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Developing an effective mechanism for encouraging compliance with community penalties.

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Developing an Effective Strategy or Encouraging Compliance with Community Penalties

Summary

The aim of this study was to explore compliance with community penalties in order to develop the most effective strategies for encouraging compliance. The study examined compliance within the substantive contexts of probation supervision and the deterrent enforcement framework incorporated in probation enforcement policy. The study is therefore theoretically located within two broad areas of research namely, short term compliance with legal authorities and the deterrence doctrine. As it was conducted in the context of probation supervision, it was possible to explore the patterns and correlates of short term compliance with legal authorities. The research site also provided a suitable forum for examining how criminal deterrence may operate given the enhanced certainty, severity and celerity of punishment for non-compliance.

The criminological literature has tended to focus on explorations of: the aetiology of crime and deviance; or on the correlates of longer term desistance from crime. Whilst these provide valuable insights into the nature of crime and criminality, the correlates of conformity have not received similar attention. Departing from the trend, and drawing on a conceptual framework for understanding compliance devised by Bottoms (2001), this study examined short term conformity with legal directives from a criminological point of view.

Underpinned by an interactionist philosophical position, the study utilised Grounded Theory methodology. Sixty four interviews were conducted with probation officers and probationers. The study found that compliance cannot be decontexualised from the activities of the officers in reacting to rule violations. Compliance is essentially the product of the symbolic definitions that emerge during interactions. An examination of the processes and conditions linked to compliance yielded insights into the effective mechanisms for encouraging compliance and highlighted several policy implications.

Developing and Effective Strategy for Encouraging Compliance with Community Penalties

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INTRODUCTION
AND THESIS STRUCTURE

Introduction

The aim of this study was to develop an understanding of compliance that is grounded in the perceptions of the key actors involved in negotiating compliance with legal requirements. It is my firm belief that the concept of compliance is best understood by exploring the processes through which it is defined by the relevant actors. From this perspective, the social actor occupies an active role in the construction and interpretation of social phenomena. This belief reflects my longstanding theoretical position on the question of social ontology. In line with the tenets of symbolic interactionism, I believe that human action is predicated upon reflective interpretations of experiences during social interactions.

The motivation for this study developed from my desire to understand the correlates of short term compliance with legal requirements. I envisaged that the substantive context of probation supervision[i] would provide the opportunity to explore the nature and correlates of short term compliance with legal directives.

The nature and extent of compliance with community penalties

There are National Standards that provide the legal framework for defining and enforcing compliance with community penalties. Although the National Standards that were operative during this study were the 2002 National Standards and the 2005 National Standards, several National Standards have been introduced since the first standards were introduced in 1992 (Home Office, Department of Health and Welsh Office 1992; Home Office 2002; National Probation Service 2005; Ministry of Justice 2007a).

The National Standards define compliance as attending appointments and complying with all the other requirements of the order. For instance, the 2002 National Standards

that were operative during this study (National Probation Service 2002) defines non-compliance as:

> ...any failure to attend an appointment or any other failure to comply
> with any other requirement of an order... (2002: paragraph D21).

The subsequent standards – the 2005 and 2007 Standards - retain the above definition of non-compliance (National Probation Service 2005; Ministry of Justice 2007).

In terms of enforcing the order, the Standards have been revised five times since 1992. Thus, the 1995 Standards reduced the number of unacceptable absences before breach action may be commenced, from three to two while the subsequent standards published in 2000, 2002, 2005 and 2007 provided that breach action should be commenced following one unacceptable absence.

As noted above, the standards define compliance as attending supervision appointments and complying with all the other requirements of the order. Below, an examination of the studies that have explored the nature and extent of compliance (as defined by the National Standards) reveal that many probationers fail to comply with the requirements of the National Standards. These findings highlight the need for further insights into the most effective means of securing compliance.

The relevant empirical literature focusing on the subject matter of compliance with community penalties is limited although some studies do provide insights into the nature of compliance achieved during supervision. Studies show that compliance is defined rather narrowly in terms of attendance whilst non-compliance typically assumes the form of absenteeism and in most cases, total absconsion (Ellis et al. (1996; Mair and May 1997). Farrall (2002a) found that incidents of non-compliance mainly concerned the failure to attend probation appointments ('total absence') rather than the failure to comply with specific requirements of the order.

Similarly, Ellis and colleagues (1996) found that other forms of non-compliance were ignored. They put it that: – 'a build up of failures to attend' was the most common-form of non-compliance (p.17). Further, Ellis and colleagues hypothesised that the focus on absenteeism may stem from the realisation that as a form of non-compliance, absenteeism does not impose a heavy evidential burden on the officers during breach prosecution compared with other forms of non-compliance. Similarly, Mair and May (1997) found that of the percentage (N=243) of offenders warned for non-compliance, most (3/4) were warned for failing to attend although only 6% of the sample (mainly those aged 16-20) were breached. These studies reveal the narrow conceptualisation of compliance which may be attributable to the ease of its detection and prosecution. Other forms of non-compliance are less visible and may impose a more onerous evidential burden on prosecuting officers in the event of breach action in court.

It is difficult to ascertain the exact extent of non-compliance with community penalties with any degree of accuracy given the findings that many incidents of non-compliance and the enforcement action taken in these cases are often unrecorded (see Farrall 2002a; Mair and May 1997; Rex and Gelsthorpe 2002). This was noted by Her Majesty's Inspectorate of Probation (HMIP) in its inspection of enforcement practices across ten probation areas (Home Office 2000a). A further obstacle to making an accurate estimation of non-compliance rates can be traced to the paucity of official data on non-completion rates. It has been officially acknowledged that such data are not routinely collated (National Audit Office 2008). To further exacerbate matters, the completion figures available may also be subject to question. This is because the figures highlight a tendency to officially underestimate the extent of non-compliance. For instance, according to an official report released at the start of this study, the compliance rate (for all community orders) was 84% as at September 2004 (NPS

2005). This is different from the 65% rate of completing rehabilitation programmes and 35% rates of completion for the Drug Testing and Treatment orders (DTTO- as they then were) (NPS 2005). The 84% figure may therefore be an over-estimation of the extent of compliance. In addition, the six month time frame covered in the report may be inadequate given that several studies including official statistics show that the likelihood of non-compliance increases proportionately with the length of the order (Home Office 2004). According to official statistics, most probationers typically serve orders of an average of twelve to twenty four months (Home Office 2004). Therefore, it is possible that the compliance figure cited above excludes many incidents of non-compliance that would occur after the initial 6 month period. In addition, the inclusion of licensees may further inflate the compliance rates cited in the report. Licensees are subject to more lenient enforcement processes (Home Office 2002). They are allowed more incidents of non-compliance than their counterparts on community based orders. Perhaps linked to this, when the compliance record of probationers (excluding licensees) is estimated, the figure drops to an average of approximately 57% in April 2004 and 65% in December 2004, within the same 6 month time frame (NPS 2005). Again these figures fail to account for the higher rates of non-compliance that would according to national statistics occur as the order progresses.

Importantly, it is possible that these figures highlight the outcome of the less punitive enforcement procedures to which licensees are subject. The finding that they account for the high compliance rate cited above lends credence to the position of several commentators who argue that punitive enforcement polices only serve to increase the likelihood of non-compliance given that they effectively set offenders up to fail (Hedderman and Hough 2004).

Notwithstanding the tendency to underestimate non-compliance rates, studies and official reports or audits have consistently shown that many probationers fail to comply and that non-compliance is typically in the form of absenteeism or total absconsion (Ellis et al. 1996; Ellis and Winstone 2002; Farrall 2002a; Mair and May 1997; National Probation Service 2004; Underdown 1998). Several unexplained and unenforced absences were recorded by the survey reported by Mair and May (1997). Similarly, of the representative sample of 199 probationers in the study of the impact of probation on probationers' lives by Farrall (2002b), 20% n=40, did not maintain contact with their probation officers for extended periods of up to several months and over a year. Several were out of touch and untraceable for the duration of the imposed order.

More recently, the high non-completion rates associated with accredited group work programmes have been documented (National Probation Service 2004; Hollin et al. 2004). For instance, an evaluation of the 'Think First Programme' revealed that data on reconviction rates released by the first 18-24 months were questionable because of high dropout rates (Ellis and Winstone 2002; Home Office 2000a). Likewise, the study by Dawson and his colleagues (2005) found that of the 199 probationers participating in the 'Cognitive Skills Booster Programme' piloted across 14 probation areas in 2005, 56 dropped out of the programme whilst 9 failed to start. Of the 56, only 7 were formally breached in court. The authors put it that: 'several sites, particularly in the community, experienced problems with attrition' (2005:18). They also noted that the high attrition rates observed is typical of other Offending Behaviour Programmes. More recently, a study by the Oxford University Probation Studies Unit between 2000 and 2001 in 3 probation areas examined the reconviction rates of the probationers participating in the accredited 'Think First' program.

The study found that of the 650 probationers with additional requirements to attend the program, almost half (42%) did not commence the court mandated program. Added to this, there was a 28% attrition level, whilst only 28% completed the program. Importantly, the study found that the reconviction rates were significantly lower among the completers even twelve months post completion. This was not affected by predicted risk of reconviction (NPS 2006; see also Hollin et al. 2004). Indeed a comprehensive evaluation of accredited programs also found high rates of non-completion among the probationers (Hollin et. al 2004). Recognising the problems posed by attrition rates and reflecting on the 'What Works' initiative that heralded the introduction of the accredited programs, Underdown (2001) states that,:

> A central challenge to the probation 'What Works' initiative lies, I believe, not so much in the service's ability to use these evidenced methods with skill and commitment, but rather in an issue central to rehabilitative work in a community setting, the issue of compliance and engagement' (2001:118).

The high rates of attrition noted in the accredited programs as discussed above may have been linked to the expedited implementation of the 'What Works' initiative in which the relational element of supervision was overlooked as was the effective application of the skills identified as central to the effective implementation of accredited programs. Attrition rates may also be linked to the possible impact of rigid enforcement practices (Raynor and Vanstone 2007). More recent evaluations have since revealed improved completion rates and outcomes (NPS 2005; Raynor and Vanstone 2007). Discussing the link between the punitive enforcement framework and the attrition rates associated with accredited programs, Raynor and Vanstone note that:

> ...a significant obstacle to the 'What Works' initiatives was the National Probation Service's commitment to rigorous enforcement and the reduction of practitioners' discretion to show flexibility

even in low-risk cases or with offenders whose lifestyles were so chaotic that the only realistic target would be improved compliance rather than full compliance' (2007:79-80).

Meanwhile, high rates of non-completion have also been observed in schemes incorporating strict enforcement strategies. This draws attention to the viability of the deterrent strategy underpinning these schemes. The Home Office sponsored study by Partridge and colleagues (2005) evaluated the implementation of the ICCP (an intensive community service scheme designed for young offenders aged between 18 and 20 years). The scheme involves the enhanced monitoring and control of probationers in the community using curfew and electronic monitoring devices. It also involves a 'swift' response' to non-compliance (Partridge et al. 2005). The study sampled 433 probationers sentenced between April 2003 and March 2004. The figure represents 86% of all those sentenced to the order in the time frame. The study found that only less than half of the participants (48%) were still attending appointments at the end of the study. 60% of the 26% breached involved frequent non-compliance.

As mentioned above, official audits also reveal the extent of non-compliance (see Hedderman 1999; Hedderman and Hearnden 2000; HMIP 1993; 2003). A three stage audit of enforcement practices sponsored by the now defunct Association of Chief Officers of Probation (ACOP) in 1999, was a wide ranging survey of enforcement practices across the 54 probation services (as they then were, now 42 areas since 1 April 2001 and the introduction of the National Probation Service-NPS). The 1995 National Standards were in operation during the first audit which examined the case records of 10,008 probationers (Hedderman 1999; Home Office 1995). The 1995 National Standards provided that breach action should be commenced following two unacceptable absences.

The audit was conducted by Hedderman (1999) and it explored *inter alia*: the extent to which breach practices mirrored the requirements of the National Standards that breach action should normally follow a third unacceptable absence. The audit found that only approximately half the probationers attended their appointments with no unacceptable failures. This figure would therefore include those who had been absent at some point but were judged to have a reasonable excuse for absence (Hedderman 1999). The second national audit of enforcement also initiated by ACOP (Hedderman and Hearnden 2000) analysed case records covering 4,386 cases in all probation services (54). The cases were similar to those included in the first audit. Its aim was to examine any changes to practice in the six months following the initial audit. Similar to the contexts in which the initial audit was conducted, the 1995 National Standards were in operation. Comparisons were made between the findings of this audit and those of the first audit. It found no significant differences in the compliance rates observed in both audits, suggesting that compliance rates were again found to be quite low. Furthermore, a higher number of cases had at least one unacceptable absence in the second audit - 54% compared with 49%. One explanation offered for this apparent increase in the rate of unacceptable absences was the increased propensity to define more cases of absence as unacceptable (Hedderman and Hearnden 2000). In the absence of further evidence to substantiate this contention, it is plausible to suggest that the decline may reflect general patterns of attendance and the reluctance to enforce compliance to the degree required by the National Standards. Indeed it had been acknowledged that changes to practice proposed by the previous audit had not been fully implemented at the time of the second audit. As such, enforcement practice could not have been closely linked to the revised enforcement policies.

The third national audit was conducted during the operation of the 2000 National Standards (Hedderman and Hearnden 2000). The aim was to uncover the extent of compliance with the new enforcement arrangements. The then 54 services participated in the audit and 8,924 cases commencing probation orders, community sentences or licenses during September 2000 were included in the study. The audit revealed only a slight (4%) increase in the proportion of offenders that kept their first appointment. This was attributed to the newly created requirements to notify offenders of their first appointment before they leave court. Compared with the second audit, there was only a slight increase (2%) in the proportion of offenders who attended all appointments or provided a reason for absence which was judged to be acceptable. Likewise, only a 4% increase from the 'compliance rate' recorded by the second audit could be observed in the third audit. Based on the more restrictive requirements introduced by the 2000 standards (see Home Office 2000b), this figure was reduced to a 3% increase when compared with the previous audit. Therefore, the effect of the new standards was such that it resulted in a reduction in the rates at which offenders could be said to have met the standards' compliance requirements.

Studies exploring the supervision of Community Service Orders[ii] also reveal low compliance rates. Drawing on the study of Community Service Order pilots by Pease and colleagues (1975), Pease and McWilliams (1980) observed that:

> In practice it is clear that few offenders sentenced to community service appear to have a real intention of working off the hours which the court has ordered. It is also clear that not working off the hours is possible (1980.92).

This apparent reluctance to comply was accompanied by the reluctance of officers to pursue breach action although it remains unclear whether there were any links between the two.

The foregoing highlight the nature of compliance achieved in practice and the extent of non-compliance. Compliance typically assumes a unilateral and narrowly defined form - attendance. Furthermore, many probationers fail to comply with the requirements of their orders. Therefore, emergent from the above examination of the background to this study is the need for further empirical and theoretical insights into the most effective mechanisms for encouraging compliance. Developing an effective mechanism for encouraging compliance with community penalties represents the empirical agenda underpinning the current study.

Thesis Structure

The thesis comprises four parts. Part one provides a review of the relevant literature. It comprises two Chapters. Chapter one explores the wider structural contexts of contemporary probation policy in order to provide a detailed account of the theoretical and ideological terrain from which current supervision policy emerged. Chapter two extends this exploration of the extant literature. The Chapter focuses on the conceptual framework underpinning the study as developed by Bottoms (2001). As such, drawing on the relevant literature base, the Chapter explores how routine, habit, constraint, normative and instrumental mechanisms may operate in the context of securing compliance with community penalties.

Part two of the thesis details the processes of data collection and analysis. It comprises Chapters three to five. Chapter three describes the methodological framework adopted by the study, highlighting its roots in interactionism and the emphasis on the links between social interactions and human behaviour. Also explored in the Chapter are the nature of the sample achieved and implications for empirical generalisability. Chapter four describes the nine categories that emerged from the three phases of iterative data collection and analysis and also from the follow up study. The Chapter examines in detail the analytic processes through which the nine categories were developed. In keeping with the demands of reflexivity crucial for enhancing the intellectual rigor of qualitative studies, Chapter five provides an account of the analytic devices that aided the processes of developing the nine emergent categories detailed in Chapter four.

In Part three of the thesis, the emergent theoretical framework and the processes of its development are examined. Part three comprises Chapters six to nine. In Chapter six, the nine emergent categories were integrated into the three key categories that

represent the emergent conceptual framework for understanding community penalties. The three key categories were conceptualised as: reacting to the formal rules', confronting unpredictability' and 'adaptation techniques'. The Chapter also explores how a core category or the central theme underpinning the emergent conceptual framework was identified during selective coding. The Chapter demonstrates the conceptual linkages between the core category and the three key categories. The next three Chapters explore in detail the three emergent categories. Thus Chapter seven details the processes of reacting to the formal rules, Chapter eight examines the situational and structural contradictions that underpin the officers' actions in confronting the unpredictability of the clients. Chapter nine details how the officers react to violations and how the officers' reactions shape the nature of compliance achieved. The Chapter also examines the adaptation techniques the probationers' devise in order to align their behaviour with the definition of compliance prescribed by the officers. In Chapters six to nine, illustrative data extracts and case studies are provided.

Part four of the thesis reflects on the study's findings and the methodology employed. In Chapter ten, an attempt is made to juxtapose the study's findings with that of the extant literature in order to highlight areas of consistency and also the new insights developed by the study. An account of how the central research question posed by the study was answered is also provided in this Chapter. Furthermore, the Chapter discusses the possible policy implications posed by the study's findings. Finally, Chapter eleven evaluates the methodology employed by the study. It draws attention to the potential strengths and weaknesses of this methodology. It also provides an account of how the quality of the study can be ascertained whilst recognising that any judgements as to the quality of any study should proceed with due reference to the

study's philosophical position. Further, Chapter eleven outlines the efforts made to maintain ethical standards. The Chapter also identifies areas for future research.

PART ONE:
LITERATURE REVIEW

Chapter One: Enforcing community penalties: the social and political contexts

Compliance is negotiated within social and political contexts. As such, an exploration of the legislative changes and other developments that presaged the National Standards governing the supervision of community penalties should facilitate a contextualised understanding of the experiences of probationers and their officers in securing compliance.

1.1: The diverse ideological bases of current policy

The theoretical and ideological basis for current enforcement policy can be traced to the convergence of neo-conservatism, populism and 'penological pragmatism' (Cavadino and Dignan 1997, quoted in Brownlee 1998.7; Cavadino and Dignan 2002). In the well documented shift from penal modernism[iii] (Hudson 2002) to late modernity[iv], a populist neo-conservative ideology emerged in the 1970s. It set in motion a series of developments that culminated in the official reformulation of the traditional ethos of the service from a predominantly welfarist orientation to a more punitive orientation (see for example, Brake and Hale 1992; Cesaroni and Doob 2003; Downes and Morgan 2002; Garland 2001; Raynor and Vanstone 2002; Young 2002, 2003). The effort to reformulate the ethos of the service was more marked in official discourses about probation policy. However, at the level of actual policy making it appears that there has been a fusion of 'populist punitiveness' and the more muted 'penological pragmatism' both of which underlie the development of restrictive community based penalties (see Bottoms 1995). Within this ideological framework, 'predominantly pragmatic' sentencing polices emerged to enhance diversion from custody in order to reduce the fiscal costs of rising prison numbers (Cavadino and Dignan 2002; Brake and Hale 1991). Therefore, although political rhetoric was centred on the need for enhanced punitiveness, this rhetoric was devised for public

consumption and politically expediency. The rhetoric coexisted with more muted but pragmatic diversionary strategies designed to implement the official drive to reduce the fiscal costs associated with rising prison numbers (see also Cavadino and Dignan 2002).

1.1.1: Pragmatism: prioritising diversion

As the arbiter of rehabilitative interventions, the probation service was at the forefront of the search for viable alternatives to custody. It has been argued that in order to foster this role within an increasingly punitive policy climate it appeared imperative to render community penalties more punitive in order to ensure their credibility with the courts. Therefore, to sustain the pragmatic agenda, efforts were made to enhance the diversionary potential of community penalties (Cavadino and Dignan 2002). For instance, the Criminal Justice Act (CJA) 1982 introduced the possibility of more demanding requirements such as attendance at specified centres, and more punitive enforcement strategies. Further, the CJA 1991 incorporated a principled approach to sentencing. It sought to restrict the use of custody and solidified the diversionary role of the service (Raynor and Vanstone 2002). Importantly, it transformed community penalties from alternatives to punishments to demanding punishments in their own right (Brownlee 1998; Raynor and Vanstone 2002). As such, in current enforcement policy and probation policy in general, a *prima facie* punitive stance designed to fulfil the populist agenda coexists with a more muted pragmatic policy making agenda.

1.1.2: Contemporary policy developments

Other policy developments that presaged the current policy arrangements include the New Labour government's modernising agenda that extended the managerialist agenda of its predecessor. Thus, current policy incorporates the hallmarks of managerialism: demands for accountability and standardised practices.

Also underlying current policy are reduced professional autonomy and increasing centralisation (Hopkinson and Rex 2003). Commentators argue that the managerialist agenda focuses on outputs rather than outcomes (Humphreys and Pease 1992; Raynor and Miles 2007) or on the prioritisation of 'quantifiable behavioural modification' over actual behavioural modification (Nellis 2006: 53). In a recent performance audit of probation practice it was noted that 'the probation service's performance targets do not focus sufficiently on outcomes' (National Audit Office 2008:2). The audit recommended that performance targets should also incorporate:

> ...how well offenders are being managed and the extent to which outcomes of community orders are achieved (p.6).

The focus on quantifiable performance or 'outputs' at the expense of 'outcomes', has been linked to the managerialist concern to enhance public sector performance in order to ensure cost-effectiveness. Humphrey and Pease point out that with managerialism, effectiveness appears to be equated with cost effectiveness at the expense of other elements of practice:

> ... in the 1980s, there has been a tendency for public sector organisations which have managed to reduce their operational costs to be defined as effective, without consideration of the corresponding impact on wider matters of service quality (1992.32).

