

Summary

1 Introduction

Concisely stated, a penitentiary programme (PP) is an execution modality that took effect in 1999 to enable a smoother transition from detention to society for the purpose of preventing recidivism. If a prisoner is placed in a PP, he or she serves the last stage of detention 'on the outside'. Such a prisoner must adhere to the programme set up for him or her and will come under the supervision of the probation service. If the prisoner does not adhere to the conditions of the PP, he or she will be returned to the penal institution.

In the past, the implementation of penitentiary programmes was not without risks. Because all forms of recidivism and violence cause suffering or harm to third parties and society, it is important to limit those risks. To bring this about, an attempt has been made to improve the quality of the implementation of penitentiary programmes by setting standards which the programmes must meet and measures to achieve these standards.

This report contains an account of the research into the practice of working on the basis of quality-improving measures for the purpose of achieving the standards set.

2 Conducting the research

To see whether work is done in actual practice on the basis of the quality requirements set and whether those standards are met, 150 files of PP processes at the Probation Service and the Penal Institution Administration (PIA) were studied. The research included seeing whether the quality-improving measures were used and the standards achieved. In addition, 31 interviews were held with professionals in this field, particularly to find out the reasons for any departure from the requirements and standards.

3 Findings

Quality requirements

Requirements are set for the documents to be drawn up before a PP can start, such as the advisory report and the order. The requirements pertain as well to the preconditions of the PP itself, such as participation in a fixed programme and the way in which changes to it should be dealt with. Rules are also set on the manner in which supervision is to be exercised. Lastly, requirements are set for the contents of various reports to be prepared during a PP, such as the structure of a report and what information it must include, but also for the times at which they must be prepared and the points on which they are to be assessed.

Advisory reports

An important part of the whole PP process is the advisory report made by one of the three probation organizations (the Dutch Probation Service (*Reclassering Nederland*), the Addiction Probation Service (*Stichting Verslavingsreclassering Nederland*) and the Salvation Army (*Leger des Heils*); or the 3RO), because this report is the basis for judging whether someone can be placed in a PP. The advisory reports meet the relevant quality requirements reasonably well. Except for three files, the reports always contain a risk assessment and a description of the way in which the participant will fill in the 26 hours, an assessment of the suitability of the residential address, a check of whether consent has been obtained from the members of the household, assessment of the reliability of the employer / school / traineeship or training location, and there is always attention for the availability of a programme to provide the contents of a PP. Hardly anything is ever said, however, about sport activities during the PP. It appears from the interviews that mentioning this is considered less relevant. At the time advice is given, a person is assessed for his or her suitability for a PP and the kind of process that should be followed, and sports play

a less important part in this respect. In some cases, the requirement is not met that something must be said about possible penalty rules. It is evident from the interviews that some lack of clarity exists regarding the penalty rules and what it means if nothing is included about them in the report. According to some, penalties are always resolved or arranged in the prison, while according to others, attention is not always paid to possible penalty rules in the intake interview prior to the report.

Order

A decision is taken on the basis of the advisory report on whether a prisoner may be placed in a PP. The selection officer decides on this and prepares an order. The content of the order meets the requirements, but the order is not always sent to the sending institution, the PIA and the Probation Service at least three working days before the start of a PP. The selection officer stated, however, that no one starts a PP before an order has been prepared. It can happen that the three-day time limit is not always met. That is due to the fact that the advisory report by 3RO regularly arrives late, thus the time limit has already expired automatically.

Participation in the programme

Penitentiary programmes almost always amount to at least 26 hours a week. Changes to a programme are presented to the PIA and the PIA presents substantial changes to the selection officer. Some probation organizations present all changes to the PIA, while others present only relevant changes. There is a lack of clarity as to what exactly should be considered a substantial change. This lack of clarity can result in subjective choices whether or not to present changes to the PIA or the selection officer. This does not help to promote unity in complying with the rules. Occasional leave is a once-only departure from the programme that has to be approved by the PIA. Such approval is not always given by far. Some probation organizations give approval as they see fit and subsequently report this to the PIA, while other organizations present this to the PIA. According to the respondents, an additional problem is that the PIA cannot be reached at the weekend, while it still has to give approval outside office hours as well.

