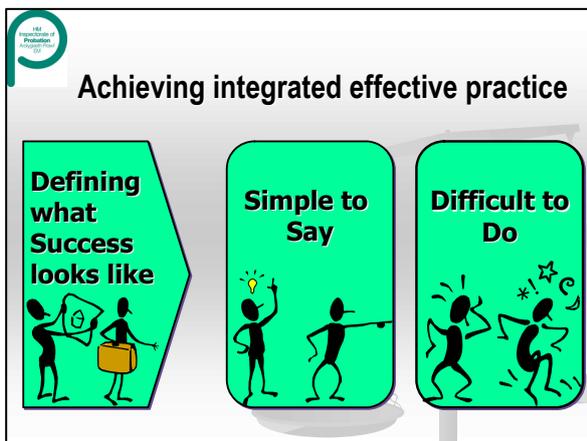
And Public Protection and Safeguarding each represent a specific purpose that sits 'inside' each of those two general purposes, as in the next slide:

Purposes to achieve with C & YPs:

	Public Protection	Safeguarding
Criminal Justice	As potential <i>offenders</i>	As potential <i>offenders</i>
Children's Services	As potential <i>victims</i>	As potential <i>victims</i>

This slide illustrates that in both aspects we need to see the individuals under supervision as both potential future *offenders* and as potential future *victims of harm*. The Inspectorates aim to help managers and practitioners to recognise the work strands that enable them to achieve these specific purposes, so that they can focus their efforts on continuously improving them.

How do we start to do that?



In order to achieve good quality individualised practice we have to help practitioners be clear precisely what we are asking them to achieve, including Defining clearly what success looks like.

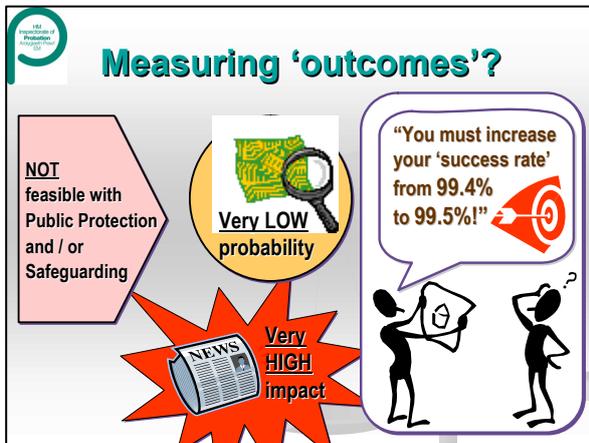
We have to do this in a way that is as simple and straightforward as possible, always acknowledging that Simple is most certainly not the same thing as Easy, because what we are asking them to Do is of course very difficult .

- But if *how we Define success* involves staff having to look up a manual at every point then we have failed to make our Definition Simple.

We need concepts that practitioners can carry around in their own heads so that they can *tell for themselves* whether they are doing what they are being asked to do, and so that they can tell for themselves whether they are doing it well enough or not.

Why can't success with Public Protection and Safeguarding be simply defined by the means of setting quantitatively measurable targets or objectives?

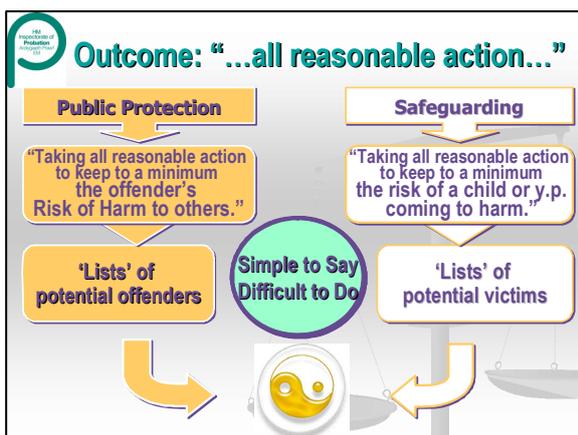
Such target-based outcomes are in many circumstances a good and useful mechanism, but the following slide illustrates why they don't work well with Public Protection and Safeguarding:



Death or serious harm to a child, or the committing of a Serious Further Offence, are events that are extremely rare statistically, about one in 200 or so cases (depending how you count them), but they are very high profile events when they do happen, as most managers and practitioners won't need reminding. Such events are *very low probability* – but *very high impact*. So how do you measure effectiveness at preventing such events?