It is argued that the introduction of the key performance indicators (KPIs) traversing several aspects of practice is a manifestation of the managerialist concern to enhance performance (Hough 2006). For instance, in enforcement practice in 1998/1999, a new Key Performance Indicator (KPI) was introduced to measure the service's performance in achieving the target of enforcement action before a third unacceptable failure in 90% of appropriate cases (see also, Home Office 2000c). The official focus on enforcement rates as the indices of effectiveness creates a paradox in which the failure to successfully engage offenders in their orders is officially endorsed as effective practice in the narrow focus on effectiveness. Moreover, since the

implementation of the first National Standards in 1992, the HMIP has used the Standards to measure the quality of aspects of the Services' work including enforcement practice. Also incorporated in contemporary policy is the evidence based approach to community supervision. The approach is based on social learning theory and the belief that behavioural and attitudinal change can be achieved by reconditioning predisposing cognitive deficiencies linked to offending behaviour (McGuire and Priestley 1995; McGuire 2002; Hopkins-Burke 2005).

The interrelated discourses of risk management and public protection also underlie current enforcement policy. The risk focussed approach reflects wider social and cultural trends. It has been traced to developments in the late modern era which led to cultural changes and the reorganisation of community and social relations culminating in a preoccupation with reducing risks and excluding those classified as 'dangerous' (see Feeley and Simon 1994; Garland 2001; Loader and Sparks 2002). Whatever the reason for the prevailing concern to minimise risks, the discourses of risk management and public protection were formalised in penal policy with the publication of the White Paper, *Crime, Justice and Protecting the Public* in 1990 (Home Office 1990; see also McNeill and Robinson 2004). Kemshall and Wood note that:

> By the close of the twentieth century risk had come to preoccupy much of the probation services agenda. This reflected increased policy, media and public concern with high-risk offenders, and most notably sex-offenders, followed by a raft of legislation to deal more proactively with those deemed to present the highest risk of harm. As a result, policy trends and legislation had firmly enmeshed the Probation Service in a new penology of risk (2007:381).

Manifestations of the focus on risk management in contemporary policy include the Sex Offender Register introduced by the Sex Offender Act 1997, the Sex Offender Order introduced by the Crime and Disorder Act 1998, and the Multi Agency Public Protection Panels (see also Kemshall and Wood 2007). Added to these is the

development of sophisticated risk assessment tools including the Offender Groups Reconviction Scale (OGRS) risk prediction tool, the Level of Service Inventory Revised (LSI-R) tool, the Assessment Case management Evaluation (ACE) and more recently, the Offender Assessment System (OASYs) tool. Over time these assessment tools have evolved into tools that may be applied to the more productive aim of ensuring that interventions are adequately tailored to assessed criminogenic needs, risk of harm and risk of re-offending (see generally, Aubrey and Hough 1997; Raynor et al. 2000; Mair et al. 2006; Bonta and Wormith 2007).

An additional policy development that is central to contemporary practice is the formal requirement that the service should engage in partnership working arrangements with external agencies and other organisations within the voluntary sector. Again several commentators identify links between these policy developments and wider social concerns. They posit that the multi agency criminal justice partnerships represent part of the responsibilisation approach adopted by late modern governments (Garland 2001; Minkes et al. 2005). According to the responsibilisation thesis, several developments since the advent of the late modern era prompted a growing realisation that crime reduction cannot be effectively managed solely by the state through its criminal agencies amidst rising crime rates and empirical studies questioning the effectiveness of criminal agencies. Consequently, the state sought to undermine the hitherto unquestioned professionalism of criminal justice practitioners. Professionalism and state control of crime reduction matters were replaced with a neo-conservative criminal justice approach to crime control in which the state underemphasises its role but extends the responsibility for crime reduction to the wider community (Garland 2001; Minkes et al. 2005). With neo-liberalism, the macro-structural factors associated with crime are ignored in the attempt to locate the

causes of crime within the family or within society in general (see also Brake and Hale 1992). The Crime and Disorder Act 1998 provided the statutory basis for partnership or multi agency collaborations. Local authorities were mandated to form multi agency working partnerships that should have representation from criminal agencies including the probation service and also from sections of the community.

Detailed above are the social and political contexts from which contemporary probation policy emerged. It appears that contemporary policy changes reflect wider social developments that have impacted on perceptions of crime and its management. The current enforcement framework incorporates provisions that reflect the rudiments of contemporary penal policy particularly, punitiveness, pragmatism, managerialism and risk management/public protection.

Having placed the current enforcement policy in its wider socio-political contexts, an examination of the nature of probation enforcement since the introduction of the first national standards is pursued below.

1.2: Streamlining enforcement: The National Standards

Since 1992, several National Standards of general application incorporating enforcement requirements have been introduced (Home Office, Department of Health and Welsh Office 1992; Home Office 2000b; Home Office 2002; Home Office 2005; NOMS 2007a)[v]. As mentioned above, the standards reflect wider policy concerns including populism, pragmatism, managerialism, risk management/public protection and partnership working. Successively, the standards have been become increasingly prescriptive and restrictive. They are prescriptive because in the quest for accountability, they seek to streamline supervision practices by curtailing the use of discretion. For instance, although the 1992 standards permitted the judicious use of discretion, the 1995 standards were more prescriptive limiting the use of discretion by

requiring the intervention of a manager in appropriate cases. Furthermore, the standards provide for detailed recordings of enforcement decision making.

In pursuing their restrictive agenda, the standards also set out the conditions for mandatory enforcement. As mentioned earlier, whilst the 1995 standards reduced the number of unacceptable absences before breach action from three unacceptable absences to two unacceptable absences within any twelve month period, subsequent standards (the 2000 standards - revised in 2002, the 2005 standards and the 2007 Standards) permit only one unacceptable absence before breach action. Importantly, the generic order introduced by the 2005 Standards may encourage sentencers to impose a combination of orders that in effect, impose excessive restrictions and demands on offenders, thus potentially increasing the chances of failure. In predicting this possibility, Brownlee responds to earlier attempts to create a generic order with the statement that:

> A further problem is the danger that in an effort to make non-custodial disposals appear convincingly punitive by 'stacking up' community penalties in ever more demanding combinations, sentencers will create the conditions under which failure and breach are more likely than not (1998.133).

Extending these punitive provisions, Schedule 8 of the CJA 2003 revokes disciplinary breach action. Under previous arrangements, the courts were permitted to simply reprimand the probationer for failing to comply with their order. Schedule 8 provides that in responding to breach, the courts must either amend the order by adding further requirements or by extending its duration, or, revoke the order and re-sentence the probationer. The courts are no longer permitted to 'take no action, issue a warning or impose a fine' without punitively amending the order (see also NOMs 2005: section 2). Consequently, previous efforts to ensure that the offender was able to complete their order may be undermined by the new arrangements. Indeed, in the study by Ellis

and his colleagues (1996:12), most of the officers described the efficacy of disciplinary breaches as a harmless yet effective deterrent. Disciplinary breaches were used for almost all cases of first breach. The recommendation of a revocation of the order was typically reserved for cases where the order had broken down or for persistent incidents of breach. It is possible that the decision to remove this disciplinary measure represents a pragmatic attempt to reduce breach rates. It may be that probation officers are being implicitly encouraged to minimize the rate at which they initiate breach given that court hearings for a simple reprimand (disciplinary breach) may not be a cost effective approach to enforcement.[vi] High breach rates may also engender 'net widening' where more probationers become vulnerable to more severe sanctions for minor incidents of breach.

Meanwhile, by requiring celeritous,[vii] certain and severe punishment for non-compliance, the standards rely on the deterrent mechanism of compliance. Furthermore, reflecting wider policy trends, since the introduction of the 1995 standards, risk management and public protection have superseded earlier concerns to protect the probationer's rights. The concern with risk management was extended by the 2005 standards which provided for the categorisation of probationers across tiers of predicted risk levels. The standards specifically targeted those classed as 'high or very high risk' for increased surveillance and punitiveness:

> For Tier 3 and 4 cases, it is expected that the combination of all the requirements will lead to a significant level of contact and restriction on liberty' (National Standards 2005.14).

Added to enhanced surveillance, and departing from the previous standards, the 2005 Standards provided that risk assessments should be prioritized over assessments of needs or other difficulties that may underlie offending. The most recent standards published in 2007, retains the restrictive and a prescriptive provisions of the previous

standards although they permit a more individualised enforcement approach. They encourage officers to employ compliance strategies such as home visits and reminders using their discretion in any given case.

The deterrent strategy underpinning the restrictive provisions is not underpinned by empirical evidence of the effectiveness of deterrent mechanisms of compliance (Bottoms 2001). In addition, it is quite possible that onerous reporting and enforcement requirements may engender higher rates of non-compliance particularly where a strict enforcement approach is not balanced against compliance strategies that take into account several circumstances that may affect compliance (Underdown 2001). The prescriptive format has been rejected by several commentators who posit that such an approach would encourage covert discretionary practices (Vass 1984). Nevertheless, incorporated in the enforcement framework is the implicit presumption that deterrent enforcement will encourage compliance. However, as noted in Chapter one, studies show that many probationers fail to comply with their orders despite the prescriptive and restrictive enforcement framework.

There is therefore an apparent disparity between policy objectives and actual outcomes and this disparity highlights two issues. Firstly, policies do not translate into practice in any straightforward manner. They have to be implemented. Therefore to understand this disparity between policy objectives and outcomes there is a need to examine the practical implementation of policy requirements. This pertains directly to the activities of the two parties, namely the probation officers and the probationers. The second issue that may provide insights into the nature of this disparity rests on the actual effectiveness of the current prescriptive and restrictive framework governing supervision. The question implied in this is: if it is found that policies are implemented as intended by policy, how effective is the deterrent framework in

ensuring compliance? Both issues are central to this study. They direct attention to the nature and effectiveness of enforcement policy and practice. The literature on the effectiveness of the enforcement framework is explored in more detail in Chapter Two. Meanwhile, a detailed overview of the relevant literature on enforcement and supervision experiences will be pursued next. The empirical literature may provide insights into the practical implementation of policies.

1.3: Reflecting on enforcement practice: Key themes from the extant literature

As noted above, only a few studies have explored the subject matter of compliance and enforcement. In most of the studies cited here, both concepts have tended to be peripheral to analysis. Nevertheless, the studies provide useful insights.

1.3.1: Deviating from policy – prioritising welfarism over correctionalism

Studies consistently show that officers are typically reluctant to apply strict enforcement polices. This represents a tendency to depart from policy provisions and may contribute to the noted disparity between policy objectives and outcomes. However there is limited evidence of a link between strict enforcement and compliance. Indeed the evidence points to the reverse and this is considered in more detail in the next chapter. Meanwhile, as mentioned above, the reluctance to enforce orders as strictly as prescribed by policy and also, the tendency to prioritise the provision of help and support have been noted by several studies. In the 1980s Willis (1983) for instance, found that probationers and their officers tended to focus upon addressing socio-economic difficulties such as accommodation, employment and family related difficulties. There seemed to be a general reluctance to enforce the terms of the order rigidly. Studies exploring the supervision of Community Service Orders in the 1980s also found evidence of this reluctance to enforce orders as strictly as prescribed by policy. Pease and McWilliams (1980) explored the enforcement of

Community Service Orders. They suggested that although there was some acknowledgment of the need to enforce Community Service Orders if the order was to retain some credibility with the courts and fulfil its diversionary possibilities, the traditional disinclination of many officers to enforce breach was evident in the low rates of breach despite high rates of absenteeism. Vass's (1984) study of the enforcement of Community Service Orders also found a general reluctance to enforce compliance. He employed an overt participant observation technique in an attempt to explore the interactional contexts and experiences of supervision and how these affect outcomes. He found that enforcement was a matter of constant negotiations between officers and their supervisees. There was a general tendency to overlook many violations in order to avoid breach processes and the further assimilation of the offender into the criminal system.

It therefore appears that this reluctance to enforce was very much maintained during the 1970s and 1980s despite the political upheavals that culminated in the shift towards correctionalism as noted above. Before this shift, enforcement was a marginal aspect of supervision practice. The 'rehabilitative ideal' was intact and the primary objective was to 'treat' or 'rehabilitate' the probationer. Strict enforcement may have been at odds with the prevailing orthodoxy. Thus, there was an apparent lack of concern with streamlining enforcement practice both at policy, organizational or practice levels and this may be traced to the humanitarian principles (Bochel 1976) or the moralistic principles (Mair 1997) that underpinned probation supervision in its early formations. Nevertheless, studies show that at the level of practice, there has been a sustained concern with providing a social work oriented service even after the implementation of the first National Standards in 1992 which sought to streamline enforcement practice and introduce more punitive requirements. Ellis and his

colleagues (1996) found that officers were reluctant to enforce strictly in most cases. For instance, in cases involving substance dependent probationers participating in rehabilitative programs, officers were reluctant to enforce as strictly as required, believing breach action to be counterproductive. Equally, an internal audit of enforcement practice conducted after the implementation of the more restrictive National Standards in 1995, found a general reluctance to enforce compliance (Hedderman 1999). In cases involving more than three unacceptable absences, the audit found that breach was not initiated as a 'matter of course' as would be expected in line with the requirements of the National Standards. Indeed, three cases involving more than 10 unacceptable absences did not attract breach action (Hedderman 1999).

1.3.2: Prioritising diversion over enforcement

Apart from welfarist concerns, other factors may explain the noted reluctance to enforce orders strictly. As mentioned earlier, post-1970s saw the advent of neo-conservatism, populism and penological pragmatism. Diversion from custody became a key policy objective with the service occupying a pivotal role. Raynor's (1988) study of an intensive probation project with diversionary aims found an initial tendency to recommend a custodial sentence where offenders were reconvicted for breach. This practice was subsequently revised in favour of more diversionary practices which sought to avert the 'up-tariffing' potential of the initial approach. 'Up-tariffing' would have undermined the diversionary objectives of the project. Decision making was left to the courts although the officers were inclined to suggest a more lenient alternative where the probationer had indicted a willingness to comply. In all, Raynor observed that:

> There was no automatic punitive response towards those whose compliance was unsatisfactory, and the court was prepared to listen to constructive suggestions' (1988.106).

The study suggests that diversionary aims were prioritised at policy and practice levels over strict enforcement practices that could impinge on the successful diversion of probationers from custody.

1.3.3: Convoluted breach processes

Administrative inconvenience associated with the breach process may also contribute to the reluctance to enforce requirements. Vass (1990.9) found that officers were in general, reluctant to initiate breach proceedings and that 'considerations of time and expense also led to some delay or avoidance in initiating breach proceedings'. However the general tendency to overlook many violations in order to avoid convoluted breach processes was tempered with the effort to avoid the further assimilation of the offender into the criminal system. This was central to the negotiations that underpinned community service supervision.

Added to the reluctance to enforce orders, studies have revealed the significant degree to which officers apply their discretion in all aspects of supervision including enforcement.

1.3.4: Discretionary enforcement

It appears that until the publication of the National Standards, the use of discretion was implicitly endorsed at policy and organisational levels (Hedderman and Hough 2000). Indeed, the National Standards 1992 provided room for professional discretion in enforcement (Home Office, Department of Health and Welsh Office 1992). For instance, one of the four objectives set out by the standards was to:

> ...build on the skill and expertise of practitioners and service managers...by enabling professional judgment to be exercised within a framework of accountability.

It also recognised that;

> No two offenders are identical. It is essential that supervision takes adequate account of the individual needs and circumstances of each person (1992.3).

It is the argued that 1992 National Standards sought to: 'regularise rather than eliminate the exercise of professional judgment in dealing with absences and other failures to comply' (Drakeford 1993: 151). Subsequent standards have since reversed this trend, although the most recent Standards published in 2007 appear to encourage more individualised enforcement (NOMs 2007a).

Meanwhile, the studies conducted before the introduction of the first National Standards highlight the excessive professional discretion underpinning enforcement practice. Lawson (1978) found the widespread use of professional discretion and the tendency to resort to breach as a last resort and after due consideration of all extenuating circumstances. Similarly, earlier studies had found inconsistencies in practice marked by the widespread use of discretion, with little attempt at coercion or control (Folkard et al. 1974).

It appears that discretionary practices survived the introduction of the more restrictive National Standards. Studies and external official audits reveal that this is the case (Ellis et al. 1996; Mair and May 1997; HMIP 1993; HMIP 2003). The audit by the Home Affairs Select Committee on Alternatives to Custody for the House of Commons in 1998 found widespread discretion in enforcement (House of Commons 1998). Similarly, internal audits of enforcement reinforce these findings (Hedderman 1999).

Studies also suggest that probation officers tend to apply their discretion to a greater extent than the Community Service Officers. They are also more likely to offer more flexible responses to non-compliance than the Community Service Officers (Ellis et al 1996; Hedderman 1999). For instance, Mair and colleagues (1994) found conflicts between probation and community service officers implementing the orders. The latter rejected the perceived leniency of the former whilst probation officers were

critical of the purported severity of the Community Service Officers. Nevertheless, there is empirical support for the contention that the supervision of Community Service Orders has also been subject to widespread discretion (Pease 1977; Vass 1986).

1.3.5: Disparities in supervision practice

Discretionary enforcement would necessarily engender disparities in practice. Mair and May (1997:1) state that: 'wide diversity of practice' has traditionally been the hallmark of probation practice. There is significant empirical support for this observation. For instance, The Home Office sponsored study by Pease and colleagues (1975) examined the implementation of CSOs in the six trial areas, Shropshire, Nottingham, Inner London, Durham, South West Lancashire and Kent. In the pilot studies, they found significant variations in supervision and breach practice. There were disparities across areas pertaining to what constitutes an acceptable explanation for absence. Likewise, the Home Office commissioned study by Ellis and colleagues (1996) explored the methods of securing compliance with Community Service Orders, Probation Orders and Combination Orders (as they then were). It also examined breach decision making and the breach process. The study was conducted during the operation of the 1992 National Standards. However, it found also widespread disparities in breach practice across the five probation areas studied. This was the case 'within and between probation areas' (Ellis et al. 1996:12).

Although enforcement practices are subject to professional discretion and would tend to vary across jurisdictions, the studies also suggest that there are several conditions under which breach action would be almost certain. Persistent absenteeism with no notification provided would usually attract breach action. The failure to attend the first appointment also increases the likelihood of breach. In all, a positive relationship

between both parties should ensure greater flexibility particularly in cases where the officer can (utilising their discretion) confidently identify non-compliance as an atypical behavioural pattern (see in particular, Ellis et al. 1996; Hedderman 1999).

1.3.6: The officer's biography

Studies also suggest that the personal attributes of the officer may affect the nature of supervision and outcomes. The older and longer serving officer's experiences may equip them with interpersonal and other skills required for effective negotiation (Bottoms 1999). Other factors that may potentially affect the quality of supervision include the officers' background, general life experiences, and experiences of working with other clients, personal values, experiences, 'practice wisdom', 'organizational expectations' and the pressures to operate in certain ways (Trotter 1996.6). Meta-analytic studies have also found links between individual officer skills and outcomes, highlighting that specific skills are more effective in ensuring the effective engagement of the client (Dowden and Andrews 2004). Furthermore, younger staff lacking experience may be more inclined to resort to formal and more restrictive disciplinary procedures when confronted with minor issues of non-compliance. Likewise, the newly qualified officers trained under the new style training arrangements may employ strict enforcement measures more readily than their more experienced counterparts. The new training arrangements introduced in 1997/98 effectively removed the Social Work component of probation training replacing the Diploma in Social Work with the Diploma in Probation Studies. It has been argued that the new training style may be too focused on contemporary policy prescriptions. For instance, the inflexible application of rules may be encouraged in training in order ensure that managerialist, punitive and other policy objectives can be translated in practice (see Nellis 2003). However, there is evidence to suggest that the newly

trained officers may not necessarily be committed to the rigid application of the prescriptive enforcement provisions incorporated in current policy. Treadwell's (2006) study explored the impact of the new training arrangements on supervision practice and found that the orientation of newly trained officers is not as avowedly correctionalist as predicted although the managerialist influence on the new training arrangements may be such that the quest to preserve job security encourages rigidity at the expense of reflective and theoretically informed practice (Treadwell 2006). Nevertheless, variations in officer biographies may fuel inconsistencies in practice.

The studies cited above suggest that policy directions do not necessarily translate into practice directly. The studies reveal several factors that may mediate the direct application of policy requirements. These include the tendency to prioritise a welfarist approach, pragmatic diversionary objectives, the administrative inconvenience associated with breach action, discretionary decision making, disparities in practice and differing officer attributes.

1.4: The probationer's perspective

This section examines the empirical literature on the probationers' perceptions and experiences of supervision. The literature may provide insights into the nature of compliance and may also illuminate the factors that contribute to the documented disparity between policy objectives and outcomes.

1.4.1: Positive evaluations

Studies show that many probationers expect practical, therapeutic and other support during supervision (Davies 1969; Willis 1981). For many, this is perceived to be the primary objective of the order. Perhaps this explains in part the findings that probationers would tend to offer positive evaluations of their officers and of their supervision experiences. Rex's (1999) qualitative study sampled 21 officers and 60

probationers in order to explore the possible impact of supervision on desistance. Her study was conducted in the context of the newly established punitive policies accompanying the introduction of the CJA 1991. She examined how the shift towards punitiveness impacted on the rehabilitative objective of the probation order as perceived by the officers and the probationers. Rex found that (88%) of the probationers defined the central role of their officer in welfarist terms. Only three probationers failed to define the officer's role as being primarily welfare based and rehabilitative. Furthermore, Rex (1999) found that 68% of her sample offered positive evaluations of supervision. Ford and his colleagues (1997) also found positive evaluations of supervision among the probationers sampled in their study. The positive evaluations may have been influenced by the underlying belief that the objective of the service is primarily welfarist. The study revealed a clear expectation of support during supervision. Most responses (87%) identified securing rehabilitation as the key role of the officer. Reinforcing the view that the officer's brief is not punitive but rehabilitative, most of the probationers sampled by Ford and Colleagues did not subscribe to the view that the role of the officer parallels that of a prison officer. In line with previous studies, most reported that the function of the officer is to provide socio-economic support such as help with employment (72%), accommodation (70%), and family related and personal problems (69%). The studies cited above suggest that the role of probation officers was widely perceived by probationers to be primarily welfarist. Indeed, despite the correctionalist trend in contemporary policy, the prevailing view of probation with the wider public is that of a welfare oriented service and not a punitive organisation responsible for public protection (Chapman et al. 2002; Editorial; Howard Journal 2003).

