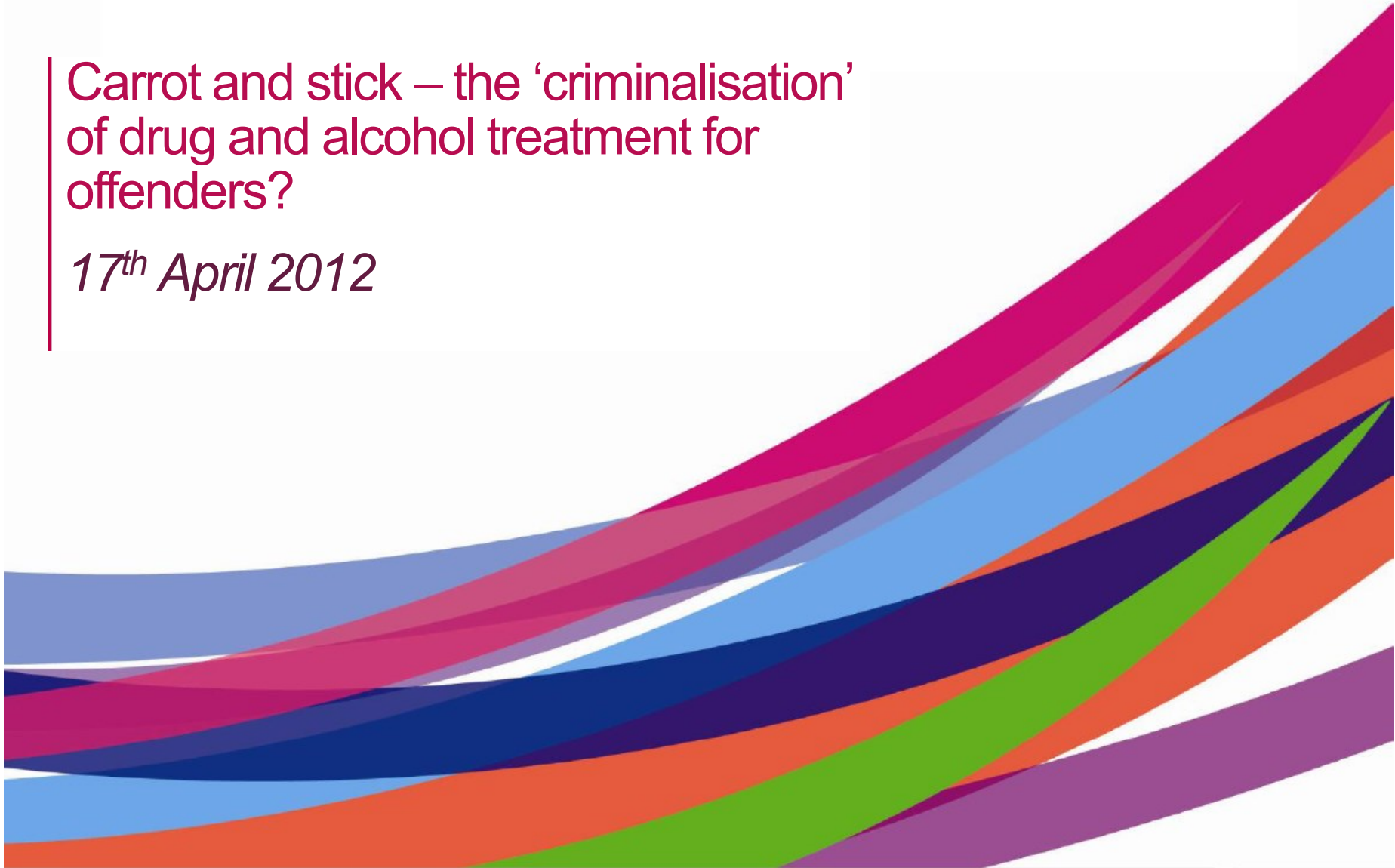


Carrot and stick – the ‘criminalisation’
of drug and alcohol treatment for
offenders?