For adult offenders, consideration was given at one point to setting quantitative targets of improving miniscule statistical instances by a further miniscule amount – as in the slide above, a target of increasing what might arguably be called a success rate from 99.4% to 99.5%. Fortunately, Ministers rightly stopped short of this step, which was a relief to many of us, for a number of reasons. Mainly this was because it's almost impossible to explain to a practitioner *what they're supposed to do in practice* in order to achieve such an objective - except possibly to try to get your most risky cases to leave your own catchment area!!

So, instead, what is the Outcome that *the Inspectorate* is asking practitioners to achieve?



Our defined outcome is that practitioners can demonstrate that they took “all reasonable action” to keep risk of harm (in general) to a minimum.

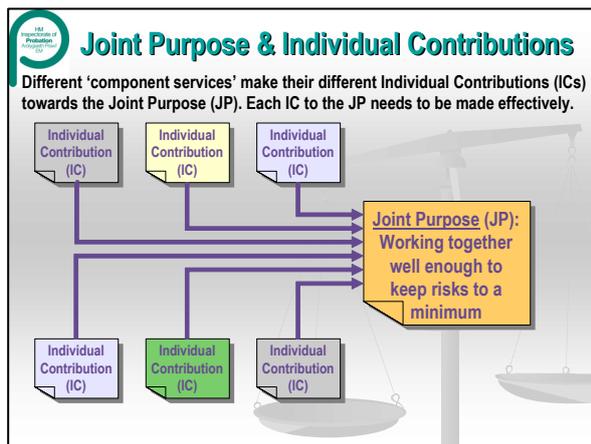
Separating out the two aspects for a moment, in public protection this Inspectorate uses the language: “Taking all reasonable action to keep to a minimum the offender’s Risk of Harm to others.” Consequently our language for safeguarding is: “Taking all reasonable action to keep to a minimum the risk of a child or young person coming to harm.”

This therefore potentially includes children directly under supervision, and any others - such as a sibling, or a child victim in another family etc – and because it thus includes any relevant child coming to harm (either from others or from self).there is some relevance to Probation as well as (more obviously) to Youth Offending.

And again this is both Simple and Difficult: Simple to Say, and Difficult to Do.

There are both important similarities, and important differences, between *work to minimise Risk of Harm to others & work to minimise risk of harm to self*. For example, over many years now there has been for safeguarding work various manifestations of what was once called a child protection register – in plain language this is simply a *list of potential victims* which various authorities must focus their energies on. In the world of public protection the comparable list is a *list of potential offenders*. You could say that these two aspects were broadly the *same* kind of work, but being approached from opposite directions so to speak. I hope that this language helps to convey that – both the similarities and the differences are true.

The next thing that needs to be mapped here is the distinction between the Joint Purpose and the Individual Contributions.



We need to do this, because many people quite rightly say that for both public protection and safeguarding work to be effective *everyone* has to play their part, they all have to talk to each other, work together and it's all a shared piece of work.

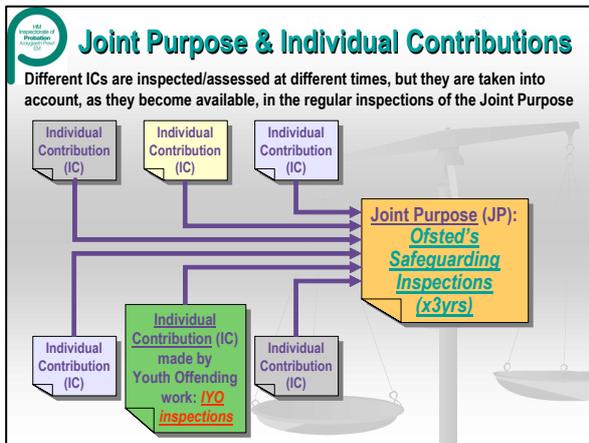
And they're absolutely right, that it is only when people work together as an extended team that the team effort, or Joint Purpose, can be achieved, i.e. all reasonable action is taken to keep to a minimum all the different risks of harm.