1.4.2: Therapeutic benefits

The literature also suggests that most probationers value the role of their officer in listening to their problems. This represents the therapeutic role of the officer. Ford and colleagues found that the opportunity to discuss problems with the officer appeared to supersede the importance of providing help and support in the probationers' estimation. In the study (71%) of the responses indicated that this as the 'best' aspect of supervision whilst 34% cited practical help as the best aspect of supervision. Mair and May's (1997) study reinforces these findings. They reported on a survey which explored supervision processes, utility, and impact, as perceived by supervisees. The survey also examined the socioeconomic circumstances of the supervisees in order to contextualise their perceptions of the utility of supervision. The aim was to utilise their perceptions as an alternative measure of the effectiveness of supervision, thus diverging from the typical reliance on reconviction rates. The study included a random sample of 1,213 probationers on combination or probation orders across 22 of the then 55 probation areas.

In the survey, many probationers expressed positive comments about their officers. Many also said that they could speak to their officers about personal difficulties and highlighted the therapeutic relationship they shared with their officer. The study found that in terms of the positive aspects of supervision, the common view was that the order provided a therapeutic outlet. Less common were its role in providing practical help and advice or in ensuring desistance. According to Ford and his colleagues, this may be because, although most probationers felt that providing practical support is the key function of the officer, only few reported that the officers were able to perform this role with any degree of success. Other studies reinforce this finding that in resolving social problems, a facilitative role is preferable to the direct

intervention of the officer. For instance studies such as McCulloch (2005) and Rex (1999) have found that probationers do not necessarily expect their officers to directly resolve their practical problems; rather, the probationers welcome the guidance provided by their officers as they seek to resolve these problems themselves.

The foregoing suggests that there is a clear expectation and experience of welfarism during supervision. The links between a welfarist approach and compliance is unclear. What remains apparent is that according to studies and official statistics cited earlier, the rates of non-compliance (mainly absenteeism) appear to exceed the limits prescribed by the National Standards.

1.4.3: Interactions

In illuminating the micro contexts of supervision, studies suggest that the 'relational dimension' of supervision is central to achieving compliance with Probation Orders (Rex 1999) and with Community Service Orders (Vass 1984). The relational dimension of supervision has been sidelined in organisational policy and in the literature as the focus has shifted, since the 1990s to evaluations of the effectiveness of accredited programmes. As such, the nature of the interactions between both parties and also the potential impact of such interactions on outcomes have largely been ignored. Consequently, Hedderman writes that:

> Lack of adequate and consistent systems for monitoring and evaluating day-to-day work or special initiatives is the biggest obstacle to discovering what works' (1998.4).

It appears that the absence of sufficient policy and empirical interest in the 'relational dimension' of supervision affects all spheres of probation supervision including enforcement practice (Hedderman 1998.4). Therefore, the importance of the officer-client relationship has been overlooked in recent decades in the shift from a social work oriented service to a more correctionalist service. It is not surprising that the

potential impact of interactions between both parties during supervision on outcomes has not received sufficient policy attention. This is because the relational aspect of supervision is rooted in social work principles that are inconsistent with current policy objectives of control and risk management (see also Raynor and Maguire 2006). Notwithstanding these developments, there appears to be a growing recognition in the literature that the nature of the interactions between the probation officers and the probationers may affect outcomes (Burnett and McNeill 2005). The importance of the officer's therapeutic role as alluded to by many probationers has been discussed above. Aligned to this, studies exploring probation practice have identified some supervision skills that may be linked to compliance or to the successful engagement of the probationer. These skills include the ability to develop a good rapport with the probationer and continuity in supervision (Folkard et al 1974; Farrall 2002b), collaborative decision making, empathy, accessibility and the willingness to listen to the probationers' problems and discuss possible solutions (see for example, Mair and May 1997; Rex 1999: 372). The studies also reveal the supervision approaches linked to resistance and failure: undue control (Folkard et al 1974; Farrall 2002b); intrusiveness, being judgemental, patronising or disrespectful (Ford et al. 1997; Rex 1999). Added to studies within specific probation settings, meta-analytic studies exploring effective practice skills also point to several communication techniques that effectively engage the probationer and effect change (see generally, Dowden and Andrews 2004; Raynor and Maguire 2006:23). An exploration of the interactional contexts of supervision is therefore necessary for understanding compliance.

1.4.4: The macro contexts of supervision-- sociological variables

The macro contexts comprise the wider socio-structural factors that may affect how probationers comply with their orders. These are the dynamic and static attributes

incorporating the indices of social deprivation that have been found to impinge on compliance. Potentially, macro structural factors may contribute to the disparity between policy and outcomes. Generally, studies show that unemployment or a sporadic employment history, accommodation difficulties, and financial problems are linked to non-compliance (Lawson 1978; Davies 1969; May 1999). Also found to affect compliance are peer group influences and adverse family relationships (Davies 1969). In addition, practical problems may hamper compliance. In Mair and May (1997), the probationers sampled defined the negatives of supervision in terms of the difficulties imposed by the requirement to attend and also travel related difficulties. Poor mental health is also an obstacle to compliance (Davies 1969). It has been noted that probationers within this category are more likely to fail (Stone 1998). A request for alternative National Standards for this group was rejected by HMIP in 1993 (Stone 1998.3). Other variables associated with non-compliance are substance misuse (Mair and May 1997; May 1999), a period in the care of social services (McIvor 1992; Mair and May 1997) and literacy and learning difficulties (May 1999). Some studies show that previous criminal history may affect probation outcomes and that probationers with previous convictions are most likely to fail (Radzinowicz 1958; McIvor 1992). By contrast, other studies have shown that previous history has no impact on compliance rates (Farrall 2002a). Furthermore, studies also show that previous offences particularly dishonesty offences such as having a burglary conviction may be inversely linked to compliance (McIvor 1992; Mair and May 1997).

It is possible that the age and gender of the probationer may also affect compliance. The 'undeniable' link between growing older and a decline in offending has been established in the desistance literature (Rex 1999; 366). Lebel and colleagues put it that:

Most persistent offenders eventually abandon criminal activity (or 'desist from crime' as they get older' (2008: 131-158; Emphasis in original).

Other studies highlight the 'gender gap' in offending rates, pointing out that male offending occurs at a higher rate than female offending (Heidensohn and Gelsthorpe 2007). Similar findings also emerge in the probation literature in terms of short term compliance with community penalties. Mair and May (1997) found that women and older probationers were more committed to their orders and least likely to suffer breach action for non-compliance. Male probationers were more likely to have their orders terminated compared with their female counterparts. Likewise other studies show that older offenders were more likely to have their reasons for absence judged as being acceptable compared with those aged under 21 (Hedderman 1999; Hedderman and Hearnden 2000).

Studies suggest that levels of self motivation may affect compliance (Dawson et al. 2005). The evaluation of offending behaviour programs by Dawson and his colleagues (2005) traced the high attrition rates observed to the low levels of motivation demonstrated by the probationers. According to the officers sampled, the motivation to participate should form the basic criteria of eligibility to participate in the program. Equally, in his study of the aspects of probation supervision that may be linked to desistance, Farrall (2002b) found that the motivation to desist is an important criterion for desistance. Further, Farrall found no significant link between OGRS scores or the nature of supervision and desistance. Of more importance than these variables were the social and personal circumstances of the probationers sampled. Added to these personal attributes described above, studies posit a link the length of the order and non-compliance. Although McIvor (1992) found quite limited links between the duration of the order and the 'likelihood of breach', official statistics

suggest that probationers serving longer orders are more likely to fail (Home Office 2004).

1.5: Gaps and Limitations

The studies cited above advance our understandings of the nature and extent of compliance with community penalties. They also highlight several factors that may be linked to the discrepancies between policy objectives and outcomes. From the officers' perspectives, studies show divergences from policy requirements. Likewise, from the probationer's perspective, studies point to intervening factors that may mediate the impact of policy even where implemented as intended. Below an attempt is made to uncover possible gaps in knowledge and also, some methodological limitations affecting these studies. Finally, a proposal is offered for an alternative research agenda for exploring compliance with community penalties.

1.5.1: Sample selectivity

In studies such as Davies (1969) and Rex (1999) which examined consumer views, the achieved sample is likely to be selective. Where probation officers recruit the potential participants, the sample would typically comprise those probationers who are more likely to express complimentary views of their experiences. In most cases, they are also likely to be the more compliant probationers (see also Mair and May 1997).

1.5.2: Equating enforcement with compliance

Some studies focus on the extent to which the officers comply with the rigid enforcement framework. Reflecting policy presumptions, these studies proceed on the basis that strict enforcement somehow equates with compliance and this presumption is implicit in official studies and audits (Hedderman 1999) where high breach rates automatically become the indices of effectiveness even where compliance rates

remain comparably low. One might argue that the rate of enforcement is not an accurate measure of effectiveness because such a measure ignores the more important indicator of effectiveness which is the rate of compliance. Furthermore the operationalisation of effectiveness in terms of enforcement rates also reflects the policy focus on enforcement as the key compliance strategy in which compliance is linked to enforcement in an almost unproblematic fashion. In general, studies reflecting this misguided focus on the rate of enforcement as the indicator of effectiveness would tend to provide limited insights into the possible compliance strategies employed by probation officers and into the nature of compliance itself. For instance, by focusing on instrumental compliance (the use of disincentives), the studies that examine links between enforcement and outcomes would also necessarily omit from analysis other forms of compliance that are not linked to instrumental concerns such as normative compliance (Bottoms 2001).

1.5.3: Presenting one-sided accounts – decontextualised analysis

In some of the studies cited, the methodology employed is the secondary analysis of case records and this may be plagued with several imitations. For instance, in these studies the operationalisation of key concepts may be open to question given that they do not derive from the definitions of the key actors. In Hedderman (1999) 'compliance rate' was operationalised by combining the cases that had no unacceptable absences with those involving 3 or less unacceptable absences. This ignores the ambiguity surrounding the definition of an 'unacceptable absence'. One might argue that it remains as ever, subject to the discretion of individual officers. Consequently, a measure of compliance that ignores the arbitrariness of these decisions may be an invalid measure.

Studies reveal the general reluctance to enforce orders as strictly as prescribed by the National Standards. Therefore it is possible that cases involving no unacceptable absences or with 3 or less unacceptable absences would include those probationers who had their orders ratified as acceptable despite several incidents of absenteeism. Consequently, recorded decisions as to the acceptability or unacceptability of absences may not provide an accurate picture of compliance even in its unilateral sense – attendance. Given these limitations, the rates of compliance observed (albeit unacceptably low rates) may have exaggerated the extent of compliance. Moreover, just as official crime statistics necessarily exclude undetected and unrecorded offences, enforcement records may exclude incidents of non-compliance. As noted above, studies have found that many incidents of non-compliance and the reasons given are unrecorded (Hedderman 1999). Vass (1984:3) also found this to be the rule rather the exception in the supervision of community service orders. This was despite the official requirement that 'supervisors' (frontline supervisory staff) were mandated to advise 'organisers' (responsible for monitoring the work of supervisors) of: incidents of non-compliance defined as: '...successes and failures in the course of the performance of tasks' and 'any instances of non-compliance, absenteeism and misbehaviour'. It is therefore likely that despite the emphasis on maintaining records of enforcement practices at the time of the audits (see also NS 2002; 2005), there may have been occasions where enforcement decisions were unrecorded. In sum, given the noted unreliability of enforcement records, studies relying on these records will provide limited accounts of the actual processes of compliance and enforcement.

Added to the problem of their unreliability, enforcement records also provide one-sided accounts of the interactions between both parties. It is argued that case records are primarily a one-sided account provided by the officer that may exclude detailed information of the probationers' experiences and perceptions particularly where the probationer chooses not to disclose these (Farrall 2002b). These one-sided accounts cannot effectively capture the myriad of factors that form the contexts of interactions during supervision. According to Hedderman (1998.10) interactions during supervision form the core of probation supervision and would therefore have a significant bearing on outcomes. As Farrall puts it:

> ...official data sources severely limit the nature of the analyses undertaken. Although data relating to the courses completed by the probationer during the probation order and the eventual outcome of the order (completed successfully, terminated early for good progress of breached) are available, it cannot be guaranteed that all information relevant to assessing the impact of the order will have been recorded...the reliance on official records limits the analysis undertaken solely to those topics about which information is routinely collected (2002b.19).

May (1999) acknowledged this in his study. He writes:

> ...the study is restricted to a consideration of the factors these services routinely collected: it does not claim to cover comprehensively every social factor that may be related to reconviction (1999: vii).

Therefore studies relying on official data would necessarily ignore the nature of interactions between both parties, the strategies officers use to encourage compliance and the extraneous factors that affect compliance and enforcement. It follows that a view of enforcement practice based on the records maintained by probation officers is somewhat problematic from a methodological perspective in many respects. Crucially, it marginalizes the decision making processes underlying those records and also, the perspectives of the probationers who are subject to enforcement practice.

To uncover actual processes and interactions, case records should be supplemented with the perspectives of the probationers and their officers. Likewise, studies that

focus solely on the views of the probationers (Rex 1999) or solely on the views of the officers (Ellis et al. 1996) would also tend to provide a one dimensional view of supervision. The perspectives of the key parties involved in supervision, namely the officer and the client should be included in any analysis of the impact of any aspect of supervision including compliance and enforcement. Although there are several studies focusing on the views of the probationers, few have explored practitioner views of compliance and these tend to focus narrowly on enforcement practice (for instance Ellis et al. 1996). Also closely linked to the limitation of presenting one-sided accounts is the tendency to overlook the importance of the interactions between both parties. It has been rightly argued that the nature of interactions and the content of supervision contribute significantly to outcomes (Burnett and McNeill 2005).

1.5.4: Proposing an alternative research agenda

To overcome these limitations, the current study adopted an alternative methodology. It did not focus on strict enforcement as the primary mechanism of compliance. Rather, it included in its analysis an examination of the processes of enforcement and compliance. To this end, it explored the perspectives of probationers and probation officers. The aim was to place the viewpoints of the key actors at the forefront of analysis in order to generate a contextualised and holistic understanding of compliance which reflects the realities of practice. Furthermore, it did not rely exclusively on official case records. These records were triangulated with observations of interactions, in-depth interviews and informal discussions.

Although the participating probationers were recruited by their officers, attempts were made to ensure that interview appointments were fixed to coincide with routine appointment dates. This provided some insights into compliance patterns.

Importantly, the researcher was specific about the categories of probationers required particularly in the latter stages of the project when sampling became purposive.

1.6: Conclusion

Under current policy, enforcement is the primary strategy for securing compliance although there appears to be no empirical basis for this (see also Bottoms 2001). This reliance on enforcement is in part traceable to the socio-political developments that were described above. The developments may have precipitated the effort to replace the altruistic foundations of the Probation Service with a more correctionalist ethos. Notwithstanding this focus on enforcement at the expense of compliance strategies, studies show that many probationers would ultimately fail to comply with the formal requirements of their orders. Worse still, the studies reveal that many cases of non-compliance involve total absconsion. These highlight a disparity between policy objectives and outcomes. So far, explorations of how the strict enforcement requirements translate in practice reveal that probation officers would tend to prioritise addressing socioeconomic and other welfare needs over enforcement. Studies also suggest that enforcement practice is typically subject to the officer's discretion. In addition, the studies highlight the apparent reluctance to enforce orders to rigid standards. It is possible to argue that the reluctance to enforce orders as strictly as prescribed by policy may explain the disparity between policy objectives and outcomes. However, there is limited empirical evidence to support this contention. Rather the study by Hearnden and Millie (2003) provides additional empirical support for the findings of the studies cited earlier which reveal that a controlling approach produces negative outcomes (Farrall 2002b; Folkard et al 1974).

Hearnden and Millie (2003) found that the reconviction rates of the probationers exposed to punitive enforcement practices tended to be higher than the reconviction rates of those exposed to more lenient enforcement.

Also providing insights into the nature of compliance are the studies that explore the probationers' experiences of supervision. These reveal an explicit expectation of help and support despite the correctionalist image projected in policy discourses. The studies also highlight the importance of the therapeutic role of the officer in listening to the probationers' problems. In all, the studies suggest that the perception of probation as an altruistic and welfarist response to offending pervades the thinking of many probationers. However, despite these positive evaluations, the studies cited earlier indicate that many probationers violate their orders. Thus one might argue that an inquiry into the most effective means of securing compliance is required.

A compliance strategy is required to fulfil theoretical, organisational and humanitarian objectives. On a theoretical level, only few studies have explored this subject matter and this makes for limited theoretical insights into the nature of compliance. With most studies examining probation policy and practice in general, the concept of compliance has tended to be incidental and not central to analysis. Moreover the studies were conducted before the implementation of the more punitive National Standards in 2005 which were in operation at the time of this study, and also, before the introduction of the current National Standards 2007 (See NOMS 2007a).

Perhaps, the limited empirical literature on compliance with community penalties may explain why there appears to be limit insights into the extent of, or the correlates of, short-term non-compliance (Bottoms 2001; Farrall 2002a; Hedderman and Hough 2004). This study aimed to fill this gap in theoretical and empirical knowledge.

As an organisation, the service has in the past three decades become vulnerable as its ability to effectively deliver its brief has come under increasing media and political scrutiny. High rates of non-compliance may exacerbate this vulnerability where they are interpreted as the inability to deliver effective services particularly within a managerialist policy climate. This may also ultimately affect the credibility of community penalties as effective alternatives to custodial sentences (Hedderman and Hough 2004).

Successful compliance strategies may also serve a humanitarian purpose. For instance, the number of cases receiving custodial sentences for breach has been estimated at approximately 9000 a year (see NOMS 2005; Raynor and Vanstone 2007). Further, the Criminal Justice Act 2003 makes compliance a more pertinent issue and targets persistent non-compliers for disproportionately severe punishments. As such, the ability of offenders to comply with their orders will be of significant importance once the Act is fully implemented. Therefore, an understanding of the correlates of and obstacles to compliance is necessary given that the current deterrent enforcement framework may place an increased number of offenders at greater risk of custody for non-compliance. The research literature also suggests that sporadic involvement in treatment programmes may be counterproductive in terms of subsequent reoffending and reconviction (Raynor and Vanstone 1997; Joint Prison Probation Accreditation panel 2000; May and Wadwell 2001; Ellis and Winstone 2002.350). There is therefore a need to generate empirical and theoretical insights into the correlates of compliance.

Finally, although the current empirical literature provides useful insights into the aspects of supervision that may be linked to an understanding of compliance, the insights emerged from studies in which compliance was peripheral to analysis.

Therefore, we are left with a limited understanding of what the key correlates of compliance are. It is however apparent that the strict enforcement framework has a limited impact on actual compliance rates. This is because non-compliance rates remain unacceptably high. There is a need to explore this apparent disparity between policy objectives and outcomes. A study of compliance which explores the views of those involved in the processes of negotiating compliance should provide a useful starting point. To examine the theoretical correlates of compliance the next chapter will critically analyse several theoretical explanations of compliance with specific reference to the theory of compliance that influenced the current study.

Chapter Two: Compliance: theoretical and empirical analysis

2.1: Introduction

This chapter critically reviews the conceptual framework for understanding compliance that guided this study. The study drew on the framework advanced by Bottoms (2001) which incorporates four mechanisms of compliance. These are constraint-based, habitual, normative and instrumental mechanisms. Constraint based mechanisms reduce the opportunities for non-compliance whilst habit mechanisms operate through the established non-criminogenic routines that ensure compliance. Normative mechanisms, particularly in the form of the perceived legitimacy of authority, are held to produce the most sustainable form of compliance given that compliance arises without instrumental considerations of the costs and benefits of compliance. Of the four mechanisms, current policy relies almost exclusively upon instrumental mechanisms of compliance as defined by Bottoms (2001). The emphasis is on the use of deterrence strategies (and to a less significant extent, incentives) to encourage compliance.

The deterrence literature reveals that empirical efforts to estimate the effectiveness of deterrent strategies have yielded results that contradict the tenets of the deterrence doctrine. There is limited empirical evidence to show that increasing the levels of objective risk associated with non-compliance produces deterrent effects (Doob and Webster 2003). Similarly, studies exploring the deterrent effect of probation enforcement practice have found limited evidence that strict enforcement practice produces deterrent effects (Hearnden and Millie 2003).

To explore the nature of compliance, this study drew on the four mechanisms of short term compliance with the law as developed by Bottoms (2001). These have been outlined above. In this chapter, an attempt is made to examine the empirical literature

pertaining to each mechanism with specific reference to the deterrence literature given that the current enforcement framework is deterrent in its objectives.

2.2: Defining the correlates of routine and habit compliance

Routine compliance arises from internalized conformist behaviour that becomes routinised over time. According to Bottoms (2001.93), habit compliance 'occurs unthinkingly' more so than the other types of compliance. Bottoms hypothesizes that criminogenic routines evolve from normative processes such as poor socialization and inadequate involvement with social institutions (for example, schools) which inculcate discipline. He points out that 'mental dispositions' acquired over time may predispose one to compliance or non-compliance (p.93). For instance, the noted gender differences in the rates of offending may be traced to internalised dispositions which reduce women's inclination to commit crime. These mental dispositions may be 'innate...or acquired, constant or mutable' and may be altered to achieve desired behavioural change (Wollheim 1984, cited in Bottoms 2001.94).