17th April 2012



About the Hallam Centre for Community Justice

Evaluation, research, consultancy, professional development for the Home Office, Ministry of Justice, Police, Probation and local authorities

- Integrated Offender Management
- Intensive alternatives to custody
- Criminal justice voluntary sector engagement
- Restorative justice
- Outcome based commissioning and payments by results

| An opportunity for reflection

| *The 'criminalisation' of drug and alcohol treatment?*

Policy direction for the past decade for drug and alcohol using offenders

- **Address the needs of problematic drug users (PDUs) during their engagement with NOMS**
 - Provide end-to-end treatment for PDUs before, during and after sentence, co-ordinated with the Drug Interventions Programme (DIP)
 - Reduce drug misusing offenders' re-offending
 - Reduce illicit use of drugs by offenders
 - Reduce the physical harm caused to drug misusing offenders and others
- **Build on the national Alcohol Harm Reduction Strategy to improve treatment and support for offenders with alcohol misuse problems**

| Rationing of interventions based risk on re-offending rather than medical need?

| Intensive alternatives to custody

- Aiming to divert **offenders** at risk of a **short term** custodial sentence (less than 12 months)
- A community order which typically includes:
 - Intensive supervision by probation – twice weekly
 - Punishment – electronic curfew and/or intensive unpaid work
 - **Drug and alcohol treatment**
 - Mentoring
 - Court reviews
 - Accredited programmes where required

Needs of IAC and non IAC disposals

Pathways needs	Proportions with identified needs	
	IAC disposed	Non-IAC disposed
Accommodation	38.5%	38.0%
Employment, training and education	75.1%	66.5%
Relationships	62.6%	60.6%
Lifestyle & associates	76.8%	66.0%
Drugs misuse	46.2%	43.0%
Alcohol misuse	50.6%	47.0%
Thinking & behaviour	69.0%	62.0%
Average no. needs identified (out of 7)	4.2	3.8
Number of Cases	755	416

Previous disposals received by IAC disposed
and non IAC disposed

Offence type (Primary Offences Only)	Total	
	IAC	Non-IAC
Discharge	61.3%	62.7%
Fine	69.4%	71.4%
Community Penalty	95.4%	87.0%
Custody	71.8%	74.0%
Other	84.5%	88.9%
Number of Cases	755	416

*| Appropriateness of drug and alcohol
treatment as order requirements that if
breached could result in custody?*

Order, licence and requirements - non completions in England and Wales

- 25% (50,677) of orders and licences were not completed in 2009/10
- 44% (7048) of DRRs were not completed in 2009/10
- 28% (2096) of ATRs were not completed in 2009/10

(NOMS Annual Report March 2011)

Outcomes of revoked orders – IAC

	Number Revoked for Breach	Community sentence	Custodial Sentence	New intensive order
A	30	6.9%	69.0%	24.1%
B	51	20.0%	70.0%	10.0%
C	16	7.7%	69.2%	23.1%
D	46	13.0%	80.4%	6.5%
E	50	24.5%	73.5%	2.0%
Total	193	16.6%	73.3%	10.2%

| Promise of co-ordinated/fast track access to drug and alcohol treatment for non statutory offenders through voluntary compacts?

What is Integrated Offender Management (IOM) ?

- Case management of offenders
- Co-ordinated provision of services to address welfare and criminogenic needs including drugs and alcohol provision
- Cordinated enforcement by police and probation
- Sharing of information and intelligence to inform case management
- ‘To include non-statutory offenders and ‘ex PPOs’

A development/refinement of multi-agency case management arrangements originated through priority and prolific offenders schemes, drug rehabilitation requirements etc

Non statutory offenders on IOM

	Total Number of Offenders	Percentage not in Statutory Supervision	Percentage not in PPO Scheme
Avon & Somerset	438	32.6	68.0
Lancashire	421	65.8	78.4
Nottinghamshire	591	27.1	30.5
West Midlands	215	50.2	58.6
West Yorkshire	670	25.8	52.2
Total	2335	36.9	54.9

Non statutory offenders on IOM

- High proportion are drug using offenders and/or with alcohol problems
- Offender compacts – voluntary agreements
- Police as offender managers
- Conversion of non statutory offenders to statutory offenders
- Net widening and proportionate engagement

You've got to balance it against their human rights as well because if we say 'ok this person is a non statutory prolific offender and we're going to visit them every day for the next three months' if there's absolutely no intelligence or no indication that they're committing crime you can't really say that that is proportionate (Police)

Rationing of interventions based risk on re-offending rather than medical need?

- Finite level of provision - rationing is inevitable
- Should offenders and in particular persistent offenders be prioritised over others?

Appropriateness of drug and alcohol treatment as order requirements that if breached could result in custody ?