But the Joint Purpose is also made up of Individual Contributions to that team effort, each of which has to be in place in its own right if the Joint Purpose is to be achieved: For example, if the intake process in a children's services office, or if the initial assessment at an accident and emergency unit is faulty, an individual child can be failed before they even get into the *joined-up system*.

Inspectorates therefore need to spend some time looking at how well each component service makes its own Individual Contribution, as a step in the process towards assessing whether or not the Joint Purpose is being achieved.

So, in our own inspections, our defined Outcome of "taking all reasonable action" etc. is the Individual Contribution that Youth Offending and/or Probation work specifically makes to enable the Safeguarding Joint Purpose to be achieved.

And before I leave this point, I should point out that in relation to inspection policy and practice the distinction we would make is between:



Was the Joint Purpose achieved well enough together by all the relevant authorities? – which is what Ofsted's programme of Safeguarding inspections will be looking at – and what *HMI Probation* are focusing on when we inspect, which is: Was the Individual Contribution made to effective Safeguarding by *youth offending/Probation work in particular* done well enough? These are *separate questions*, even though there is a very clear link between them, as shown in the slide above.

This is all rather abstract, so we now try to close in on what this means *in practice*.



Remember that the language that the Probation Inspectorate uses is about "Achieving the Possible", and "You can't eliminate Risk completely" - and we say that instead this work is about "Taking all reasonable action". Our language thus recognises that sometimes a catastrophic event will still occur despite one's best endeavours, and this is not necessarily a sign of a "failure", in quotes.

This is of course a critical point since many practitioners now understandably fear that if there's a death of a child, or a Serious Further Offence, somebody like the Inspectorate will come along, pick over the file, find a fault, and will always simply, with 20/20 hindsight, blame the practitioner. But that's not what we do! – and as an Inspectorate we can evidence that that's not what we do, as follows:

On the one hand, we readily acknowledge that many people have heard of our reports where we have been critical of practitioners and managers - after all, we're not usually called in unless people think there was a problem in the first place. But on the other hand we can also point to our report in 2007 on the probation hostels in

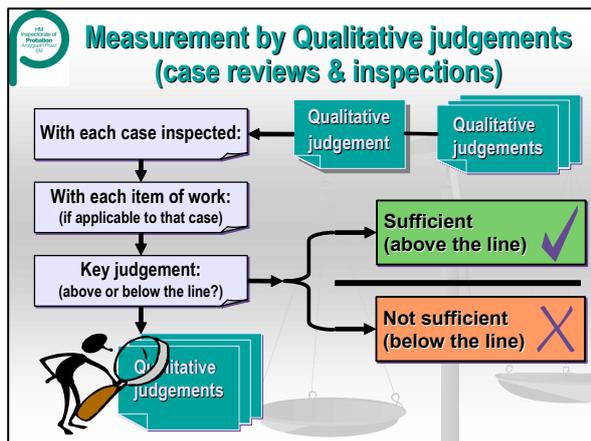
Bristol², when we also reviewed a couple of cases where murder had been committed by people on Licence.

Although the practice wasn't perfect, we basically said that in these cases all reasonable action had been taken, and I was pleased to find this was actually reported in the *Sun* newspaper.

They said that we “ruled that there was nothing to suggest that two murders committed by freed offenders could have been foreseen by probation officers”.

This was not our precise wording, of course, but it was right in essence about what we were saying. This provides evidence that we do and will say if we think that practitioners “have taken all reasonable action” in such cases as these ...

Now of course this test of “*all reasonable action*” inevitably rests on a *qualitative judgement* made by a human being - or more accurately on a whole series of numerous qualitative judgements:



When we inspect, although there are some differences between our adult offending and our youth offending inspections, the heart of our methodology is broadly the same. Our whole case inspection process works by examining work with a representative sample of individual cases, and, with each case inspected, asking in relation to each item of work that was relevant to that case, the key question “Was it done *sufficiently well?*” (or “above the line”, as we sometimes say).