2.2.1: Cognitive behavioural mechanisms

In discussing the possible means of developing habit compliance, Bottoms refers to the cognitive behavioural approaches based on social learning theory. These seek to revise not only overt behaviours but also mental dispositions. The cognitive behavioural approaches may stimulate the cognitive changes that encourage the development of non-criminogenic or conformist habits. Bottoms writes:

> This, essentially, is the kind of change that cognitive-behavioural programmes seek to achieve: an altered way of thinking (disposition) of the offender that is linked (in a two-way process) to altered behavioural routines...cognitive behavioural programmes seek to alter the offender's thinking patterns, or depositions, and thus hopefully to enhance compliance by mechanisms of habit or routine' (2001:94/97).

Therefore, in community based rehabilitation programs, probationers are taught how to develop the skills necessary for prosocial lifestyles. Cognitive behavioural

approaches have become central to rehabilitation programmes since the introduction of the 'What Works' initiative discussed briefly in the previous chapter. A recent official document published by the National Offender Management Service (NOMS) states that the:

> ...key stages in the change process involve ...training in new cognitive, social and life skills, and consolidating that new learning into routine behaviours...(NOMS 2006a:17).

Within cognitive behaviourism, it is clear from the literature base that a punitive enforcement approach produces less productive outcome than an approach rooted in more subtle forms of disapproval that are accompanied by praise and rewards (Trotter 1996).

2.2.2: Prosocial modelling

In the delivery of cognitive behavioural programs, added to the objective of revising antisocial cognitive or thought processes by encouraging the probationer to learn new skills, pro-social modelling techniques are also deemed useful for achieving behavioural change. Rex puts it that:

> 'Prosocial modelling has now gained currency in British probation practice, following the raising of its profile by HMIP's Effective Practice guide as 'a necessary input for effective program delivery (2001:73; HMIP 1998:49-50, cited in Rex 2001).

It is argued that prosocial modelling techniques ensure that cognitive or internal change is achieved alongside external behavioural change (see McGuire 2000). Advocates of prosocial modelling techniques point out that people become committed to specific behavioural patterns or values which attract positive reaffirmations or rewards and which are modelled by others (Trotter 1996). This encourages the probationer to replace antisocial attitudes and behaviours with prosocial attitudes, behaviours and lifestyles. Studies have shown the efficacy of prosocial techniques. For instance, Sinclair (1971) examined the links between the nature of the regime

operating in specific probation hostels and the long term compliance record of offenders held in these hostels. The study found that the criminal antecedents of the offenders and the social demography of the offenders were not as significantly linked to outcomes as the impact of the operative regime. Hostels where staff exhibited prosocial skills such as 'emotional warmth (kindness and understanding of the boys' problems alongside clear and consistently enforced rules produced the most positive outcomes.

Prosocial modelling has been shown to improve compliance with community orders (Trotter 1996; McIvor 1996). The approach may also facilitate the development of a good relationship between probationers and officers (Loney et al. 2000), or bonds between the officers and their clients in ways that may encourage compliance with the order. Rex's (1999) study found an observed link between the ability of probationers to perceive supervising officers as role models and the 'sense of obligation' deriving from the positive support and encouragement offered by the probation officers (Rex 1999.378).

Similarly, Rex and Gelsthorpe (2002) examined the outcomes emerging from three approaches used in seven pathfinder projects, namely, prosocial modelling, skills accreditation and tackling other offending needs. The evaluation found promising results in cases where prosocial modelling techniques were used. Projects that utilized the 'work element' of community punishment to address offending-related needs did not yield similar positive outcomes. Dowden and Andrews (2004) reported on a meta-analysis which explored the link between practitioner skills and rehabilitation outcomes. They found that the skills incorporating prosocial modelling techniques produced the best outcomes.

Prosocial modelling approaches de-emphasize the use of negative enforcements in the form of threats. Rather, encouragements and rewards are used to stimulate the probationers' commitment to the rehabilitation programme. This is incompatible with the current focus on the use of enforcement to secure compliance.

2.3: Constraint-based mechanisms

As mentioned above, according to the framework developed by Bottoms (2001) constraint based mechanisms may also affect compliance. Similar to the tenets of the situational crime control theories – Clarke's (1992) rational choice theory and with some variation Felson's (1986) routine activities theory - constraint based mechanisms operate on the basis that crime is the product of opportunity. From this perspective, the decision to offend is based on calculations of the costs and benefits of offending. Reflecting the classicist position, constraint based mechanisms are underpinned by the presumption that human behaviour is rationalistic and opportunistic. Therefore, crime prevention is best achieved through restraints that reduce crime opportunities and increase its risks. These restraints may be in the form of external restraints such as the situational structures designed to reduce crime opportunities or incapacitative custodial sentences (von Hirsch et al. 1999). Constraint based mechanisms may also operate in the form of structural restrictions involving the use of coercive strategies imposed by intimidation within 'power based' relationships (Bottoms 2001:93). Importantly, in this latter form, compliance does not derive from normative beliefs or instrumental considerations. It is coercively obtained and emerges where there is limited opportunity to deviate (Bottoms 2001).

2.3.1: Community based constraint mechanisms

Directly pertinent to this study are the surveillance techniques employed by officers to ensure constraint based compliance. In probation supervision, there are several

constraining measures designed to reduce risks and enhance public protection. For instance, home visits may be employed to ensure increased surveillance. The latest standards provide that where a high risk of harm is posed to the public, the decision to make home visits should be based on public protection considerations which must override human right issues (NOMS 2007a). Further, the probationers classed as 'high risk' are subjected to enhanced surveillance through the multi-agency public protection arrangements (MAPPA). These arrangements were introduced in 2001 and comprise members of the police, prison and probation services and other agencies. The objective is to ensure greater surveillance particularly in cases identified as posing a high risk of harm to the public (NOMS 2007b).

Nevertheless, revealing the limited effectiveness of this constraint based measure, high profile incidents of serious re-offending whilst under MAPPA arrangements have been recorded. For instance, the case of Anthony Rice who committed murder in 2005 whilst subject to MAPPA supervision (see also Wood et al. 2007). Similarly, studies evaluating the community based penalties that incorporate more intensive surveillance designed to enhance constraint based compliance, reveal no significant impact on short term and longer term compliance. For instance, based on research purporting to show that the significant proportion of crime is committed by a core group of persistent offenders (contrast Farrington 2005 and Garside 2004), the government introduced the prolific and persistent offender programme in 2004 for the intensive supervision of probationers categorized as prolific and persistent. Early evaluations of these programmes were unable to identify definite links between intensive supervision models and reductions in reconviction rates given that other variables could have accounted for these reductions (Dawson 2005; Dawson et al. 2005; Dawson and Cuppleditch 2007). Further, in terms of short term compliance

with the order, the evaluation of an intensive surveillance programme by Partridge and colleagues (2005), cited in the previous chapter, found high rates of non-compliance despite intensive surveillance practices. Similarly, Homes and colleagues (2005:2) evaluated the intensive supervision and monitoring scheme targeted at 'persistent adult offenders', requiring 'swift action and penalties for non-compliance'. They found that of the 542 participants, less than one third (127 - 23%) completed the program whilst almost half (223 - 41%) were breached for non-compliance or absconded from the program. The researchers recognised that:

> ...it is possible that more offenders breached or did not complete the scheme than those who completed' (2005:35).

These findings reveal the limited effectiveness of constraint based mechanisms of compliance. Imprisonment is perhaps the most potent constraint based mechanism of compliance (Bottoms 2001). Yet studies have alluded to incidents of non-compliance in prisons (Wright 1991; Sparks et al. 1996). Latest official statistics reveal that in 2005 there were 146 'proven offences' committed per 100 prisoners, making a total of 110, 650 offences including violent offences (NOMS 2006b). These suggest that constraint based mechanisms may, to a significant extent, be ineffective in their aims.

2.4: Identifying the central issues in normative compliance

Normative compliance is a multidimensional concept. It may arise from the impact of internalised norms, the influence of others with whom a person shares social bonds in the form of 'emotive attachments' - akin to Hirschi's (1969) social control theory, - or the influence of social bonds with other individuals or institutions perceived to possess legitimate authority (Bottoms 2001:91).

It is widely accepted that to a certain degree, there are societal norms that become internalised during socialization. Differing opinions on this issue arise in respect of

the degree to which these norms can be said to affect human behaviour (see Downes and Rock 2003). As mentioned earlier, studies have shown that, in encouraging more normative forms of behaviour and attitudes, cognitive behavioural approaches have produced positive outcomes. In addition, supporting Hirschi's social bonds theory, several studies particularly within the desistance literature base, have shown that social bonds and their underlying dimensions[viii] as devised by Hirschi (1969) can, alongside several variables, exert normative influences that produce compliance (Graham and Bowling 1995). These findings are reinforced by resettlement studies (Haines 1990) and deterrence studies (Zimring and Hawkins 1973; von Hirsh et. al 1999).

Whilst the impact of social bonds with significant people in one's life may encourage compliance, it has been argued that positive relationships with people in authority may exact a similar impact. Studies show that relationships between probationers and their officers characterised by 'support and encouragement' may also be crucial for ensuring normative compliance (Rex 1999:379). Such relationships engender a sense of loyalty and a sense of obligation. They create a 'bond' between both parties (Bottoms 2001). Where loyalty and obligation are internalised, compliance is the likely outcome. Officers are therefore able to exert a 'positive moral influence over probationers' (Rex 1999:380). One might argue that interactions based on these premises should engender normative compliance based on the internalised obligation to obey that evolves during the interactions. This is linked to the perceived legitimacy of authority and studies show that legitimacy also pertains directly to the nature of the relationships between figures of authority and the recipients of that authority (Tyler 1990). The links between supervision relationships and compliance have been explored in the previous chapter in the discussion about the relevance of interactions

or the micro contexts of supervision for understanding compliance. Here the concept of the perceived legitimacy of authority as a compliance mechanism (and its empirical basis) is explored in its broader context.

2.4.1: Socio-psychological perspectives on legitimacy

Arguing from a socio-psychological perspective, Tyler (1990; 2001; 2003; 2005) develops this dimension of normative compliance further. He argues that compliance is more achievable where internalized perceptions of the legitimacy of the law or of authority engender a perceived obligation to obey. This contention is reinforced by Bottoms' observation below:

> Indeed the law's perceived legitimacy may induce persons to obey even where they regard the particular directive as being positively objectionable....in Britain some of those who in the late 1980s disagreed on moral grounds with the then newly enacted Community Charge ("Poll Tax") nevertheless felt bound to comply because the tax constituted a validly enacted measure of a democratically enacted government' (Bottoms 1999:253).

With the internalised obligation to obey irrespective of self interest, individuals routinely cede control over the values that should guide behaviour. They effectively empower the legal authority to formulate appropriate behavioural rules in the given situation. The obligation to obey overrides personal considerations of morality or self interest (Tyler 2005).

It is argued that perceived legitimacy becomes internalised during interactions with figures of an authority. On the basis of these interactions with individual members of an organization, people make judgments about the perceived legitimacy of the entire organization (Bottoms 2001). Where perceived legitimacy is internalized, the obligation to obey becomes normative. These internalized beliefs may be reinforced or undermined depending on the quality of interactions between people and legal authorities (Tyler 2003). As such, the nature of interactions between probation

officers and the probationers they supervise may shape the ability of the probationers to endorse the legitimacy of both their supervising officers and other regulatory aspects of serving a community sentence.

Bottoms (1999) considers these issues in the context of maintaining order within prisons. He argues that transactions between prison officers and prisoners produce implications that transcend the situational context within which such transactions occur. Ultimately, interactions between both parties shape the prisoners' perceptions of the legitimacy of the prison officers' authority and also of the prison service as a whole:

> ...ordinary everyday encounters between staff and prisoners can have crucial implications for the nature of the power relations in the prison, and to the validity of the staff's claims to justified authority - that is, to legitimacy' (Bottoms 1999:256 Emphasis in Original).

Thus, in order to achieve voluntary and sustained compliance, legal authorities should strive to reinforce internalized beliefs in the legitimacy of the law and authority.

Tyler's (1990) longitudinal study provides empirical evidence that appears to highlight the normative influence of the perceived legitimacy of authority. Although Tyler focuses on the regulatory activities of the police and the courts, he rightly notes that the issues raised in his analysis also pertain to encounters with members of other legal authorities. He conducted a telephone survey of a sample of 1575 Chicago citizens. Of this number, 804 were re-interviewed after a twelve month period. The study found the perceived legitimacy of authority to be the most significant factor encouraging compliance.

In his study, Tyler (1990) identified perceived procedural justice (which manifests as 'perceived fairness') as the key antecedent of perceived legitimacy that is particularly linked to voluntary compliance. This concerns the fairness of the decision making

process during encounters with people in authority and not the outcome of the decision made during these encounters. Refuting previous findings which tended to cite the perceived favourability of outcomes as the key antecedent of the perceived legitimacy of authority, studies show that it is the fairness of the decision making process and not the outcome of the decision that is pertinent to questions of compliance (Thibaut and Walker 1975; Tyler and Huo 2002; Sunshine and Taylor 2003). It has also been shown that perceived fairness engenders trust in the motives of legal authorities and encourages compliance (Tyler 1990; Murphy 2005). There is further empirical support for these findings. A secondary analysis of data on men convicted of domestic abuse in a state in the United States revealed that those who believed that they had received fair treatment from the police at the earlier stages of the criminal process (arrest) were least likely to be reconvicted for domestic violence compared with those who felt they had been unfairly treated (Paternoster et al. 1997). Other studies have explored people's experiences during encounters with prison officers (Cooke 1989). Collectively these studies point to the crucial role of perceived legitimacy in encouraging compliance.

2.4.2: Socio-legal perspectives on legitimacy

The concept of normative compliance based on the perceived legitimacy of authority has also been explored from a socio-legal perspective. Theorists within this field have focused on the substantive context of tax evasion and compliance in their effort to understand the correlates of short term compliance with civil regulations (see for example Murphy 2005). Although they draw attention to useful correlates it is difficult to fully extrapolate from their work to the activities of the wider probationer population given the differing demographics and regulations involved in tax compliance on the one hand, and short term compliance with legal orders in a criminal

justice setting on the other hand. The sites of interactions and the consequences of non-compliance are widely different. Indeed the socio-legal theorists acknowledge that the regulations governing civil transactions including tax paying activities differ from those deployed within the criminal system given the potentially different demographic groups concerned (Murphy 2005).

Nevertheless studies within this field contribute useful insights into the nature of compliance. They cite the concept of 'responsive regulation' (similar to Tyler's 'procedural justice') as the more productive alternative to coercive compliance strategies. Coercive strategies have been shown to undermine the perceived legitimacy of the tax authority, and to engender non-compliance (tax-evasion) or other forms of compliance that fall short of policy expectations (Murphy 2005). Unlike the 'deterrence model' pervading current penal policy, responsive regulation is an 'accommodative model' of regulation that is restorative in its aims and operates on the principle of securing compliance rather than enforcing compliance (Murphy 2005:564). It seeks to secure compliance through 'persuasion and dialogue' (Murphy 2005:587). This may involve providing several opportunities to the non-compliant to comply by reminding them of their normative obligations, offering incentives and generally being responsive to their concerns (Murphy 2005).

Socio-legal theorists conceptualise perceived legitimacy as a two dimensional concept comprising on the one hand, an acceptance of the legitimacy authority which coexists with an internalised commitment to comply, and on the other hand, a more superficial form of compliance that 'involves finding ways to accomplish compliance with the letter of the law while totally undermining the policy intent or spirit behind the legislation' (Murphy 2005:563). Murphy's (2005) longitudinal study of tax evasion explored the roles of procedural justice and legitimacy in producing tax compliance

compared with the influence of deterrent strategies. Similar to Tyler's findings, the study found that perceptions of legitimacy ultimately affect the decision to defer to authority and such perceptions are typically based on the nature of the encounter with legal authorities and in particular, the nature of treatment received - 'procedural justice judgements' (Murphy 2005:585). Coercive compliance strategies tended to generate perceptions of unfair treatment and non-compliance. Like Tyler, the study found that deterrent strategies aimed at increasing the costs of non-compliance (financial costs) were not as effective as the perceived fairness of decision making in securing compliance.

2.4.3: Perceived fairness and situational limitations

Although Tyler (1990) makes a strong case for the role of procedural justice in encouraging compliance, some studies highlight the marginality of procedural justice considerations in cases where decision outcomes are potentially serious (Tyler 1991). Tyler found that in more serious encounters with legal authorities, people are less likely to define both the processes and outcomes of decision making as fair. Serious encounters will include instances where the offence in question is an arrestable or imprisonable offence. Likewise, in courtroom encounters, considerations of fairness were more likely to arise in civil disputes than in criminal cases involving substantial punishment. The notion of justice becomes relevant where the outcomes of decision making are minimal in their impact as was the case in the study by Tyler (1990). Further, in Tyler's (1990) study, procedural justice considerations became more pertinent where the authority involved was the court and not the police, and also, in dispute resolutions, during voluntary interactions and where the outcome was perceived to be unfavourable.

Notwithstanding these, one implication of the findings of the legitimacy literature is that the manner of exercising authority may have a direct influence on the perceived legitimacy of that authority. This finding cannot be ignored because the studies also reveal that links exist between the perceived legitimacy of authority and compliance. When applied to the specific context of probation supervision and enforcement practices, it is possible that subjective assessments of the fairness of decision making processes may affect perceptions of legitimacy and ultimately, the willingness to comply with the directives of supervising officers.

2.5: Instrumental mechanisms

The fourth mechanism of compliance is conceptualised by Bottoms as 'instrumental mechanisms'. Similar to the theoretical foundation of constraint based compliance, instrumental mechanisms derive from classical theory and the belief that a high degree of rationality and free will underlies human behaviour. Further, the social actor is deemed to be motivated by considerations of self interest. Therefore, crime prevention through instrumental mechanisms would entail the careful balance of incentives and disincentives in order to ensure that the costs of non-compliance outweigh its benefits.

In penal contexts, incentives are not typically offered for complying with the law; rather, disincentives are used to discourage non-compliance (von Hirsch et al. 1999). Although some incentives (for example, terminating the order early for good behaviour) are offered, the current policy governing the enforcement of community penalties focuses on instrumental enforcement mechanisms. It seeks to encourage instrumental compliance through deterrent penal strategies. In order to understand how deterrence may be achieved in the contexts of enforcing community orders, it is helpful to explore the literature on deterrence within wider criminal justice contexts.

2.5.1: Deterrence

Deterrence may operate as specific deterrence, general deterrence or marginal deterrence.[ix] Specific deterrence is concerned with the possibility that the actual experience of punishment would deter an offender from re-offending in the future. General deterrence on the other hand, focuses upon the likelihood that the existence of punitive sanctions would deter the general public from engaging in prohibited behaviour. Both are not different mechanisms rather; they are 'the same mechanism applied to different populations' (Beyleveld 1979.211). Marginal deterrence is concerned with the possibility that increasing the severity and certainty of punishment produces a deterrent effect (von Hirsch et al. 1999).

It is accepted theoretically and empirically that the criminal justice system acts in conjunction with informal social controls to deter crime. The specific issue explored by deterrence studies is whether changes to the severity, certainty and celerity of punishment can produce marginal deterrence, that is, a 'preventive effect' (Nagin 1998:3; von Hirsch et al. 1999; Robinson and Darley 2004). The present study set out to explore this issue. As mentioned earlier, successive National Standards have aimed to increase the certainty, severity and celerity of punishment for non-compliance. Therefore, to understand the relevance of this instrumental approach to securing compliance, the study explored whether increasing the objective certainty, severity and celerity of punishment in this manner produces marginal deterrent effects as the deterrence doctrine proposes. The probation setting provides the opportunity to explore how variations in specific legislation may affect perceptions of risk and behaviour. This is lacking in most perceptual studies (Nagin 1998; von Hirsch 1999).

2.5.2: Key research on deterrence

Before the advent of perceptual deterrence studies in the 1970s, studies exploring deterrent effects tended to ignore the subjective perceptions of those targeted by deterrent strategies. Rather, the studies tended to focus on analysing the deterrent effects of variations in officially recorded crime and punishment rates. These studies typically utilized the association/ecological design or the interrupted time-series design.

With the association or ecological design, the studies explore the links between crime rates and variations in the objective certainty and/or severity of punishment across different jurisdictions. An inverse link between crime rates and higher levels of certainty and severity of punishment is held out as evidence of deterrent effects. Interrupted time series studies attempt to identify temporal deterrent effects by observing statistical associations between variations in criminal justice policies and crimes rates over a period of time (longitudinal design) (Ross 1982). The aim is to explore the effect of specific policy measures on target populations. Studies examining the marginal deterrent effects of mandatory minimum sentencing laws (the 'two strikes' laws) typically employ this design. Both association and times series studies have found limited evidence of the effectiveness of variations in the severity of punishment. Rather, stronger evidence of the deterrent effects of variations in the certainty of punishment has been found.

The study by Marvell and Moody (1994) utilised the association design. It posited a link between higher prison numbers and reduced crime rates. The study utilised the rising prison population as the measure of severity. One limitation posed by this measure is the possibility that rising prison populations may produce an extraneous variable (incapacitation effects) that could also explain the reduction in crime rates

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(see also Levitt 1996; Nagin 1998:2; von Hirsch et al. 1999). The study by Zimring, and colleagues (2001) utilised the interrupted time series methodology. It traced the reductions in arrest rates in California to the 'three strikes' laws introduced in that area. The study has been criticised for utilising limited data points before and after the implementation of mandatory sentencing legislation (Doob and Webster 2003).

Large scale reviews of the deterrence literature also find that the increased severity of punishment produces limited deterrent effects (Blumstein et al. 1978: Cook 1980; Nagin 1998; Doob and Webster 2003). Certainty variables pertaining to the risks of apprehension (for example, arrest) on the other hand, have been found to produce more significant deterrent effects (Zimring and Hawkins 1973; Doob and Webster 2003). The Home Office sponsored review of the deterrence literature by von Hirsch and his colleagues (1999) examined the deterrent effects of the severity of punishment. The review found limited evidence of marginal deterrence and concluded that:

> ... the studies reviewed do not provide a basis for inferring that increasing the severity of sentences generally is capable of enhancing deterrent effects (1).