- Is it an issue?
- What's the balance between the needs of society and the rights of the individual?

Promise of co-ordinated/fast track access to drug and alcohol treatment for non statutory offenders through voluntary compacts?

- What rights does a non statutory offender have?

Drug rehabilitation requirement (DRR)

- Intensive vehicle for tackling serious drug misuse and offending
- Involve drug treatment, regular testing and court reviews of progress
- Subject to rigorous enforcement
- Last between 6 months and three years

**DRR completion rates in the community
2009/10**

*Target: 45 per cent of DRRs to be successfully
completed*

Results:

Total terminations: 16,062

Successful completions: 9014 (56%)

Unsuccessful completions: 7048 (44%)

(NOMS Annual Report March 2011)

Alcohol Treatment Requirement (ATR)

- One of 12 requirements that can be applied to a community order or suspended sentence order
- A tailored treatment programme targeted at offenders with serious alcohol misuse and offending
- Can last between 6 months and 3 years as part of a community order or 6 months and two years as part of a suspended sentence order

ATR completion rates in the community
2009/10

*Target: 47 per cent of ATRs to be successfully
completed*

Results:

All terminations: 7607

Successful completions: 5511 (72%)

Unsuccessful terminations: 2096 (28%)

(NOMS Annual Report March 2011)

What does national research and data tell us?

- 7 out of 10 of arrestees test positive for drugs, of which 4 out of 10 test positive for opiates or cocaine*
- In a study of 1075 admissions to treatment services, 61% new admissions reported they had committed a total of 70,728 crimes**
- At any one time one third of problematic drug users are in the care of the National Offender Management Service (NOMS) which represents half their total caseload

*Bennett T & Hollary K (2004) Drug use and offending: survey results of the first two years of the NEW-ADAM programme, Research Findings 179; Home Office

**Gossop M, Marsden J and Stewart D; NTORS; Department of Health; 1998

IAC disposed - Offending history

Site	Average prior number of offences	Average prior number of sentencing occasions
A	34.7	19.4
B	33.8	14.9
C	20.6	10.4
D	28.1	12.9
E	28.3	14.0
Average across the sites	29.1	14.3

Non compliance with DRR or ATR

One warning in a 12 month period

Taken back to court:

- More requirements
- Different requirements
- Making the requirement harder
- Sent to prison

Need	IOM enhanced	In scope for IOM Not enhanced	Out of Scope	Total number of offenders presenting this need and the percentage of offenders as a total of the OASys records
Accommodation	53.2	38.8	25.0	718 29.0%
Employment Training and Education	64.4	52.4	31.4	898 36.2%
Finance	0.3	1.0	0.6	14 0.6%
Relationships	68.8	60.2	43.4	1168 47.1%
Lifestyle	68.8	54.4	62.0	924 37.3
Drug Misuse	59.0	51.5	17.2	584 23.6%
Alcohol	37.3	24.3	21.7	587 23.7%
Emotional Well- being	0.3	2.9	1.9	44 1.8%
Thinking and Behaviour	63.7	39.8	37.2	1003 40.5
Attitudes	62.7	37.9	29.5	837 33.8
Average Number of Needs	3.91	3.31	1.72	2.01

Rationale for IOM – Multiple needs

Rationale for IOM – offending history

Averages	Number of PNC Offences / Occasions	Number of Previous Primary Offences	Number of Breaches of orders	Age at First Conviction	Age Now (10.1.2010)
West Yorkshire (n=1152)	45.9	19.9	5.0	15.47	25.23
Nottinghamshire (n=349)	52.8	21.7	7.4	16.70	28.54
Lancashire (n=1072)	51.7	17.4	4.0	17.03	27.66
Bristol (n=420)	70.2	22.4	3.6	17.98	29.76
West Midlands (n=205)	53.2	21.0	3.8	16.17	26.29