Where the item of work applies to the particular case you get a tick for doing it *sufficiently well or better*, or a cross for doing it *insufficiently well or worse*, and there's *no score either way at all* if that item of work wasn't *relevant to that case*.

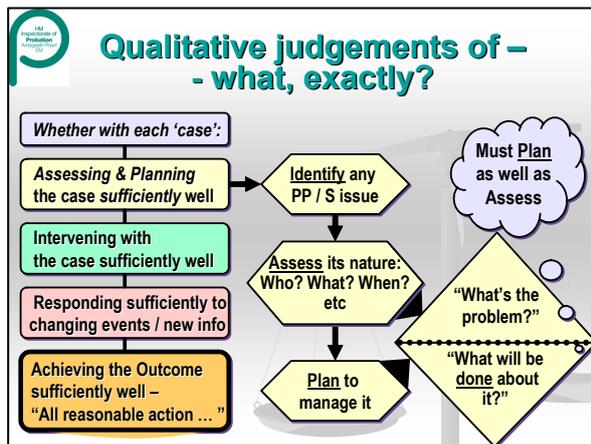
Each of those judgements is a *qualitative judgement*, not dependent on a rule book or an algorithm to provide the answer, because ultimately such tests of *sufficiency* or of *reasonableness* have to be *qualitative judgements*.

We ensure that we train, and quality assure, and thereby benchmark, a shared understanding throughout our inspection teams so that we draw a line consistently between *sufficient* and *insufficient* – between *good enough* and *not good enough*.

Though it's not possible to achieve ‘perfect congruence’ between different case assessors, our efforts mean that we do have a *sufficient level of consistency* across our qualitative judgements. We also maintain constant attention to Quality Assurance throughout all aspects of our own inspection processes.

² *Not Locked Up, But Subject to Rules* HMI Probation, 2007

Meanwhile, let's now focus on what we're specifically saying to practitioners.



Remember that we've already told them that they have to Achieve the Possible (not the Impossible). And that we look to them to "take all reasonable action". Furthermore it is a *qualitative judgement* as to whether or not they are doing it *well enough*, a whole series of them about a whole series of items of work, as relevant to each individual case. But what are these items of work?

Well, with each case, the headline items we cover are:

- Assessing and planning the case Sufficiently well
- Intervening Sufficiently well
- Responding to changing event and/or new information Sufficiently well
- and thereby: achieving Sufficient Outcomes

With public protection and safeguarding the 'Outcome' is *being able to demonstrate that you took all reasonable action* etc. with the particular case.

Therefore, starting at the beginning of that process:

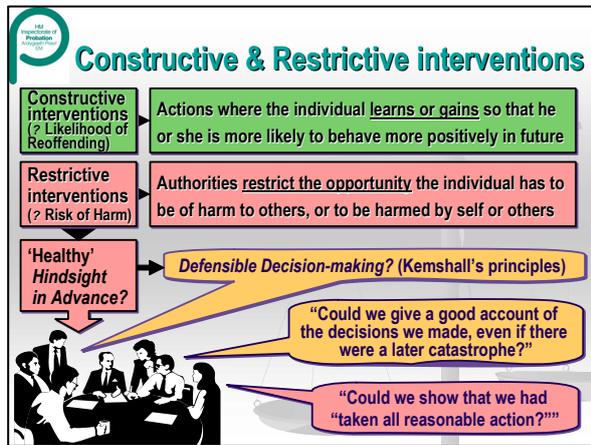
With each case you want the practitioner to have identified any potential public protection or safeguarding issue in that case,

Then assessed its nature: who is at risk of harm (self? identified other? others in general? specific groups?); how likely is it that something will happen? what degree of harm is likely to take place if it does happen? what might trigger it? And is this someone who shows other signs in his other behaviour when he's about to do something harmful? etc. – this is a topic for a whole practice training session on its own.

Then, equally important, is saying what you plan to do about it.

In both probation and youth offending work we find that practitioners are better at assessing *what the problem is*, and not so good at saying *what they plan to do about it*. – a practice point where improvement is needed.

Moving to the subject of Interventions, there is one more conceptual distinction to be introduced at this point:



When examining the Interventions – or actions – that practitioners have to carry out, we make a distinction between *constructive* and *restrictive* interventions. This is not because one type is good and the other not good, but so that people can be clear which they are doing at any one time.