These studies suggest that the more significant deterrent is the increased certainty of punishment. However, there are several methodological and conceptual limitations that may impinge on the findings recorded by deterrence studies utilising association or interrupted time series designs.

2.5. 3: Methodological limitations

Association and interrupted time series designs utilize aggregative data drawn from jurisdictions, offences and people who offend. Variations in criminal justice processes within these areas and also differing offending and offender characteristics may affect crime rates apart from deterrent strategies. The same can be said for

studies that compare enforcement practices across different probation areas thus aggregating different probation areas, probationers and probation officers (Hedderman and Hough 2004; May and Wadwell 2001). Recognising that people who offend are not a homogeneous group, penal theorists highlight the need for a 'disaggregation as to offender type' and also, as to offence type (von Hirsch et al. 1999; Zimring 1971). Further, given the nature of the design employed, the studies suffer from the possibility that observed effects are spurious and cannot be attributed solely to deterrence but to extraneous variables including sociological and criminological variables. From a sociological perspective, macro structural factors such as peer and family influences for instance, may influence behaviour. Perceptual deterrence studies reveal that informal sanctions may override or complement the deterrent effect of formal sanctions (Erickson et al. 1977; Paternoster and Iovanni 1986; Foglia 1997). Association and interrupted time series designs rely on official records. From a criminological perspective; the reliance on official records raises the issue of the reliability of official crime data.[x] Such data are dependent on reporting and recording practices which may vary across jurisdictions. Further, several variables linked to criminal sanctioning also affect outcomes. These generally pertain to the perceived risks of apprehension and punishment. For instance, criminal processes such as plea bargaining, selective prosecution and variations in police enforcement practices may reduce the perceived certainty of punishment (Nagin 1998; Robinson and Darley 2004). Similarly, the possible use of discretion despite strict National Standards guidelines may be a cause of variations in enforcement practices between probation areas (Hedderman 1999). The failure to account for extraneous variables such as these also increases the likelihood of simultaneity. This concerns the direction of imputed causality and it occurs where the deterrent effects observed may be spurious and

explainable by extraneous variables (Blumstein et al 1978; Doob and Webster 2003; von Hirsh et al. 1999).

Association and interrupted time series studies also ignore a crucial element of deterrence - its perceptual dimension. This is a significant conceptual limitation given the findings that the perceived risks of apprehension and punishment may not always accord with actual risks. Findings show that many potential offenders are unaware of the exact nature of formal sanctions (Roberts 2002). Further, insights from psychological research reveal that even in cases where a person becomes aware of the objective probabilities of 'achieving a particular goal, a person's estimate of his own chances of success will often differ from objective probabilities' (Zimring 1971.36). Therefore a proper interpretation of the deterrence doctrine may be that it is the perceived risks of formal sanctions that may affect behaviour and not the objective risks as suggested by these studies.

2.5.4: Perceptual deterrence

There is a need to countenance the perceptual element of deterrence given that the populations targeted for deterrent measures should at least be aware of the existence of these measures. Zimring (1971) observes that:

> 'Passing a new law will, by itself, have no effect on the perception of those whose conduct the law seeks to alter... (1971.59).

Thus to achieve marginal deterrent effects, the target audience should be aware of the variations to criminal sanctions:

> Unless differences in the level of consequences threatened are
> known by members of a threatened audience, a marginal deterrent
> effect cannot be attributed to raising penalties... the moment of truth
> in the life of a potential deviant seldom takes place in the local law
> library' (1971.58-61).

This suggests that for deterrent strategies to succeed in their aims, the severity, certainty and celerity of punishment should be such that they alter the perceived risks associated with offending (Pogarsky and Piquero 2003). Unfortunately, (at least from a deterrence perspective), potential offenders are generally unaware of the actual severity of sanctions, or the levels of seriousness the law attaches to many offences apart from the most serious offences to any degree of specificity.

Since the 1970s, perceptual deterrence studies have emerged to examine how perceptions of risks affect behaviour. Perceptual studies differ from the other research designs because its unit of observation are people not places, and the source of data is surveys not primarily official records. To establish the possible links between perceptions and self-reported offending behaviour, they typically utilise one of 4 designs- cross sectional design, panel or longitudinal design, scenario design or qualitative exploration of decision making processes preceding the commission of an offence (see also von Hirsch et al. 1999).

2.5.5: Cross sectional studies

Cross-sectional surveys draw on self reported previous offending, or intentions to offend to assess how perceived risks affect behaviour. Like the association studies and the time series studies, the cross sectional studies tend to find weak negative links between sentence severity and self reported offending. Instead, the studies typically find that self reported offending tends to be lower for those who 'perceive sanction risks and costs to be higher' (certainty and severity) (Paternoster 1987). Other studies support this finding that the fear of apprehension exerts a greater deterrent effect than the fear of punishment (D'Alessio and Stolzenberg 1998; Varma and Doob 1998). However, Grasmick and Bryjak's (1980) cross-sectional perceptual study found that perceived severity and certainty of punishment operate conjointly to deter crime. The

study has been criticized because the measure of severity used did not adequately separate the deterrent effect of informal sanctions from formal sanctions (Paternoster and Iovanni 1986).

One obvious methodological difficulty affecting cross sectional studies, is the difficulty of establishing whether any observed negative association between risk perceptions and self reported offending reflects experiential effects rather than deterrence effects. This is because cross-sectional studies derive their inferences from the effect of current perceptions of risk on past behaviour. With deterrence theory, such perceptions should be contemporaneous with behaviour. It is possible that with cross-sectional studies, reports about the links between perceived risks and reported offending would tend to reflect experiential effects not deterrent effects (Greenberg 1981; Paternoster et al 1982; Nagin 1998von Hirsch et al.1999).[xi]

2.5.6: Panel survey studies

In panel studies, respondents are questioned about the impact of their perceptions of risk on their behaviour. Follow-up interviews enable the researcher to examine how perceptions may have affected behaviour in the interim. Longitudinal studies have produced mixed findings. Some have not found significant links between probability of punishment (certainty) and offending (Paternoster 1997; von Hirsch et al. 1999). Others like Paternoster and Iovanni's (1986) panel study of a group of 15-17 year old students, found that the perceived severity of punishment was not a significant deterrent, rather, informal sanctions tended to exert more deterrent effects.

This design averts 'the reverse-causality problem' associated with cross sectional designs, because some of the offending occurs after the initial measurement of the perceptions of certainty or severity of punishment' (Nagin 1998). However, it is crucial to ensure that the time-lag between the initial and follow up interviews is not

extensive in order to retain the required proximity of perceived risks to actual offending.

2.5.7: Scenario studies

In scenario-based studies, respondents are presented with a vignette and asked to describe how the perceived risks of committing a crime detailed in the vignette would affect their decision to commit the crime. Some use the self-reported intentions to commit an offence as the indication of limited deterrent effects (Klepper and Nagin 1989; Nagin and Paternoster 1994; Piquero and Pogarsky 2002; Wright et al. 2004). These studies also find that the perceived certainty of punishment produces a more effective deterrent than increased severity (see also, Tittle and Rowe 1974).

Scenario studies also avert the limitations posed by inaccurate causal ordering because the simulation exercises provide the opportunity to maintain adequate proximity between perceptions and behaviour. A potential limitation is that it is based on scenarios rather than real life experiences. As such, it is difficult to ascertain the exact variables that ultimately affect perceptions in real life crime incidents. In addition, scenario studies tend to focus on the deterrent effects of informal sanctions and the perceived certainty of punishment (see also von Hirsch et al. 1999) particularly in the realm of civil matters such as tax compliance (Klepper and Nagin 1989).

At best cross-sectional, scenario and panel studies illuminate the links between reported behaviour and the respondents' perceptions of the severity or certainty of a given sanction. They do not reveal the extent to which such perceptions may be alterable by policy changes. According to Nagin (1998:15) the issue of importance is no longer whether the deterrent effects of sanctions are such that people respond to their perceptions of sanction threats- this has been confirmed by perceptual studies, but the issue of whether such perceptions are manipulable by policy. That is, how far

changes in policy affect perceptions to achieve a deterrent effect. von Hirsch and his

colleagues write that:

> ...the studies do not tell us to what extent, and under what
> circumstances, an increase in the actual severity of sentences will result
> in potential offenders' believing that they will face tougher punishment
> should they choose to offend. At most, the survey studies only tell us
> what offenders' behaviour might be if they perceive a particular level of
> sanction risk. With this crucial link to criminal policy missing, survey-
> based studies, despite their considerable intrinsic interest, are only of
> limited value for policy purposes' (1999:35).

The foregoing suggests that people are influenced by their perceptions of risk

however inaccurate these perceptions may be. The current study aimed to address

these issues. To delve further into the thought processes of potential offenders, other

perceptual studies have utilised qualitative methods of inquiry.

2.5.8: Qualitative studies of offender decision making

Only a few deterrence studies have adopted this approach and they typically question

prisoners, active or ex-offenders about the thought processes that underpinned their

most recent offences (Bennett and Wright 1984; Cromwell et al. 1991; von Hirsch et

al. 1999; Hearnden and Magill 2004). Contradicting the tenets of the deterrence

doctrine, the studies have found that extraneous variables such as the quest for

immediate gratification or the need to resolve perceived problems, override

considerations of risks (Wright and Decker 1994; Hearnden and Magill 2004). In

general, there is evidence that potential offenders do try to minimize risks although

not to the extent or with the degree of accuracy presumed by the deterrence doctrine.

For instance, studies show that many potential offenders do not conduct detailed

estimations of potential costs before they commit a crime. Shover' s (1996) study of

thieves found limited evidence that the decision to offend is preceded by the degree of

planning or the detailed calculations of possible costs presumed by the deterrence

doctrine. The study by Piliavin and colleagues (1986) also found limited evidence of

the estimation of costs held to precede offending. Other qualitative studies have found that the risks of social censure may operate interactively with the risks of formal sanctions to produce deterrent effects (von Hirsch 1999). As such, these studies reinforce previous findings that deterrent policies (particularly increases to the severity of punishment) produce limited effects.

Limitations of the qualitative design include inaccurate recollections or reconstructions of the decision making preceding crime events (von Hirsch et al. 1999). In addition, Zimring (1971) argues that data generated from offender groups may be unreliable because in his view, reducing the severity of sanctions may be perceived to be in their personal interest. One acknowledges that the issue of unreliable data based on inaccurate reports is a limitation that potentially affects all studies relying on self reports. The inference that offenders are more likely to provide inaccurate responses when questioned about current sanctions compared with potential offenders may be considered a moot point. Putting this speculative observation to one side, it is arguable that where the objective is to develop a multi-dimensional or holistic perspective on deterrence, then the view points of offenders who are arguably more aware of the operations of the criminal system are also relevant. Indeed, Zimring concludes with the argument that:

> 'The only method of testing punishment as a special deterrent is the study of future criminality among punished offenders, but any such test will show the results not only of special deterrence but of the many other positive and negative influences that punishment might have on future criminality, because a particular form of punishment will produce a mix of effects' (1971.104).

As such, focusing on potential offenders may produce limited knowledge of the nature of the phenomenon. Active offenders and ex-offenders are best placed to provide insights into why deterrent sanctions have failed in their objectives.

2.6: Deterrent enforcement and compliance with community penalties

Only a few studies have explored the effects of the deterrent enforcement framework governing probation supervision. May and Wadwell (1996) concluded (albeit tentatively) that enforcement action appeared to reduce the predicted reconviction rates for all offender groups included in the study. However, most studies have found no significant links between deterrent enforcement and compliance. Pease (1977) explored the correlations between enhanced enforcement practices, increased severity of punishment for breach and compliance in the Rotherham pilot CSO scheme.

The area was revealed as a 'reasonably tough' area in its response to absenteeism although enforcement was reserved for cases of persistent non-compliance (Pease and McWilliams 1980.102). The study found limited evidence of deterrence even where the new punitive arrangements had been publicized.

Other studies of enforcement and compliance limit their inquiry to ascertaining the effects of strict enforcement practices (high breach rates) on reconviction rates. This pertains more specifically to longer term compliance (Hedderman 1999; May and Wadwell 2001). Hedderman (1999:159-160) found that the rates of reconviction were 49% for the 'tough' or 'high breaching areas' and 47% for the more lenient areas. This suggests that strict enforcement may indeed inflate reconviction rates. Another study exploring a similar theme was by Hough and his colleagues (2003). They found that probationers who were allowed to complete their Drugs Testing and Treatment Orders recorded significantly low reconviction rates (53%) compared with general reconviction rates observed (80%). Those who had their orders revoked prematurely recorded a reconviction rate of (91%). The researchers - Hough and his colleagues - noted that:

> 'The evidence that we have assembled ...offers no grounds for thinking that the deterrent effect of enforcement ensures fuller

compliance, and some grounds for thinking that tough enforcement can lead to low retention rates in programmes, which in turn leads to high reconviction rates' (2004.163).

Similarly, as noted earlier, Hearnden and Millie (2003) found in their study that the probationers breached at court were more likely to be reconvicted than those who had been allowed to complete their orders or those who had their orders terminated early for good behaviour. Similar to the findings recorded by the third audit,[xii] the authors observed that compliance rates were significantly diminished by the introduction of the stringent requirements in the NS 2000.

Perhaps in an attempt to avert this outcome, several officers were at the time of the third audit less willing to fully comply with the requirements of the National Standards published in 2000. These findings suggest that deterrent enforcement may be counterproductive.

Official statistics also highlight the limited effectiveness of deterrent enforcement. Home Office statistics for instance reveal that despite the introduction of deterrent enforcement strategies breach rates for non-compliance have nearly doubled, rising from 14% in 1995 to 27% in 2005 (NOMS 2006b). These figures may reflect higher enforcement rates, or may be representative of an increase in the numbers serving community penalties. Importantly, they may on the other hand reveal that incidents of non-compliance continue unabated despite the increased certainty, severity and celerity of punishment for non-compliance. Indeed it is possible that these figures underestimate the extent of non-compliance given the findings that many absences are unrecorded.

Like the studies that explore the deterrent effects of wider criminal justice sanctions, studies exploring the deterrent effects of probation enforcement policies have tended to ignore the perceptual element of deterrence. Hedderman and Hough (2004)

acknowledge the absence of a crucial element in ascertaining the correlations between enforcement and reconviction rates, namely offenders' perspectives:

> 'More information on offender characteristics and an understanding of the offender perspective on the impact of enforcement would also be useful' (2004.160).

This reiterates the importance of the perceptual element of deterrence. Given these limitations it is rightly stated that: 'The link between enforcement practice and reconviction is unclear' (Hedderman and Hearnden 2000). Further, studies that rely on reconviction rates would tend to suffer from the limitations of official crime records as described earlier.

2.7: Conclusions

The framework developed by Bottoms (2001) is a useful conceptual tool for exploring the nature of compliance. Routine mechanisms draw attention to the influence of socialization processes and the internalised routines that are held to encourage compliance. Habit mechanisms target the criminogenic dispositions and behaviours that according to some commentators may produce non-compliance.

The current enforcement framework incorporates instrumental mechanisms and to a less significant degree, constraint based mechanisms. Studies have shown that in community based supervision, constraint based mechanisms such as intensive supervision programs have not produced significant increases in compliance rates. Similarly, the empirical evidence provides limited support for the efficacy of instrumental mechanisms of compliance operating in the form of disincentives. The review of the deterrence literature above reveals that in most cases, the increased severity of punishment produces no significant deterrent effects, although the perceived certainty of punishment may deter non-compliance. These findings

contradict the presumptions of the deterrence doctrine that the risks of severe punishment should effectively deter crime, that is, the presumption of rationality.[xiii]

The deterrence doctrine appears to offer (at least in the face of it), a straight forward explanation which locates the cause of crime within the individual (and their rational estimation of costs or benefits) whilst ignoring the possible influence of the sociological and criminological variables that may affect offending behaviour. Although the focus on rational decision making may be propitious from a policy perspective, on an empirical level, studies have revealed that sociological and criminological variables may interact (jointly or severally) with deterrence strategies to influence behaviour. These processes are not easily identifiable by studies using methodologies that marginalize the perceptions of those targeted by the deterrent strategies. If the notion of the rational offender, actively calculating the consequences of engaging in certain behaviour is anything to go by, then surely the thought processes of potential offenders deserve a place in any empirical analysis of deterrent effects. Consequently, it is possible that the attempts to empirically interpret the deterrence doctrine have been hampered by the failure to account for the processual and situational nature of human behaviour. Realising the importance of the perceptual element of deterrence, several studies have explored the perceptions of those threatened for deterrent sanctions.

In sum, the current reliance on instrumental mechanisms lacks adequate empirical backing. There is limited evidence of the effectiveness of disincentives. By contrast studies examining the impact of the perceived legitimacy of authority on compliance tend to show that approaches that are perceived to be fair may enhance the perceived legitimacy of authority and hence, encourage normative compliance.

So far, most studies exploring the concept of legitimacy have focused on encounters involving dispute resolutions particularly, criminal trials and encounters with legal authorities - the courts and the police or both (Tyler 1990). This does not illuminate the pertinence of perceived legitimacy during encounters with legal authorities such as the probation service that has historically operated on a 'service culture so deeply entrenched in a social work tradition' (Raynor and Vanstone 2007:63). Thus, the service is traditionally presumed to be welfare oriented.

Furthermore, it has been acknowledged that the terms justice and fairness may be culturally determined (Tyler 1990; Tyler and Huo 2002) and that procedural justice perceptions would vary with the type of authority involved, the nature of transactions- and with the nature of outcome.

A qualitative research design examining these issues within a probation setting should provide a contextualized understanding of the processes through which compliance arises during routine interactions (routine appointments) and during dispute resolutions (enforcement appointments). The probation setting also provides the opportunity to explore the importance of perceived legitimacy as a compliance mechanism where the authority is perceived to be traditionally welfare-oriented.

Although the current study borrows from the compliance framework advanced by Bottoms (2001), it places the views of the key parties at the forefront of analysis. It is the manner in which they interpret their experiences during interactions and act on these interpretations that ultimately affect their behaviour. This is the fundamental position of the interactionist tradition that influences this study. It is discussed in more detail in the next chapter.

PART TWO:
DESIGN: DATA COLLECTION AND ANALYSIS

Chapter Three: Research strategy

3.1: Introduction

This chapter describes the methodology employed by the study. The chapter also describes the characteristics of the probation area included in the study. It outlines the socio-economic profile of the area and the probationers. The aim is to locate the attributes of the area within the wider context of national trends in probation policy and practice. The chapter also defines the processes of obtaining access to interview participants and official documents. Several difficulties encountered during the data collection phases will be discussed, highlighting the potential impact on the quality of the achieved data. The chapter concludes with a description of my experiences in the field. It details the efforts made to secure 'cultural' access to the participants even after initial physical access had been granted at management level.

3.2: Grounded Theory methodology within the interactionist framework

The theoretical framework underpinning data collection and analysis is the Grounded Theory methodology espoused by Strauss and Corbin (1998). The methodology is rooted in the symbolic interactionist tradition. It would appear that several interactionists trace their theoretical orientation to the posthumously organised work of George Herbert Mead (Meltzer 1972). He is cited as 'the chief architect of symbolic interactionism' (Manis and Meltzer 1972: xi), and the 'founding father of interactionism' (Downes and Rock 2003.86). Mead argues that human behaviour is the product of several processes through which the social actor actively interprets the meanings that emerge in the course of social interaction. These processes are distinctive of human action (Manis and Meltzer 1972). Mead emphasises the introspective quality of individual behaviour which he defines as inherently social

because it is not simply a response to the actions of others, it also incorporates the behaviour of others. Mead's ontological view of the nature of human behaviour influenced the work of prominent neo-Chicagoans or 'second–generation' theorists of the Chicago school of sociology (Downes and Rock 2003.57) including Blummer (1998)[xiv] and Anselm Strauss, a key exponent of the Grounded Theory methodology. In developing and extending Meadian interactionism, these theorists adopted tangential interactionist perspectives although several points of convergence may be deduced. These represent the core ontological basis of interactionism.

First, following Mead, there is a focus on the introspective aspect of human behaviour. Therefore, diverging from a positivistic ontology, interactionists accept that the covert processes underlining behaviour constitute proper objects of social science inquiry. However, there remains some disagreement over epistemological considerations relating to the appropriate techniques to be employed in the study of human behaviour (Manis and Meltzer 1972). Secondly, there is a degree of consensus among interactionists that the social actor plays an active role in defining their behaviour. Human beings do not merely respond to external stimuli. They process and interpret external information introspectively, conversing with the self, in order to align behaviour with the expectations of others (Mead and Morris 1934; Blummer 1998; Denzin 1992; Plummer 2000). This represents the influence of pragmatism which constitutes, along with formalism, the ontological foundation of interactionism (Plummer 2000; Downes and Rock 2003).

3.2.1: Pragmatism

This has been hailed as 'the most significant intellectual foundation of symbolic interactionism' (Williams and May 1996; Plummer 2000: 197). With pragmatism,

human experiences or social reality in general are not objectively existing phenomena. They emerge from the active interpretations and reactions of social actors to the phenomena that confront them. Experience cannot be divorced from the interpretive processes from which it emerges. Therefore, for interactionists, actions and objects lack intrinsic qualities. They are the product of the meanings and interpretations developed during introspective interactions between the *other* and the *self*. These interactions are contingent, contextual and situational. As such, definitions undergo continuous stages of definition and redefinition depending on the situation confronting the social actor. This idealism reflects the belief that human beings do not react to facts as they really are; rather, they react to their interpretations of the situations that confront them during interactions with others (Rock 2001).

Also central to an interactionist perspective is the notion of commonly shared meanings within any society. These provide the mechanism (mainly through the symbol of language) through which social actors learn to interpret events or other social objects. Behaviour is therefore a reflection of the symbols emergent from interactions and modified introspectively by the actor (Denzin 1992). The fusion of pragmatism as developed by Robert Park of the first generation Chicago school of sociology and Simmelian formalism (Downes and Rock 2003) characterises interactionism.