Short term sentence

- Cost of prison
- Cost of probation
- Cost of future offences

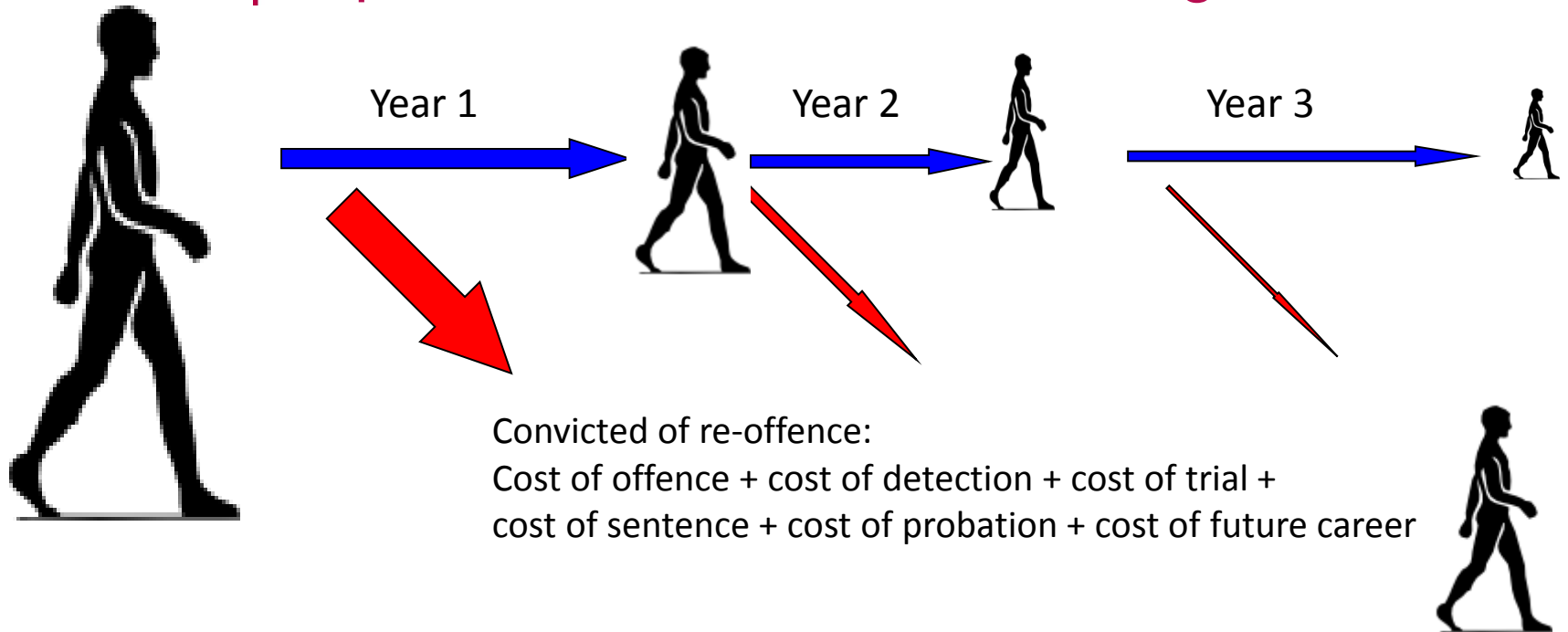
IAC

- Cost of an IAC order (based on the pilots)
- Expected cost to society of an offender committing offences while on IAC (estimated from the pilots)