Supervision of activities in the context of PP

Supervision itself is one of the most important parts of the PP. There has to be face-to-face contact between the participant and the 3RO once a week. This requirement is departed from regularly. Sometimes a telephone call is sufficient and sometimes a worker conducts the interview and keeps the 3RO up to date. Other reasons can be found in the pressure of time within the 3RO and a proper course of a programme that justifies a lower frequency. A staff member of the 3RO argued in favour of allowing the frequency of the interviews to depend on the estimated recidivism, as is also done during regular supervision. All in all, with or without plausible reasons, the requirement is departed from on a regular basis. Another requirement which is part of supervision is the urine test that has to be administered if someone is suspected of drug use or excessive alcohol consumption. Such a test is carried out when indicated but, according to the respondents, the difficulty is that not many organizations can administer the tests themselves. They have to outsource them to other organizations or persons treating the participants. According to the respondents, persons treating the participants often refuse to do this if a PP participant is not one of their clients. Other organizations want to receive part of the PP budget for administering the test, while the implementing institution wants to keep that budget for itself for its other tasks. Agreements on the monitoring of programme components are kept reasonably well. In general, good agreements are made with programme workers who inform the supervisor in the event of absence. But not many workers conduct unannounced visits on location. According to the respondents, the information this provides does not weigh up against the amount of time it takes and one has the idea that information can also be obtained by way of a telephone call. Regular consultations are indeed held between the worker and the body responsible for implementation. An important part of supervision is electronic tagging for which the Dutch Probation Service is responsible. Once supervision has started, the requirements set for it are properly met. It emerged from this study, however, that in some cases, electronic tagging is connected only after the start of the PP. This means that a person is not always under electronic tagging at the beginning of his or her extramural stage, which may increase the chance of recidivism.

Requirements for the contents of reports

In general, the reports (progress, incident, request for change and final) of the Probation Service meet the general and specific requirements set for them. A problem with the progress reports is that requests to end

electronic tagging are often viewed as progress reports. There is nothing wrong with this in itself, provided it is stated clearly and all requirements are met. This, however, is not the case. The goals set and achieved are not automatically included in a request to end electronic tagging, while this is indeed a requirement for progress reports. Clear agreements could solve this problem quickly. In short processes, it regularly occurs that no progress reports are prepared. The average duration of a PP according to the file research is between 23 and 26 weeks, but 25-days PPs also occur. Probation staff say that it is not practicable to deliver all reports for the short processes because you would then work almost non-stop on writing reports and, so to speak, you would have to write a progress report the day after you wrote the report on electronic tagging, while nothing has changed. Something goes wrong from time to time with the incident reports as well. An incident report is not made in all cases in which an incident takes place. This is partly explained by the fact that a final report is drawn up immediately after a PP ends. There is usually contact with the PIA immediately after the incident in which it is stated what the penalty will be. It happens now and then that no final report can be found in the files. Some of the final reports may not yet have been ready because for several files, that time coincided with the end of the PP. Probation workers state that a final report is always made and admit that they are sometimes delayed. The name of the supervisor of the electronic tagging is often not mentioned in the reports. Because electronic tagging has usually ended, the relevance of this is no longer seen.

Assessment of reports

In assessing the progress and final reports, the PIAs have to see if the course of the PP is in accordance with the programme. In Den Bosch, this was not done for some time owing to a shortage of staff. In The Hague, staff said that this was only done very superficially. If deviations from the programme were discovered, this was discussed with the Probation Service during the Regional Penitentiary Programme Implementation Consultations (*Regionaal Uitvoeringsoverleg Penitentiair Programma*).

Working according to a penalty protocol

An important quality-improving measure that must be complied with is working according to a fixed penalty protocol. In this protocol, a link has been sought with the general line also followed in a penal institution.

It can be noted with respect to enforcement of the penalty policy that it is regularly departed from. It is enforced strictly in relation to a minor or serious offence, but when rules are broken it is dealt with arbitrarily. In deciding on the penalty (or not to impose a penalty), one weighs what has occurred and what the course of the PP has been. There is clearly an eye for the interests of PP participants who still have to remain in a PP for a while. There is a certain degree of subjectivity in enforcing the protocol. According to respondents, one must sometimes look beyond the rules and bear in mind the purpose of the PP, which is reintegration of the prisoner and prevention of recidivism. If a participant is returned to prison because he or she arrived late a few times or once drank an evening at the weekend, according to the respondents, the question is whether the participant and society would benefit from his or her return to prison. It is important for the PIA to consider whether or not to impose a penalty and not the Probation Service, which happens from time to time. The Probation Service is not authorized to impose penalties and, according to the PIA, because of its involvement with the participant, it is not objective enough to be able to judge which penalty is desirable. Another issue relating to the penalty protocol is that the participant must be informed of the standards of the penalty policy. This is not the case. In general, the respondents are not in favour of making the exact policy known, because this makes room for negotiations and participants could abuse this by constantly behaving just below standard.