3.2.2: Formalism

Formalism averts the ontological and epistemological relativism suggested by pragmatism. It asserts the existence of objectively or independently existing *forms* or social structures which transcend the substantive contexts of constantly evolving human action and which can operate across diverse sites of human action and

interaction (Downes and Rock 2003). Describing Simmelian formalism, Plummer points out that Simmel:

> ...distinguished between the 'content' of social life (such as wars, education, politics) and the 'forms' (for example conflict) which cut across such areas and through which social life is patterned. Conflict as a 'form' may be found in diverse situations such as war and politics; and certain common features accrue to it. While 'contents' varied, forms emerged as the central organising features of social life (2000:199; emphasis in original).

Translated in practical terms, formalism represents the idea that sociological inquiry should focus not on specific instances of or the substantive elements of human experience but on 'the more general forms which consciousness employs to organise, interpret and name experience' (Downes and Rock 2003.60, Rock 2001.28). This 'quest for forms is at the heart of the interactionist exercise...they provide sensitising linkages across diverse substantive fields and highlight underlying processes at work through which interaction is accomplished' (Plummer 2000: 199) Generating knowledge of *forms* of social situations and human behaviour is tantamount to developing formal theory of social phenomena which can be generalised to other forms of social life. For instance, Whyte's (1943) study of youth subcultures in an inner city setting, has been generalised to other situations or conditions in other neighbours and within different time periods, such as 'individual performance, group structure, and the social structure of neighbourhoods' (Yin 1994.4). Strauss and Corbin note that:

> More formal theories are less specific to a group and place, and as such, apply to a wider range of disciplinary concerns and problems (1998.23).

Therefore, unlike substantive theory, formal theory can transcend the immediate spatial and temporal contexts from which it emerges. Simmel proposed that human behaviour assumes forms which vary only in content. The interactionist seeks to

uncover these universally applicable 'behavioural forms' located within differing contexts (Denzin 1992.87). The above suggests that a study grounded in symbolic interactionism will seek to document the processual and contextual forms of human behaviour. Likewise, such a study will seek to remain faithful to the view points of the research subject, paying close attention to how they perceive and define the situations that confront them. These will be prioritised over the operationalisation of *a priori* concepts. Rock rightly puts it that:

> ...any research grounded in symbolic interactionism will be tentative, empirical and responsive to meaning...The social world is taken to be a place where little can be taken for granted *ab initio*...It does not do to presume too much in advance'(2001.29).

Likewise it is argued that:

> It is all too easy to impose an alien explanatory scheme that obscures vision, ignores problems and pre-empts solutions...Data that do not stay close to the events, actions or texts being studied are always suspect' (Gusfield 1968 quoted in Downes and Rock 2003. 179).

As such, interactionist researchers necessarily emphasise a high degree of empiricism, paying close attention to the level of data and eschewing all attempts to theorise ahead of data collection.

3.2.3: Grounded Theory Methodology

Grounded Theory methodology consists of inductive and systematic strategies for rigorous data collection and analysis. It asserts the mutuality of the processes of data collection and analysis. In its original form, Glaser and Strauss's (1967) approach draws on two different 'philosophical and research traditions' (Strauss and Corbin 1998:9). Their approach incorporates the core pragmatist assumptions of symbolic interactionism which may be traced to the influence of Anselm Strauss, one of the second generation Chicago School Sociologists. It also encompasses rigorous

processes of data collection and analysis, and an empiricism that has been traced to Barney Glaser's training in positivist inspired methods emphasising comparative analysis methods and inductive theory development (Strauss and Corbin 1998). It has since been extended in different directions although the divergences are more epistemological than methodological.

3.2.4: Straussian Grounded Theory and Interactionism

This study adopts Strauss's version of Grounded Theory because it facilitates a rigorous and systematic approach to theory development. It retains the fusion of pragmatism and formalism engendered by interactionism. By recognising that human action is the product of the meanings that social actors ascribe to things, it accords with interactionist ontology. Describing the interactionist approach to the study of deviance, Downes and Rock write:

> Activities are necessarily grounded in working definitions which are situated and negotiable. Central to such conceptions are the names and symbols upon which definitions are built: as names change, so do actions (2003.181).

Therefore, human action cannot be separated from the definitions and contexts from which it emerges. Furthermore, in Grounded Theory research the researcher focuses on generalising from the specific in order to develop formal theory. The researcher explores the dimensional level of the properties of concepts and generalises from the specifics of one incident to more general forms of social phenomena. This enables the researcher to progress from the more specific instances in data to the general and abstract *forms* manifested by these instances which transcend their immediate contexts and may be applicable to other contexts of human interactions and experience.

Downes and Rock (2003.62) put it that concepts such as:

> Conflict...and invasion are processes which appear to transform events in predictable ways. For certain purposes it is practically irrelevant whether conflict is waged between the partners of a marriage, street gangs or nations. It is still conflict and it manifests a number of those special qualities which are peculiar to itself' (2003.62).

These quotes also encapsulate the ontological basis of symbolic interactionism which derives from Simmelian formalism as described above. Formalism makes it possible to develop theoretically generalisable explanations of human behaviour (see also, Denzin 1972.87; Yin 1994).

Straussian Grounded Theory is not merely a method of data collection and analysis. It is a 'methodology'[xv] which encompasses the interactionist view of the complexity and fluidity of social phenomena and the importance of ascertaining meanings rather than taking them for granted. It accords primacy to the 'words and actions of the people studied' (Strauss and Corbin 1998.6). Thus, following Mead and general interactionist standpoint, Straussian Grounded Theory Methodology recognises the socially constructed nature of knowledge. As such, Strauss and Corbin (1998) highlight the importance of exploring every object in data for its full range of possibilities and ascertaining the characteristics that appear to be the most significant. Furthermore, in line with interactionist epistemology, Straussian Grounded Theory emphasises empirically derived theory rather than the formulation or application of grand theories that are not empirically grounded in data. As summarised by Strauss and Corbin (1998.10), Straussian Grounded Theory methodology emphasises: the active role of the individual in defining and responding to social phenomena, the primacy of the meanings underpinning human action, the processes of definition and re-definition of meanings through interaction and how these affect human action, the processual

nature of human behaviour, action and social phenomena, 'an awareness of the interrelationships among conditions (structure), action (process) and consequences'.

3.3: Planning to implement the research agenda

The aim of this study was to explore compliance in order to develop an effective strategy for encouraging compliance with legal authorities. It was envisaged that a probation setting would provide the opportunity to witness how the mechanisms of compliance detailed in the previous chapter would operate in a situation where people are bound by law to comply with specific requirements. As mentioned in the previous chapter, the primary compliance mechanism employed in probation policy is the deterrent approach. Probation officers are required by the law to prosecute probationers for non-compliance after any second failure to attend without providing an acceptable reason. Failing to attend is a form of non-compliance that is visible and easily detectable. The setting is therefore adequate for examining the impact of the certainty, severity and celerity variables underlying deterrence doctrine. It also enables one to examine the role of constraint mechanisms given their increasing use for classes of probationers assessed as high risk and who have increasingly become subject to constraint mechanisms. In addition, given that the compliance strategy is enforcement based, the setting provides the opportunity to examine how the manner of using authority may affect legitimacy considerations and compliance. Finally, the setting should also facilitate an examination of how habits and routines may affect compliance.

A careful review of the literature revealed the paucity of research on the subject of short term compliance with community penalties and its corollary enforcement

practice. Raynor and Vanstone (2007:80) suggest that one possible explanation for this is that an explicitly punitive enforcement framework is politically expedient:

> ...the practice of enforcement in community sentences cries out for an evidence-based review, which it has not so far received because it has been seen as an inescapable political requirement'

Therefore little is known about the extent of, or the reasons for, short-term non-compliance although studies suggest that many probationers fail to comply with the requirements of their orders[xvi] (Bottoms 2001; Farrall 2002a; Hedderman and Hough 2004). Further, much of the literature base traversing the principal mechanisms employed in probation enforcement namely, constraint based and instrumental mechanisms have utilised quantitative methods of enquiry. Although these provide insights into the mechanisms associated with compliance they fail to illustrate how these mechanisms operate, that is, how they affect behaviour to ensure compliance. Consequently, there appeared to be a need to contribute new insights into the nature of compliance using a methodological approach that facilitates the development of an understanding of processes linked to compliance with authority. The study utilised a qualitative approach which accords with Strauss and Corbin's (1998.11) definition of qualitative research. They define qualitative research as the discovery of 'concepts and relationships in raw data and then organising these into a theoretical explanatory scheme'. The qualitative approach has been adopted because the research questions posed should be addressed using qualitative methods of inquiry. It has been argued that the choice of methods in social research should be based on the nature of research problem (Strauss and Corbin 1998; Bryman 2001). Furthermore, other commentators assert that qualitative methods are best suited for addressing specific types of 'how' and 'what' research questions (Yin 1994). The research questions posed in this study are mainly of the 'how and why' variety requiring knowledge of the in-depth views

and experiences of research participants. Central to these would be the meanings and definitions with which they make sense of their actions and with which they adapt to changing conditions. Ultimately, the aim is to understand the mechanisms that may affect compliance with community penalties.

The methodology employed was chosen for several additional reasons:

1. It is rooted in symbolic interactionism which emphasises that the subjective meanings that social actors use to interpret their interactions and experiences are valid sources of knowledge about the social world;

2. The interactionist approach recognises the role of social actors in the construction of knowledge about the social world;

3. The approach ensures that any insights emerging from the study are grounded in the experiences and perceptions of the relevant actors;

4. The analytic devices central to Grounded Theory methodology enabled the researcher to retain a degree of objectivity in analysis.

One acknowledges that analysis is always the product of second level interpretation, that is, the researcher's attempts to decipher and interpret the participant's viewpoints. Nevertheless, analytic tools such as 'asking questions' and 'making comparisons' ensure that the researcher does not become too engrossed in the data. By forcing the researcher to consider all possible and alternative explanations of emergent concepts, the analytic tools help to ensure that the researcher is able to maintain some distance from the data. The tools also help to prevent the super-imposition of presumptions, 'common sense views' or worse still, stereotypical notions onto the concepts emergent from data. In doing so, the researcher is able to resist the premature foreclosure of analysis. Consequently, the methodology enables the researcher to explore events in the data at a conceptual level taking into account the range of

conditions and actions that may pertain to emergent concepts. In sum, Grounded Theory methodology facilitates a rigorous and systematic approach to data collection and analysis. This enhances the quality of the study.

3.4: Constructing the research questions and interview schedules

The central question this study set out to answer is: as perceived by the key actors involved namely, the probation officers and the probationers they supervise, what are the mechanisms that affect how people comply with community penalties? The mechanisms of compliance developed by Bottoms (2001) formed the study's conceptual framework. On the basis of this research question, and following a detailed review of the literature, ten empirical questions that would inform the contents of the interview schedules were devised (see Appendix 1).

The data were generated from a wide range of sources. The primary source of data was interviews. Added to these, access to the case records of some of the probationers were sought and obtained subject to the consent of the specific offenders involved in the study. Additional sources of data were official documents including the National Standards, other legislation regulating supervision practice and official statistics. These sources of data were carefully selected on the basis that they would contribute to a holistic and accurate depiction of the realities of enforcement given the themes emerging from the literature review. A final source of data was observations of interactions between participating probation officers and offenders, particularly where enforcement was the subject of such interactions.

As mentioned above, the study utilised semi structured qualitative interviewing methods to generate data. A conversational style of interviewing was employed. This enabled the participants to express their perceptions of matters pertaining to compliance and non-compliance at some depth. The aim was to generate insights into

how participants perceive, define or understand the issues surrounding compliance and enforcement. As such, participants had considerable power over how the interview proceeded. They were free to change the course of discussions by raising issues relating to compliance which were significant to their individual experiences of the phenomena under study even where these issues did not substantiate the mechanisms of compliance outlined above.

Interview schedules were devised for this purpose on the basis of the central research question and the empirical questions. The questions were designed to subtly elicit information about the participants' perceptions and experiences of current restrictive policies (see Appendix 5). It is worth noting that the interview schedules served as guides. There was no conformity to any standardized interviewing schedule. Rather, interviewing was flexible, enabling the participants to discuss the relevant issues on their own terms. The schedules served as prompts to ensure that all relevant aspects of the empirical questions were addressed.

3.4.1: The content of interviews

Interviews with the probation officers explored their experiences of enforcement, their views about current enforcement policies and their philosophical approach to enforcement. Interviews with the probationers examined their demographic attributes, their compliance record so far, the nature of their interactions with their officers, their understandings of the consequences of non-compliance, their views of supervision, how such understandings impact on their behaviour, their views about the specific factors that motivate them to comply or the obstacles to compliance. The interviews also covered aspects of probationers' social lives, daily routines, and their relationships with family and friends. The officers were notified that because the aim of interviewing would be to obtain in-depth views from people who offend, the

researcher would need to inform the probationers at the start of the interview that any information given would not be relayed to their probation officers. The interviews with the probationers were on average, 30 minutes long, whilst the average duration of interviews with the officers was one hour. Furthermore, subject to the consent of each participant, all interviews were tape recorded.

3.5: Sampling: Introducing the probation area

The study was conducted within a probation area in Wales. However, five additional interviews with probation officers and senior officers were conducted in the Jersey Probation and Aftercare Service (see Table 3.8). The Jersey Service was selected on the basis of the theoretical sampling technique in which sampling is based on the need to develop emergent categories. As such, the decision to generate further data from the Jersey Service was motivated by the need to further delineate the patterns and variations of a key category that emerged in the first two phases of the study. This verification process is central to Grounded Theory methodology (see Strauss and Corbin 1998), and the outcome will be described in more detail in the next chapter. Meanwhile, given that the study was conducted within a probation area in Wales, one acknowledges that the findings may in part reflect the dominant professional culture within the probation area studied or within probation areas in Wales.

The probation area in Wales in which the study was conducted comprises several semi-autonomous administrative offices headed by divisional managers. The offices cover sparely populated rural areas that are located within a significant land mass. As such, transportation was an important issue in most of the areas as the probationers often had to rely on limited transport provisions. In one administrative office for instance, some probationers needed to travel more than ten miles to attend their appointments. Of the 9 offices visited, 7 were located in different counties whilst 2

were located within the same county. All the counties covered a significant land mass which were quite sparsely populated compared with the rest of Wales. Indeed, the part of Wales in which the probation area is located has a population density that is lower than the average for England and Wales. Further, less than 1% of the probation officers located in the area come from black or other ethnic minority groups compared with the national average - 13%. Perhaps this is reflective of the wider population in Wales which comprises approximately 1% black and other ethnic minority groups compared with the 9% average for England and Wales (Ministry of Justice 2007b).

The rate of recorded crime in the probation area is almost less than half the average rates recorded in England and Wales although the rate of recorded violent crime is comparable to the national average. Officially, the probation area has been described as one of the smallest probation areas in England and Wales in terms of an estimation of its funding budget. Further, staffing levels are low. Compared with almost all the other probation areas in England and Wales, the offender management and interventions staff employed by the area are among the lowest in number. Nevertheless, a consideration of the ratio between low staffing levels and allocated caseloads within the probation area sampled, leads one to conclude that the workload within the study area is almost directly comparable to what obtains in other larger areas.

Generally, official statistics reveal that compared with England, Wales suffers lower employment rates, lower levels of income[xvii] and lower levels of educational attainment, although recorded crime rates are significantly lower[xviii] (Office for National Statistics 2006; Welsh Assembly Government 2007). Equally, within each of the Welsh counties in which the offices were located, official statistics reveal that

there are several indices of social deprivation. These include, low income, high unemployment and low educational attainment (ONS 2006).

3.6: The study sample

The data collection process began in July 2005 and ended in October 2006. The sampling technique employed was theoretical sampling. As such, the initial sample was a convenience sample comprising participants meeting the following criteria:

- 1 male probation officer

- 1 female probation officer

- 1 probationer commencing his/her order

- 1 probationer at the end of his/her order

Thus, during the initial sampling phase, two probationers and two officers were selected on the basis of convenience sampling. The objective of selecting an initial sample fulfilling the above criteria was to generate initial concepts which would direct the course of future sampling. Subsequent sampling was purposive and based on the need to develop emergent categories (see also Strauss and Corbin 1998). This sampling technique represents the theoretical sampling technique central to Grounded Theory methodology.

The original intention was to sample:

- 10 probation officers;

- 30 of their clients comprising;

- 10 probationers beginning their orders;

- 10 nearing completion and;

- 10 probationers who had been breached for non-compliance

During analysis the emergent theoretical framework meant that 28 officers and 26 probationers at different stages of their orders were interviewed. Of these numbers, 10

participants (comprising 8 probationers and 2 officers) were re-interviewed after a six month period. Below, an attempt is made to provide an overview of the basic characteristics of the achieved sample.

3.7: The probationers

The probationers' attributes varied in terms of age, offence type, order type, stage of order, duration of order, previous antecedents and levels of assessed risk. In all, 26 probationers were interviewed. Table 3.1 below outlines the stages at which the interviews were conducted. One interviewee was serving a Suspended Sentence Order and has been excluded from analysis for failing to meet the required criteria given that the enforcement requirements are less punitive and may affect perceptions of risks or the other variables central to the study. Consequently, analysis was restricted to the data generated from 25 probationers. This figure comprises 15 (60%) male probationers and 10 (40%) female probationers. The gender distribution differs from the national distribution of probationers in which the percentage is 85% males and 15% females (see Table 4.3 NOMS 2006b). This disparity is not surprising given that the sampling method used was theoretical sampling in which sampling proceeded on the basis of the theoretical insights emergent from the data.

Table 3.1: Probationers Sampled

Stage of order	Number
Beginning	9
Midway	9
End	7
Total	**25**

Some of the 25 probationers sampled had experienced breach action at some point of the current order. Likewise, most would have failed to attend their appointment at some stage. This would have exposed them to the enforcement strategies adopted by the officers. Therefore, it is quite possible that their responses pertaining to the

impact of perceived risks on their behaviour may have stemmed from experiential effects. However, the extent of violations suggests that the deterrent framework largely fails to achieve its objectives. Moreover, as noted in the previous chapter, the methodological difficulty posed by experiential effects can be averted by conducting follow up interviews so that the links between perceived risks and interim behaviour (between the initial interviews and the follow ups interviews) can be analysed. As such, follow up interviews were conducted approximately six months after the initial interviews. The follow-up interviews served two purposes. First they helped to address the above mentioned problem of temporal ordering in which the variables central to deterrence theory (perceived risks and behaviour) do not occur in the order intended by deterrence theory. With deterrence theory, perceived risks should precede behaviour. Follow up interviews provide the opportunity to explore deterrent effects by examining how perceived risks affect future behaviour.

During the follow up interviews, it emerged that two of the probationers interviewed during the initial stages had since been breached for non-compliance. Moreover, some of the probationers re-interviewed reported additional incidents of absenteeism and non-compliance. The violations occurred despite the heightened perceptions of risks reported during the initial interviews. This finding further illuminated the marginal impact of the deterrent framework. Secondly, the follow up interviews facilitated the implementation of Grounded Theory techniques- theoretical sampling and comparisons.

The largest age group of the sampled probationers fell within the 26 and over age range and the lowest group were those aged below 26 years (see Table 3.2). This is broadly consistent with the wider probation population (NOMS 2006b).

Table 3.2: Probationer Age Range

	N
20& under	7
21-25	4
26-39	9
40 & over	5
Total	**25**

Most of the probationers had previous convictions (see Table 3.3), and of the total sampled, 8 had served custodial sentences for offences ranging from alcohol induced violence to drug related offences.

Table 3.3: Criminal Antecedents of the probationers sampled

	N
No antecedents	9
Second conviction	7
Multiple convictions	9
Total	**25**

Further, two thirds of the probationers sampled were unemployed. Thus of the 25 probationers, 18 were unemployed and in receipt of social security benefits, whist 7 were employed in low skill and low paid jobs such as: factory work, JCB/forklift driving, construction work and bar work. Of the unemployed probationers, one had previously been employed as a market stall assistant and another as a carpenter. Others included bricklayers, nursery assistants, hairdressers and factory workers. Most had left secondary school with no qualifications. This is consistent with the findings reported by several studies that most probationers suffer significant socio-economic deprivation. Rex writes that:

> One striking factor was the range and multiplicity of problems recorded on probation files. As well as the lack of stable employment which pervaded the entire sample, over a third of the probationers (24) apparently experienced at least three of the following kinds of difficulties: unsatisfactory or unstable accommodation; shortage of money and /or debt; addiction to alcohol or drugs; mental health; and relationships. This is consistent with the findings of other researchers... (1999: 367).

Likewise, drawing on studies confirming the high incidence of socio–economic disadvantage among probationers, Ford and colleagues observe that:

> There is substantial evidence that offenders as a group are significantly atypical of the general population in terms of the constellation of personal difficulties that they face. Commonly they will have a range of associated psychosocial problems, such as unemployment, housing difficulties, poor educational achievement, disruptive family relationships and mental health problems; a substantial minority will have attempted suicide, or misused drugs and alcohol... almost a third of probationers have been in care as children, and as a subgroup of the total probation caseload, they show significantly more disrupted and disturbed behaviour and problems than those who have not been in care (1997:42-43).

These were reflected in the study sample. Added to these, in the specific area sampled, 90% of the probationers are assessed to have low basic skills and for 50% of probationers supervised in the area, it is estimated that their basic skills fall below the range expected of 11 year olds. Further, an examination of a sample of fifteen case records revealed the indices of social deprivation described above including low basic skills, periods in care, unstable family relationships and living arrangements, financial difficulties and several other socio-economic difficulties. The risk profiles of some of the probationers sampled are outlined in Table 3.4.