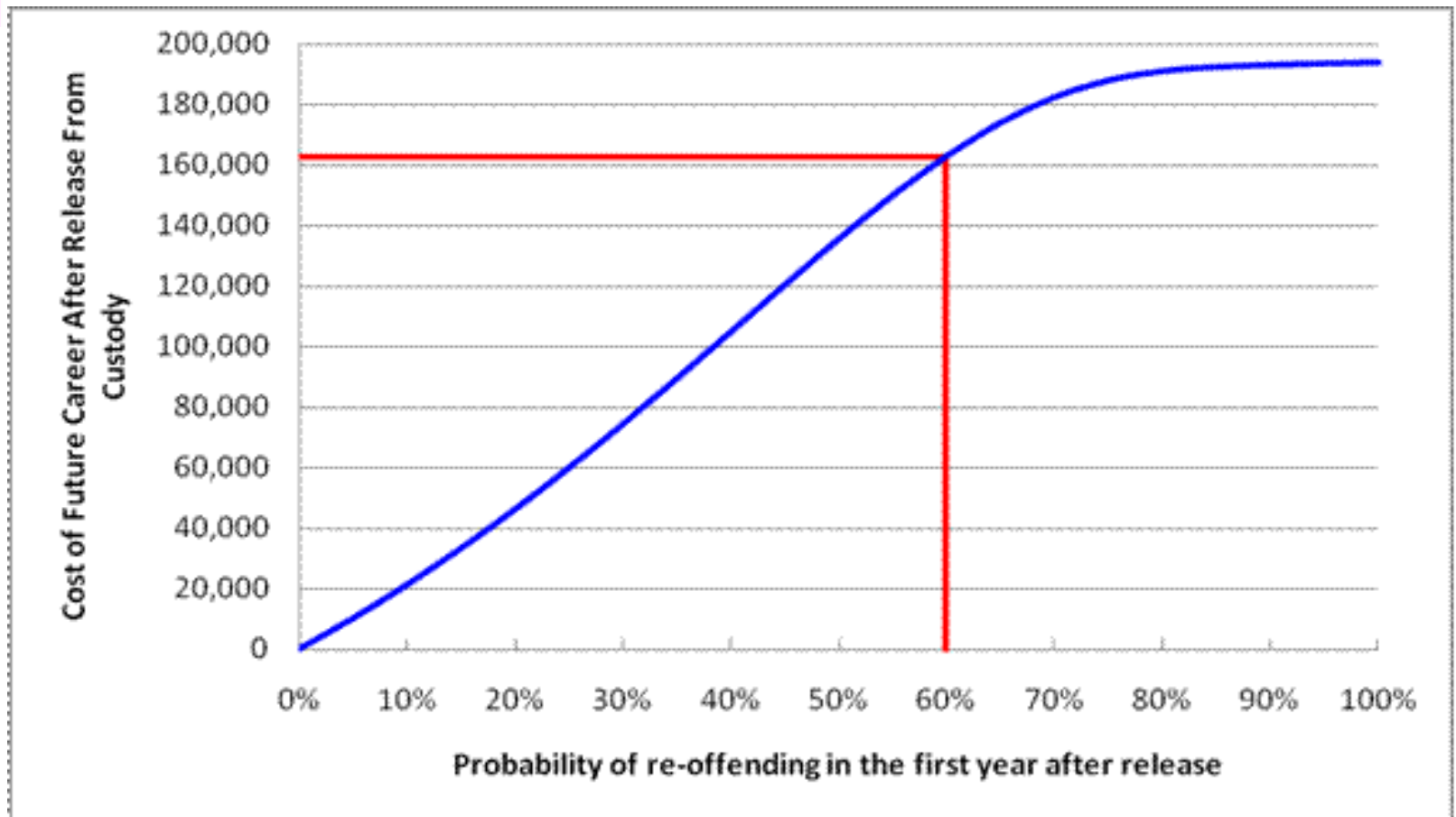
| Costs of a custodial sentence



| Representation of future offending career



Relationship Between Future Career Costs and the Probability of a Re-Offence in the First Year After Release From Custody



| IAC costs and assumptions

- Average project costs of an IAC sentence per offender per year is £5,251
- Costs of short term custody are £48,083
- The probability of revocation and re-sentencing on IAC is 38.7%
- 59.9% of offenders released from short term custody re-offend in the first year (NB if someone is in prison, they are not offending)

Findings from Break Even Analysis

- In order to **break even** compared to a period of 45 days incarceration (average length of sentence served for short term custody), a typical IAC programme must reduce the re-offending by a modest level relative to the 59.9% baseline

What is payment by results (PbR)

- Payment by results “will link payment to the outcomes achieved, rather than the inputs, outputs or processes of a service” Cabinet Office (2011: 9)
- Payment by results allows the government/commissioner to pay a provider of services on the basis of the outcomes their service achieves rather than the inputs or outputs the provider delivers.

| Benefit for commissioner - Transfer of risk and deferred payment

- PbR transfers risk away from the branch of government/commissioner commissioning the service and towards the service provider.
- Payment is also deferred (NB not in all cases)
- Given the need to reduce public sector spending the transference of risk and deferment of payment is an attractive proposition for government/commissioner

| Proposed benefits of PbR for service provider

- Service providers are free of bureaucracy, micro-management
- Encourages innovation
- Encourages new market entrants (VCS and private sector...)

| Gaming the target

- Perverse incentives are a risk of all performance management systems.
 - “. . . merely shifting the level of abstraction of what is being measured upwards from activities to “outcomes”, doesn’t alter the systemic structure and the same unfortunate consequences are likely to ensue.” (Hoverstadt 2011: 1)
 - Evaluation focus on identifying perverse outcomes – in the Local JR pilot, police arrest fewer people, more custodial sentences of over 12 months, TV licences
- Key risk: cherry-picking and withdrawing service provision (binary measure)