Regional Penitentiary Programme Implementation Consultations

Besides introduction of the quality requirements and the penalty policy protocol, the Regional Penitentiary Programme Implementation Consultations serve as the next improvement in quality. Requirements have been set for these consultations that have to be met.

Most respondents view the regional PP implementation consultations as valuable consultations. The attendance lists presented are an impetus for probation organizations to prepare their progress and final reports more promptly. An open atmosphere prevails in which participants communicate with one another. The consultations have led to better cooperation, mutual coordination, use of the same names of the

reports by setting up formats and lowering the threshold for phoning one another. The case histories, however, sometimes remain a bit behind and a lot of time is spent on discussing other matters. It is also clear that it takes a long time before the bottlenecks identified in the consultations result in changes to the manner of implementation.

Standards

One of the standards is that 80% of the PP participants must complete the programme successfully. This requirement is met, but the question is what this says about the success of the programme and its effect on participants. Respondents do not have the idea that a careful look is taken during selection at which prisoners are suitable for a PP and who could really benefit from it. People are now placed in a PP almost automatically, say the respondents. According to them, PP is viewed as a right instead of a privilege, which can result in the wrong target group being selected. It sometimes happens, for instance, that 'professional criminals' end up in a PP, go through this process outstandingly because they would rather be outside than inside but, according to the respondents, the goal of reintegration is not achieved at all. Besides that, however, sometimes prisoners who are eligible for a PP wrongfully remain longer in detention. According to some respondents, prisoners are hampered in moving on to a PP because advisory reports are not prepared in time owing to a lack of capacity of the Probation Service to administer the necessary OAs (offender assessments).

Another standard is that supervision of the participant and the body implementing the programme must be such that violation of one of the conditions of the PP is identified and a penalty imposed within a week. The interviews show this requirement is properly met, but it should be noted in this respect that PPs are not organized in such a way that every violation is identified per se. This is impossible as well, because implementation responsibilities depend on those who implement components of the programme, such as an employer who may find it somewhat less interesting that a participant arrives 5 minutes late a few times. Good agreements are generally made, but no guarantee can be given that each violation will be identified.

All violations that necessarily result in termination of a PP or a warning must be reported to the director of the PIA as soon as possible, but within 24 hours of their identification. According to the respondents, this standard is not achieved in exceptional cases because of the very short time within which violations have to be reported and because the director of the PIA cannot be reached at the weekend. Not only the PIA is hard to reach outside office hours, including at the weekend, but according to organizations, this holds as well for the 3RO to which they have to report. According to PIA Rotterdam, not only are reports not made within 24 hours because the PIA is hard to reach at the weekend, but also because a chain partner sometimes resolves the incident on its own, whereas this should not be possible.

4 Overarching conclusion

Looking back, it can be stated that not all relevant measures are implemented in accordance with the agreements. Work is not always done consistently on the basis of the quality requirements set. Nor is work always done consistently on the basis of the penalty policy protocol in case of violations such as absence from programme components and alcohol consumption. The Regional Penalty Programme Implementation Consultations are consultations still in the making. They do not meet the requirements with respect to frequency and attendance, but are intrinsically experienced as positive and conducive to cooperation. The standard that 80% of the participants must complete the PP successfully is achieved. According to the respondents, the standard that supervision of the participant and the body implementing the programme must be such that violation of one of the conditions of the PP is identified and a penalty imposed within a week is achieved. It should nevertheless be noted that PPs are not organized in such a way that every violation is identified per se. The standard that all violations that necessarily result in termination of a PP or a warning must be reported to the director of the PIA as soon as possible, but within 24 hours of their identification, is not achieved in exceptional cases. According to the respondents the problem lies in the inability to reach the PIA at the weekend, owing to which reports cannot be made. All in all, the measures set out have made their entry to a certain extent in practice, but there is still room for improvement in many areas.