Table 3.4: Probationer Risk Profile

	N
Low risk reoffending/low risk harm	4
Medium risk reoffending/low risk harm	7
Medium risk reoffending/high risk harm	1
High risk of reoffending/medium risk harm	3
Total	**15**

Table 3.4 shows that of the 15 probationers whose records were analysed, most (8) were assessed as posing a medium risk of reoffending.

Table 3.5: The probationers sampled-offence type*

	N	(%)	National Statistics %
Robbery	-	-	1%
Indictable motoring offences	-	-	1%
Other indictable offences	-	-	9%
Violence against the person	10	40%	12%
Sexual offences	1	4%	2%
Burglary	1	4%	5%
Theft and handling	3	16%	17%
Fraud and forgery	3	12%	3%
Criminal damage	2	8%	3%
Summary motoring offences**	2	8%	24%
Other summary offences***	3	12%	23%
Total	**25**	**100**	**100%**

*Offence types correspond with the categories used in official probation statistics
(NOMS 2006b)
** The probationers categorised here were serving their orders for drink driving offences.
***The probationers categorised here were serving their orders for child neglect offences.

Many probationers were serving their orders for offences of violence linked to substance misuse (see Table 3.5). Although there is an overrepresentation of probationers within this category of offending compared with the national statistics, this is consistent with the general characteristics of probationers supervised within the probation area sampled. For 74% of the probationers supervised by the area a link exists between offending and substance use. The second largest offence group was theft and handling.

The largest group of probationers sampled (13) were serving the old style probation orders[xix] (see Table 3.6). Further, almost all the probationers were given additional requirements to participate in one or more offender behavioural programmes, mainly the 'one to one' programme and/or substance misuse programmes. There were 4 probationers on the old style community punishment and rehabilitation order.

3.7.1: The probationers sampled - the new style orders

Of the 25 probationers, 8 were serving the new style orders introduced during the study. Of this 8, 3 were serving the new style community order with supervision requirements[xx], 4 were serving the community order with supervision and unpaid

work requirements and 1 was on the community order with unpaid work order. The new style orders were introduced during the study period. As such the achieved sample will differ from the national average.

Table 3.6: The probationers sampled- order profile

	N	%	National Statistics%
CRO	13	52%	42%
CPRO*	4	16%	14%
CO**	8	32%	44%
Total	**25**	**100%**	**100%**

* Community punishment and rehabilitation order.
**The new style community orders

The probationers also varied according to the lengths of their orders (see Table 3.7). As mentioned in the Chapter one, although McIvor (1992) found no links between the length of an order and the 'likelihood of breach', official statistics suggest that probationers serving longer orders are more likely to fail (NOMS 2006b). To explore this further, although the study focused mainly on probation orders, the study sampled several probationers serving longer terms. In all, probationers serving orders of up to 36 months were included in the study. As Table 3.7 below depicts, most of the probationers sampled (11) were serving 12 months orders. Broadly, this is consistent with the national average given that probationers typically serve orders of 12-24 months (NOMS 2006b). Further, for 9 probationers with orders incorporating the unpaid work or community service element, the hours imposed ranged from 50 hours to 200 hours.

Table 3.7: The probationers sampled- order duration

Length	N
6 months	1
12 months	11
18 months	5
24 months	5
36 months	3
Total	**25**

It is worth noting that the sampling technique employed was theoretical sampling in which sampling proceeds on the basis of the emergent theoretical framework. As such, the achieved sample will differ somewhat from national statistics although areas of concordance exist.

3.8: The officers

As mentioned earlier, the study was conducted within a probation area in Wales and five additional interviews were conducted in the Jersey Probation and Aftercare Service in order to develop an emergent category (see Table 3.8).

Table 3.8: The Officers

	Probation Officers	Management	Unpaid work staff	Total
Wales	19	-	4	**23**
Jersey	2	3	-	**5**
Total	**21**	**3**	**4**	**28**

As Table 3.8 above shows, 3 members of management were interviewed in the Jersey Probation Service. Further, the 2 main grade officers interviewed in Jersey had been in service for less than six years. Of the 19 main grade probation officers sampled in Wales, the average lengths of service reported by the officers was just over eight years. This is consistent with the national average for probation officers (Ministry of Justice 2007a). According to official statistics collated at the end of 2006, the national

average length of service for probation officers is eight years, the implication being that most probation officers would have been trained under the new style training arrangements introduced in 1997/98 (See generally Nellis 2003; Ministry of Justice 2007a). Thus in terms of training style, the sample of officers is also broadly reflective of the national population of probation officers (Ministry of Justice 2007a).

Table 3.9: The officers sampled in Wales - length of service

Length of service (yrs)	Number
Under 1	4
1-5	7
6-10	1
11-15	3
16-20	2
Over 20	2
Total	**19**

In all, 16 female and 12 male staff were interviewed. This comprises 12 female probation officers and 9 male probation officers. The higher proportion of female officers may be reflective of national trends in which the female probation officers outnumber the male officers by a ratio of almost 2 to 1 (Ministry of Justice 2007a). This gender discrepancy has been described as 'the feminisation of the workforce' (Worrall and Hoy 2005; Bailey et al. 2007:126; NOMS 2006b; Ministry of Justice 2007a).

In sum, compared with the wider population of probation areas, officers and probationers in Wales, the study sample has several distinctive features. The probation offices were located in a predominantly rural area with low rates of recorded crime compared with other probation areas. There is also a high rate of socioeconomic deprivation in the area. Other distinctive features include the small population density despite the large land mass which poses transportation problems, the small size of the probation area in terms of its revenue budget and staffing levels

and also the under-representation of ethic minorities although the latter is reflective of the wider population of Wales in general.

Alongside these disparities, there are some consistencies between the study sample and the national average. Chief among these are the average lengths of service reported by the officers and the finding that most of the officers were trained under the new training arrangements for probation offices. Also comparable to the national average are the greater representation of female officers and the officers' workload. The latter tends to be commensurate with staffing levels (Ministry of Justice 2007b).The probationers sampled also possess attributes that are consistent with the wider population of probationers. These include the age range of the probationers, the degree of socioeconomic deprivation afflicting most of the probationers sampled and the duration of their orders.

3.9: The follow up interviews

On the basis of theoretical sampling, 17 participants (7 officers and 10 probationers) were selected for follow up interviews (see Table 3.9).

Table 3.10: The follow up interviews

	Number		
	Intended	Absent	Achieved
Probationers	10	2	8
Probation officers	7	5	2
Total	**17**	**6**	**10**

Of the 17 intended participants, 3 officers were no longer based at their offices at the time of the follow up interviews, and 1 officer was away on long term sick leave. 2 probationers persistently failed to attend on the appointed dates (which were set to coincide with their supervision appointments). In all, 10 follow up interviews were conducted comprising 2 officers and 8 probationers.

3.10: Conclusion

The processes of obtaining access to the study participants clearly mirrored Rex's (1999:368) earlier observation that: 'Gaining access to research participants requires negotiations at every level'. There were five levels of negotiations involved in obtaining access. After initial access was granted by the gate keepers- those at the top of the organisation (at management level) - I had to negotiate with divisional managers in charge of each of the ten offices visited. Formal letters describing the proposed study and the sample required were sent to each office (see Appendices 3&4). The letters also detailed the components of the interview, outlining the intended format and duration. In addition, the letters initiated the process of obtaining informed consent. With some offices, despite constant requests and reminders through emails and phone calls, there were significant delays in obtaining second level access to the officers and probationers. Once this was granted, third level negotiations began. This consisted of inviting the officers to participate and to recruit the probationers willing to participate. This stage often required a second round of written reminders and requests for interviews.

The fourth level of negotiations began in the follow up period. The methodology employed requires iterative analysis. As such, I had to revisit several offices in widespread geographical locations. Access became more difficult because of the unpredictability of probationers, staff turnover and redeployments. I had to constantly renegotiate the terms of access with additional officers in order to fix appointments within limited time scales.

Having gained physical access, the fifth stage of negotiations consisted of attempting to obtain what has been termed 'cultural access' (see also Oakley 1981.52). This entails the ability to secure the trust and respect of the research participants. This was

crucial for maintaining the quality of the data for several reasons. The subject matter of this study was potentially contentious and it subsequently became topical. In terms of the latter, the highly publicised crimes committed by probationers and the ensuring negative media coverage fuelled speculation about the ability of the service to perform its public protection role. Similarly, the subject matter of study was contentious because of the significant changes the service has undergone in recent years, in the effort to reconstitute its image. Historically, the service offered welfare based alternatives to punishment. In current policy, the orientation of the service has been changed and it is now responsible for providing community based punishments with strict regulations for enforcing compliance. Studies suggest that officers resort to covert discretionary practices for several reasons including the attempt to overcome the limitations posed by unwieldy policy requirements (Vass 1980). Enforcement practice may have therefore been a potentially contentious issue.

I believe that the qualitative interviewing method I used enabled me to develop the degree of rapport necessary for ensuring that the participants were able to invest a degree of trust in me in a way that may have enabled them to provide honest and in-depth views of their experiences.

Chapter Four: Data Analysis: Developing the emergent categories

4.1: Introduction

This chapter describes the processes of data collection and analysis. In line with Grounded Theory methodology, analysis proceeded on the basis of open sampling, open coding, axial coding and theoretical sampling. The categories that emerged from analysis and the processes of their development are also described in this chapter. These categories appeared to suggest that compliance cannot be decontextualised from the activities of the officers in defining what constitutes compliance.

4.2: Open sampling

Three phases of interviewing were conducted using theoretical sampling and based on the emergent concepts and categories. Initially, sampling was speculative and as mentioned earlier, the respondents were chosen for their ability to open up lines of enquiry and direct the course of future sampling. As noted in the previous chapter, care was taken to ensure that the sample included respondents with varying demographic characteristics. In the first phase, the intention was to generate the data that would offer a broad perspective on the research problem.

4.3 First stage of analysis: open coding of the initial data

The process of data analysis began with open coding. This is the process of conceptualising incidents in the data[xxi]. It was an iterative process in which I worked back and forth interpreting and coding the data. Central to this inductive process was microanalysis or the 'line by line' (Strauss and Corbin 1998:57) analysis of the data. This expedited the coding process. In conducting microanalysis, each sentence was read in detail and was explored for possible concepts.

4.3.1: Integrating concepts into categories and axial coding

During open coding and microanalysis, several concepts were identified (see Appendix 6). These were subsequently integrated into categories[xxii] and sub-categories[xxiii] (see Appendices 6&7). Once these categories had been generated I began axial coding. This involved reorganising the data fragmented by open coding processes. To this end, 'relational statements' were used to elucidate the relationships between each emergent category and its subcategories (See also, Strauss and Corbin 1998). Subsequently, the focus of analysis shifted from identifying categories and their properties, to ascertaining the relationships between the emergent categories and their subcategories. In formulating these hypotheses, I employed an analytic device - 'the paradigm' - (Strauss and Corbin 1998:128). This device comprises three components namely conditions, actions/interactions and consequences. It enabled the process of identifying the categories representing each of these components. The objective was to link the evolving processes[xxiv] identified in the data with the structural conditions underpinning them[xxv].

The participants' actions and interactions are classified as processes, whilst the conditions that pre-empt these processes and their consequences are conceptualised as the structural factors underpinning the observed processes. Using relational statements during axial coding, theoretical links were made between emergent processes and their structural contexts. The aim was to understand the nature of compliance by observing its interactional and structural contexts. Strauss and Corbin point out that:

> 'Our concern as analysts is not so much with causality as with conditions...and the way in which they criss cross to create events leading to actions/interactions' (Strauss and Corbin 1998:133).

Therefore, the concern was not to establish causality in any deterministic manner.

All three components of the paradigm were identified in the data. Using relational statements to link the emergent categories to their subcategories enabled this process. In sum, each category was analysed and depending on the properties they exhibited when linked with existing categories, they were identified as either the 'conditions' that inform other categories classed as 'actions and interactions' or as the categories that represent the 'consequences' of these actions/interactions.

4.4: Unravelling compliance: the emergent categories

Nine categories emerged from the three phases of data collection and analysis. The categories were conceptualised as:

- Officer defined mechanisms

- Probationer defined mechanisms

- Policy defined mechanisms

- Reacting to the formal rules

- Obstacles to compliance

- Confronting unpredictability

- Policy constraints

- Informal rules

- Adaptation techniques

Together, these categories represent the processual and conditional factors that could aid an understanding of the nature of compliance. They were developed using the analytic tools and devices described above and also described in more detail in Chapter five. The first three categories represent the mechanisms of compliance cited by the participants. Chapter five will detail how the 9 emergent categories described below were integrated into 3 key categories linked to compliance.

4.5 Officer defined mechanisms

The officers reported that they make attempts to address potential obstacles to compliance. For instance, structural problems such as a lack of suitable accommodation and employment are addressed by referrals to relevant agencies; debt management advice may be offered for financial difficulties. To alleviate practical problems for instance, the officers reported that at an organisational level, travel costs may be reimbursed although the provision for this is limited. Some of the officers also offer reminders and flexible appointments to accommodate the unpredictability posed by chaotic lifestyles fuelled by substance misuse. They may also make home visits to alleviate reporting difficulties. Substance misuse/lifestyle related obstacles are also addressed by making referrals to the appropriate agencies. These are the routine based obstacles that engender chaotic lifestyles. Non criminogenic routines that affect compliance (mainly employment commitments) are addressed through more flexible reporting arrangements. Further, literacy deficiencies that may affect compliance are addressed by referrals to appropriate agencies and by compliance strategies such as reminders.

Added to the effort to address needs, other mechanisms employed by the officers are linked to their interactions with the probationers. The officers reported that they strive to maintain positive relationships with their clients. Importantly, to ensure that the probationers are able to complete their orders without undue recourse to breach action the officers would typically apply informal rules that permit more flexible enforcement.

Although these officer defined mechanisms can potentially stimulate normative compliance, the study found that they tend to be interpreted by the probationers as incentives designed to encourage compliance (see Figure 4.1).

Figure 4.1: Developing the category - officer mechanisms

```
                    ┌─────────────────────────┐
                    │ Instrumental mechanisms  │
                    │      Incentives          │
                    └─────────────────────────┘
          ↙                    ↓                    ↘
┌──────────────────┐  ┌──────────────────┐  ┌──────────────────────┐
│    Referrals     │  │  Reimbursements  │  │ Flexible appointments │
└──────────────────┘  └──────────────────┘  └──────────────────────┘
```
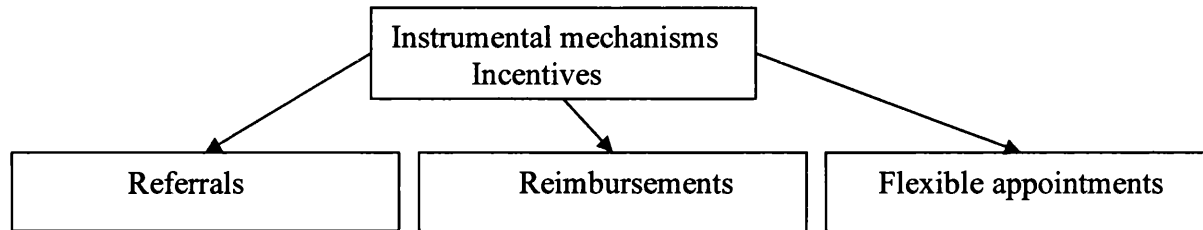
It is arguable that talks and other benefits can serve normative ends. However, this is more likely where the benefits are communicated to the probationers as normative mechanisms and are understood by them as such. Potential avenues for communicating the normative objectives of interactions are provided by insights from the effective practice literature. Prosocial modelling techniques for instance, emphasise the importance of communicating to the probationers the consequences of their actions. Thus to enhance normative compliance, the officers can complement their efforts to resolve the structural, practical, and routine based obstacles to compliance with the use of skills emerging from the effective practice literature such as prosocial modelling or motivational interviewing skills (Dowden and Andrews 2004). Studies show that these skills can emphasise the normative aspects of the officers' interactions with the probationers in order to encourage short term and longer term normative compliance (Dowden and Andrews 2004).

4.6 Probationer defined mechanisms

The probationers' descriptions of their experiences of supervision were consistent with the findings of existing studies. The probationers offered positive evaluations of their officers and their supervision experiences underpinned by the expectation of support. From the probationers' perspective, the help and support offered during supervision served as incentives to attend appointments. Central to these was the therapeutic role of the officer - listening to problems.

Added to instrumental mechanisms through the use of incentives, some of the probationers cited other instrumental factors that affect how they comply and these are mainly informal control mechanisms such as the influence of social bonds with significant persons in their lives such as a partner or other dependents and stakes in conformity - accommodation and employment - as defined by (Hirschi 1969). Some probationers also cited the belief that compliance expedites the completion of the order as an additional motivating factor.

However, in describing the central factor that motivates them to comply, most of the probationers cited mainly instrumental mechanisms in the form of incentives that are consistent with the mechanisms cited by the officers (see Figure 4.2). Although some of the probationers (16) acknowledged the normative aspect of the order only 2 probationers cited normative mechanisms as the central factors motivating them to comply. For most the probationers, interactions with their officers were likely to produce compliance where there were perceived benefits accruing from these interactions.

Figure 4.2: Developing the category - Probationer mechanisms
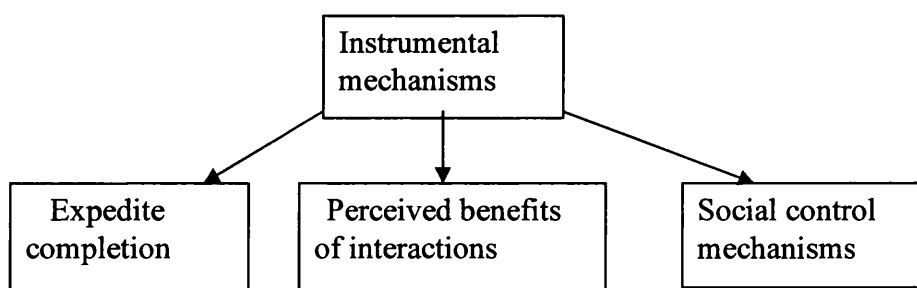
Therefore, the main mechanisms were instrumental in the form of incentives based on the perceived benefits of supervision: the opportunity to 'talk out' problems in order to relieve mental stress and solve problems, the role of the officer in listening to

problems, providing advice and making referrals. According to the probationers, these were important motivational factors.

4.7: Policy defined mechanisms

As observed by Bottoms (2001), the current enforcement framework is deterrence based. Thus, it is rooted in the belief that the severity of punishment for breach should deter all potential and persistent non-compliers. The category – policy defined mechanisms – conceptualises this approach to securing compliance because it comprises several mechanisms for enhancing the objective severity, certainty and celerity of punishment for non-compliance. These were conceptualised as: efficient enforcement machinery, the new sentencing arrangements for breach, the provisions for early revocation and the proactive rule clarification during induction (see Figure 4.3)

Figure 4.3: Developing the category: policy mechanisms

```
                    ┌─────────────────────┐
                    │ Policy mechanisms   │
                    │ (Instrumental)      │
                    └─────────────────────┘
        ┌──────────────┬──────────┬──────────────┐
        ▼              ▼          ▼              ▼
┌──────────────┐ ┌──────────────┐ ┌──────────┐ ┌──────────────┐
│ Enforcement  │ │ New sentencing│ │ Early    │ │ Proactive rule│
│ machinery    │ │ for breach   │ │ revocation│ │ clarification │
└──────────────┘ └──────────────┘ └──────────┘ └──────────────┘
```
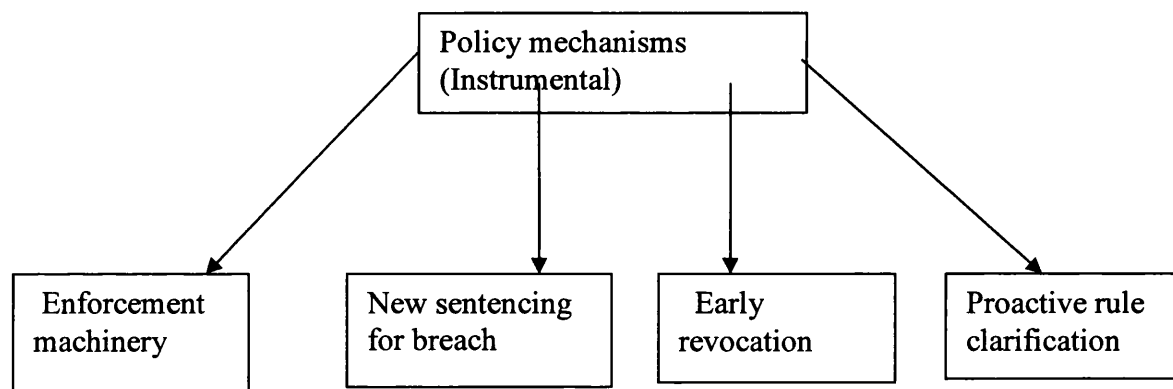
In each of the offices visited, there appeared to be efficient machinery for the delivery of breach proceedings. The machinery operates through an efficient breach administration framework that is designed to facilitate the implementation of the deterrent framework. In most offices there is effective division of labour with the Probation Service Officers responsible for breach administration and a Court Duty Officer available to prosecute breaches. Another policy defined mechanism that may

have been developed to serve as a corollary to the deterrent framework is the abrogation of disciplinary breaches. As noted above, with the new sentencing arrangements, the courts are required to impose a sentence for breach. Under previous arrangements, the courts could simply reprimand the probationer or impose a fine. The policy intention may be to utilise the new provisions as deterrent mechanisms given that probationers can no longer receive a mere reprimand but must be re-sentenced for breach. It may also be designed to reduce breach rates by discouraging the officers from escalating minor incidents of breach. Frequent hearings to secure a reprimand may not be deemed cost effective. Nevertheless, the officers have lost the ability to employ constructive breach as a mechanism of compliance and they believe this will engender higher rates of non-compliance. The officers believe that the new enforcement arrangements will make non-compliance more likely given that probationers are likely to become encumbered with onerous requirements that would render them more susceptible to violations.