A *constructive* intervention addresses an individual's Likelihood of Reoffending, and is when the individual under supervision learns something that means that they are more likely to *behave more positively* in future.

A *restrictive* intervention addresses Risk of Harm, and is when the authorities take action to *restrict the opportunity* that the individual has to *be of harm to others*, or to *be harmed* by self or others.

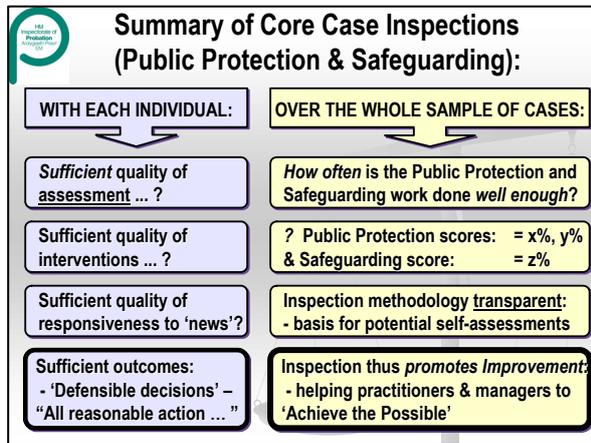
As we know, and as we keep saying, risk can never be eliminated completely, but it is possible to “take all reasonable action”. Thus with the *restrictive interventions* practitioners should identify and carry out all the actions that could reasonably be taken in each particular case, so that the opportunities for that individual to inflict harm, or to experience harm, is kept to a minimum. And of course that work should be reviewed regularly.

We sometimes call this “defensible decision making”. Some people hear that as a very negative term, fearing that it is simply about ‘watching your back’– but our argument to any manager or practitioner is that it’s a positive test, as also reflected in the principles set out by Professor Hazel Kemshall.

This approach confirms that it is perfectly possible for a practitioner to make a carefully considered thought-out decision, find in subsequent events that it didn’t work out and a catastrophe happened – and yet we could come along and arrive at the judgement that it was a reasonable decision to make at the time. Of course we are more likely to come to such a judgement in such an instance if the practitioner has consulted a manager or suitable alternative.

Thus we see *defensible decision making* as a healthy version of having ‘Hindsight in Advance - a positive and key part of the task of “Taking All Reasonable Action”’.

This leads to our final Summary of what the Inspectorates are looking for in these two vital aspects of Probation and Youth Offending work – and therefore which also enables practitioners to demonstrate that they are doing them well:



If the Inspectorate reviews an individual case we will judge whether the *assessment & planning* was done sufficiently well. Then we will judge whether the planned interventions were carried out sufficiently well. Then whether there was sufficient responsiveness to changing events.

- the outcome with Public Protection & Safeguarding is when all reasonable action has been taken etc.

Therefore, when we do a case inspection, we are examining a representative sample of cases, and so we will be making a whole host of qualitative judgements about these two aspects of Probation and Youth Offending work.

This enables us to give two aggregated scores for *how often* the public protection work was done *well enough* – one for *Risk of Harm to others*, and one for *Likelihood of Reoffending*. In a Youth Offending inspection we can also give a score for *how often* the *safeguarding* work was done *well enough*.

The detailed documentation of our inspection methodology is normally available on our website, so it is perfectly possible for any practitioner or manager to see for themselves what we look for when we come to inspect.

Furthermore, it is possible for this to be a basis for a regime of self-assessment in each locality if people wish this. Our caveat is that it is essential to benchmark properly where assessors draw the line between *good enough* and *not good enough* when judging each item of work. The inspectorate can help with that task, if our resources permit at the time.

HMI Probation and the other public service inspectorates all believe that a key purpose of inspection generally is to promote improvement. Therefore, in relation to the specific topic of Public Protection and Safeguarding, we very much hope that this paper, and the practical experience of our current inspection practice, will help practitioners and managers to find that they can in fact 'Achieve the Possible' – because the 'Possible' is Achievable!

We look forward to taking this forward with you.

Andrew Bridges
HM Chief Inspector of Probation
June 2009