Another policy mechanism designed to enhance the deterrent potential of the enforcement framework was categorised as 'proactive rule clarification'. This conceptualises the strategic actions and interactions entailed in defining the boundaries of expected behaviour as dictated by the formal rules. Proactive role clarification begins during induction. It consists of a range of strategies namely, defining the formal rules and ensuring rule clarity.

During the process of defining formal rules, the probationer is informed of the full consequences of non-compliance. According to the data, the probationers may fully comprehend the formal rules (rule clarity), or may demonstrate limited knowledge of the formal rules (rule ambiguity). The three stages of analysis revealed that of the 25 probationers interviewed, only 8 had accurate knowledge of the formal rules. The

reminder (17) displayed limited knowledge of the rules although all the probationers interviewed reported that the rules had been communicated to them during their induction. However, all the probationers demonstrated heightened perceptions of risks.

5 possible reasons for the high level of perceived risks also emerged:

1. Previous experience of breach action
2. Threats made by the courts (during sentencing) that severe consequences will accompany non-compliance
3. The perception that the current offence was serious enough to warrant a custodial sentence
4. Information gleaned from peers
5. The belief that a severe outcome is likely because the order is an alternative to custody which if breached would be construed by the courts as a failure to take full advantage of a 'second chance'

Although the five factors listed above and derived from the probationers' accounts appeared to explain the possible reasons for the heightened perceptions of risks observed, the data revealed limited links between the objective existence of the policy defined mechanisms or the impact of the five factors above on the actual behaviour of the probationers.

Early revocation of the order for good compliance is the key incentive devised by policy to encourage compliance. Again it is an instrumental mechanism that seeks to encourage instrumental compliance.

The policy mechanisms described above are designed to facilitate the effective implementation of the deterrent framework. By incorporating instrumental strategies in the form of disincentives and also in the form of incentives, the policy mechanisms reflect an instrumental view of compliance.

However, the data revealed that despite the policy defined mechanisms and despite the heightened perceptions of risks observed, most of the probationers would violate the formal rules. The rates of violations suggest that the policy mechanisms and also,

the perceived risks stemming from previous experiences of breach action or from negative court encounters did not appear to engender a high degree of risk aversion.

4.8: Reacting to the formal rules

This category represents the probationers' reactions to proactive role clarification (see Figure 4.4).

Figure 4. 4: Developing the category - proactive rule clarification and reacting to formal rules
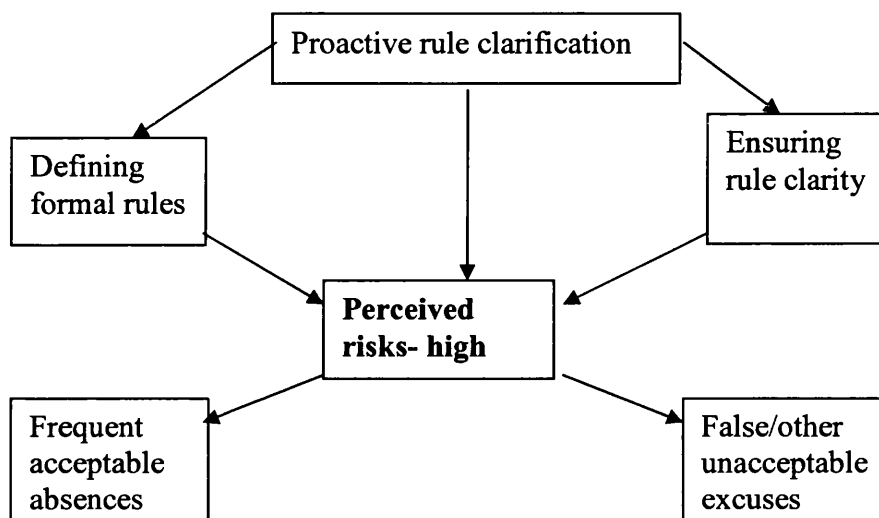
As Figure 4.1 shows, the probationers' reaction to the formal rules as defined during rule clarification would typically be in the form of violating the formal rules. All of the 25 probationers sampled had missed appointments for a variety of reasons. Of this number, 17 reported that their absences were for invalid reasons. The largest group of probationers (8) cited substance misuse (among other factors) as the reason for absence. In some of these cases the reliance on drugs or alcohol rendered the probationer unable to attend routine appointments.

4.8.1: The reasons for violations and absences

The reasons for violations and absences as described by the probationers may be broadly categorised as situational, lifestyle, personal and practical. These may contribute to a failure to prioritise probation appointments. According to the probationers, the reasons for violations were:

- Negative interactions with the officer
- Visiting the pub
- Substance misuse
- Forgetting appointments
- Travelling
- Shopping

In terms of the first above, the indices of negative relationships that triggered violations were described by the probationers involved as: perceived poor quality treatment characterised by the inability to state one's case during decision making; disrespect stemming from a rigid application of rules, the absence of a 'rapport' whereby both parties are able to converse freely; a domineering approach, an approach lacking in empathy and an intrusive approach. The latter arises where there is discontinuity in supervision and the probationer struggles to re-establish trust with a different officer. Violations linked to negative interactions with the officer may also be triggered by the belief that the officer has been unable or unwilling to provide any incentives in the form of support and other desired or anticipated help.

Visiting the pub and substance misuse are lifestyle factors. These may engender a failure to prioritise probation appointments. Likewise, forgetting appointments, travelling and going shopping represent the failure to prioritise probation appointments.

Absences not defined as violations by the probationers were mainly caused by socioeconomic, lifestyle and practical problems. They are outlined below:

1. Travel difficulties
2. Childcare problems
3. An injured toe nail
1. Work commitments
2. Viewing a house
3. Having a fight with a neighbour
4. Accommodation problems
5. Child care
6. Travel costs
7. Disliked unpaid work
8. Ill health
9. Family problems
10. Substance misuse fuelled by emotional difficulties

Although fighting was not described as an invalid reason for absence by the probationers involved, it may also be classified as a lifestyle obstacle given that the two probationers involved tended to become involved in fights whilst under the influence of substances.

Some probationers were not interviewed because they failed to attend their probation appointment on the day scheduled for the interview. They contacted the office to provide excuses linked to socioeconomic, domestic and other practical factors:

- A domestic abuse incident involving a knife attack
- Ill health
- Travelling

Others scheduled for interviews did not contact or the office on the day of the appointment. Of this group, two failed to attend their first appointment and several appointments afterwards.

4.8.2: Breach patterns

The infrequency of breach despite the high rate of violations was noted. Of the 25 probationers interviewed, only 8 were breached and the data reveals that their absences were frequent and no contact was made with the office.

4.8.3: Compliance patterns of the follow up group

All the 8 probationers interviewed during the follow up study also revealed that they had missed appointments. 2 had been breached for non-compliance since the initial interview. The reasons for violations were again socioeconomic, lifestyle and practical factors:

- Accommodation problems
- Substance misuse

The remaining 6 missed appointments for the following reasons:

- Hospitalisation after a fight
- Travel costs
- Attending a burial
- Family problems
- Work commitments

Of the 8 interviewed during the follow up phase, 2 reported that they believed that they qualified for the early revocation of their orders although their officers were reluctant to implement this. The officers defined both probationers as 'technical compliers' who had only maintained the minimum compliance required namely, attendance. Thus, they had failed to adequately fulfil other terms of the order.

The foregoing demonstrates that the rates of violations were high despite heightened perceptions of risks. Based on the accounts of both parties, several factors that may undermine perceived risks were identified:

- information gleaned from peers;
- variability of sentencing for breach;
- the variability of the officers' responses to violations

Added to these are the obstacles to compliance explored further below. It was clear in the data that no clear link exists between the objective existence of the policy defined mechanisms and the actual behaviour of the target audience (the probationers). From a deterrence perspective, the obvious issue raised by this finding is that although the

probationers are aware that there are risks associated with non-compliance most violate the formal rules. Further, most of the probationers did not cite the perceived risks of non-compliance as the central factor motivating them to comply. Of the three mechanisms discussed above, the perceived benefits of supervision (particularly the officer's therapeutic role) according to most of the probationers, tended to motivate compliance. Added to the mechanisms described above, several additional categories were identified and developed during analysis. They are explored below.

4.9: Obstacles to compliance

This category represents the several obstacles that may affect compliance as identified by the participants. The obstacles are the conditions that impinge on compliance patterns. There are the emotional, structural, practical, situational and routine based obstacles to compliance. Emotional problems are typically caused by relationship problems. Structural problems include accommodation related problems, unemployment and literacy deficiencies. The practical problems are largely travel related given the wide geography areas covered by the probation area and the unstable public transport facilities. There are also accommodation problems, substance misuse problems and employment related obstacles. Financial problems are also practical obstacles to compliance where the probationers are unable to afford transportation costs. Further, ill health and child care difficulties also pose practical obstacles.

The probationers revealed additional conditions that may discourage compliance. These are mainly the situational factors linked to the content of supervision and the nature of the relationship between both parties. Negative relationships may engender non-compliance (in two cases leading to breach). The features of negative interactions as defined by the probationers are as mentioned earlier: the perceived poor quality of treatment characterised by a dictatorial enforcement approach which denies the

probationer the opportunity to state their case; a rigid application of the formal rules without reference to the specific circumstances of the case; the failure to develop a 'rapport' or an egalitarian relationship in which both parties are able to communicate freely and in which the officer displays a degree of empathy. Where there is discontinuity in supervision, the probationer is more likely to describe a supervisor's approach as intrusive. The impact of negative relationships is described in more detail in Chapter Seven.

Added to these, there are routine based obstacles which are mainly criminogenic routines involving the use of illegal substances. Substance misuse related problems impinge on compliance patterns. Sometimes, non-criminogenic routines may constitute obstacles- such work commitments. One mechanism not particularly identified by the probationers as a significant obstacle is the difficulty posed by their low basic skills. However, the officers identified 'literacy deficiencies' as an important obstacle which may hamper the ability to understand enforcement or other important correspondence.

4.10: Confronting unpredictability

This category appeared to be directly linked to the nature of compliance. The category depicts the officers' reactions to the rule violations. The data revealed that the officers adopt a unilateral definition of non-compliance. As such, the type of violation that would typically generate a reaction from the officers would be the failure to attend appointments. Confronting unpredictability is therefore a reaction against absenteeism. The data revealed the possible implications of this reduced definition of compliance. It tended to encourage technical compliance whereby the probationer fulfils minimum attendance requirements but fails to work towards fulfilling the

overall objectives of the order. It may also encourage the normalisation of other forms of non-compliance.

By violating the formal rules, the probationers reveal a high degree of unpredictability typified by sporadic compliance patterns or by complete absconsion.

The Officers internalise this unpredictability. I witnessed several of these incidents of unpredictability. For instance, as noted above, during the effort to track down probationers commencing new orders, two probationers were to be recruited to the study. However they failed to attend their initial appointments and subsequent phone calls revealed that one had totally absconded.

Given this unpredictability, the officers realise that they are working under conditions of consistent unpredictability displayed by probationers. This perceived unpredictability sets the context/condition for confronting unpredictability.

4.10.1: Typologies

Perhaps illustrating the internalised perception of unpredictability, typologies of the compliant or non-complaint probationer were derived from officers' accounts. They reflect the categorisation of groups of probationers according to expected compliance patterns. These typologies are in terms of the nature of offence, degree of involvement in substance use and age. Most of the officers reported no gender related discrepancies affecting compliance patterns.

Table 4.1: The typologies

Compliant	Non-compliant
Drink drivers/ Sex offenders	Substance misusing probationers
Older probationers	Young probationers

4.10.2: Exploring typologies

Based on the participants' accounts, an attempt was made to analyse the variations in compliance patterns according to the above typologies, namely, nature of the offence degree of involvement in substance misuse and age.

To explore these typologies further, specific probationers fitting the typologies were sampled (see Table 4.1) above.

4.10.2.1: The nature of the offence

Confirming the officers' observations, the probationer convicted of sex offending reported that he had complied fully with the order, although further analysis revealed that his compliance levels were more consistent with the levels set by the informal rules. Therefore, although he had missed several appointments he ensured that he maintained the required contact. Similarly, although the 2 probationers convicted of drink driving offences reported violations, they were able to comply with the informal rules and none were breached at any stage.

4.10.2.2: Involvement in substance misuse

The highest incidence of violations and absenteeism was noted amongst the 14 substance using probationers. All of the 14 reported several absences. Furthermore, 9 of the 14 reported that they had violated their orders, and 5 were breached during the current order. This is consistent with the officers' observations about the difficulties of ensuring that this group of probationers comply with their orders.

4.10.2.3: Age

The older probationers particularly those aged over 30 were more likely to report that they were motivated to comply because they were at the stage of their lives where they needed to make a change. Further, the proportion of probationers aged below 26

breached in court during the current order was higher (36%) compared with 28% of those aged 26 and over.

4.10.3: Other demographic variations

An attempt was made to analyse the variations in compliance patterns according to other demographic variables noted in the literature. As noted in chapter one, most probationers suffer socioeconomic disadvantage such as unemployment, accommodation problems, financial difficulties, adverse family and peer relationships and also, poor basic skills. The study sample reflects this national trend. Therefore the possible variables that may affect compliance patterns would reside in the probationers' individual characteristics such as: previous antecedents, gender, nature of the offence, and order duration. Therefore, added to an exploration of the typologies described above the study explored variations in compliance patterns across these 4 variables.

4.10.3.1: Previous antecedents

Of the 9 probationers who reported that they had no criminal antecedents, 4 reported that they had violated the formal rules. This is consistent with the findings of studies cited in chapter one which found that probationers with criminal antecedents are more likely to violate their orders.

4.10.3.2: Gender

The officers did not perceive a gender difference in the propensity to comply with an order. Confirming this is the finding 67% male probationers reported rule violations compared with 70% of the female probationers interviewed. Further, a higher proportion of female probationers 40% were breached for non-compliance compared with 27% of the male probationers. It is important to consider the possible impact of the nature of the sample on this finding. 15 (60%) male probationers and 10 (40%)

female probationers were sampled. Thus, fewer male probationers and a greater proportion of female probationers than would obtain in the wider population of probationers were sampled.

4.10.3.3: Nature of offence

In line with existing studies that highlight links between a conviction for dishonesty offences and the likelihood of non-compliance, the probationers serving their orders for dishonesty offences such as fraud, theft or burglary offences were more likely to report violations (5 out of the 7 within this category). Of the 7, 4 were breached representing half of the number of all the probationers breached. Contrary to the expectations of an additional probationer within this group, the officer reported that she was reluctant to revoke the order early for good compliance because the probationer –P8F - had only achieved technical compliance, maintaining the minimum compliance required – attendance.

4.10.3.4: Length of order

Violations and breaches were more frequent among the groups of probationers serving orders of 12 months and above. Although this appears to be broadly consistent with the national average, it is possible that they also reflect the nature of the sample achieved. As Table 3.9 in Chapter three depicts, the largest proportion of probationers sampled were serving orders of 12 -24 months.

In all, a degree of caution is advised in interpreting these findings as evidence of variations across demographic attributes. The variations observed may also be a reflection of the nature of the achieved sample. Chapter three provided a description of the study sample.

4.10.4: Implications of typologies

The study examined the possible impact of the typologies devised by the officers on the officers' reactions to violations. Although it found that the categorisation of probationers did not appear to affect decision making, the categorisations were linked to the degrees of optimism displayed by the officers concerning the possibility of change. Whilst some officers were optimistic about the possibilities of effecting change in the groups of probationers defined as 'non-complaint', others were more pessimistic. Some of the optimists acknowledged that the probationers' unpredictability occasionally challenged their ideological position on the rehabilitative potential of community penalties. Despite the limitations posed by the realities of practice, the optimists were more likely to demonstrate a fundamental belief that supervision can produce rehabilitative outcomes even with the unmotivated probationer. With the pessimists, the data also suggests that as with the optimists, the unpredictability of the clients tended to fuel this pessimism. Further, the pessimists were more likely to cite the lack of motivation as the most potent compliance obstacle. According to the pessimists, where this is lacking, compliance and longer term change becomes almost impossible to achieve.

The study explored how degrees of optimism and the officers' biographical attributes and theoretical perspectives may affect the deployment of enforcement or the compliance strategies adapted by the officers. Most of the officers irrespective of levels of optimism about rehabilitation or individual biography reported that their reactions to violations are individualised. Further, the officers reported that reactions to violations would tend to vary according to the extent to which the officer 'knows'[xxvi] the case and the nature of the violation amongst other variables (see Figure 4.5 below).

4.10.5: Compliance as the product of confronting unpredictability

So far, it appears that the typologies are consistent with the compliance patterns revealed in the data. Further analysis revealed that compliance is most closely linked to the symbolic definitions communicated during interactions between both parties. These emerge from the officers' response to the unpredictability of the clients. Thus, the meaning of compliance emerges in the process of confronting unpredictability. The probationers subsequently adopt this definition. Below is an elucidation of the officers' actions in confronting unpredictability.

Figure 4.5: Developing the category - confronting unpredictability
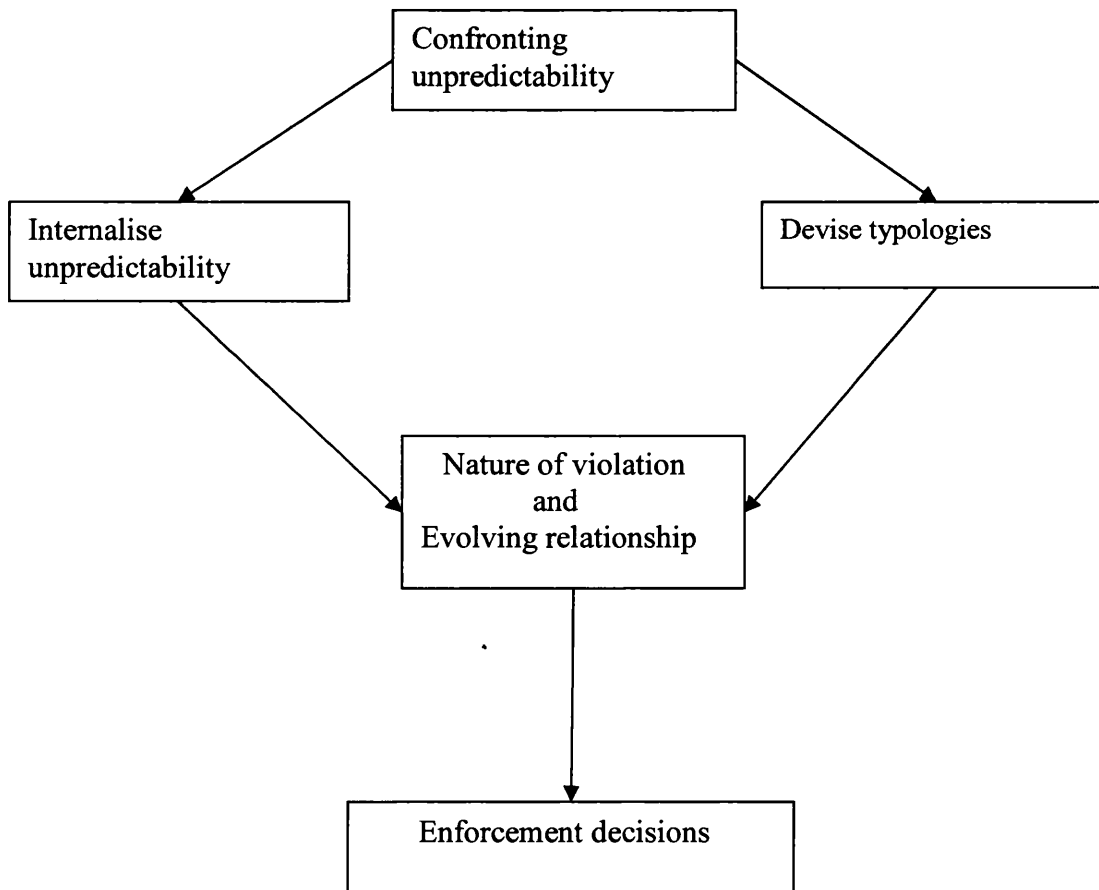
As noted earlier, the officer's actions in responding to violations are closely linked to two factors namely, the nature of the evolving relationship between both parties and the nature of the violation.

4.10.5.1: Evolving relationships

The data revealed that the stage of the relationship or the extent to which both parties have become acquainted did tend to affect enforcement decision making and in some cases, the nature of the compliance strategies employed by the officers. This was primarily linked to the extent to which the officer is aware of the client's personal characteristics and circumstances. In most cases, flexible enforcement is more likely where there is an established relationship and the officer believes that the client can be trusted and is therefore unlikely to blatantly violate their order. This assessment is typically based on the probationer's compliance record. Thus, flexibility is more likely where the probationer is seen to be committed and engaged. It is also likely where the specific circumstances of the case warrant flexibility such as probationers with chaotic lifestyles or childcare problems.

Equally, compliance strategies such as reminders and home visits are typically reserved for clients with chaotic lifestyles or other established difficulties. Thus, more flexible enforcement and more flexible reporting arrangements are more likely in cases involving mental instability, or other difficulties that render routine attendance virtually impossible. The case of P1M, an alcohol dependent male probationer whose dependency affects his lifestyle, illustrates this. His attendance was at best sporadic and at some later point in his order, he failed to attend his appointments for a sustained period. In this time, he was seriously wounded in a fight. I noticed his absence because I attended the office regularly to secure an interview with an equally elusive probationer – P6F. P1M's supervisor (PO3F) informed me that she had no intention of enforcing his order given her understanding of his predicament. Employing her professional discretion, she recognised that such action would be counterproductive. Previously, following an episode of absenteeism, his supervisor

had paid him a visit and found that he had taken a drug overdose. In sum, these categories of probationers are offered more flexibility particularly where there is an existing relationship and the officer is fully aware of their difficulties.

Generally, flexible enforcement is based on 'personal professional discretion'[xxvii]. Thus, reactions to violations are individualised and would tend to vary according to the extent to which the officer 'knows'[xxviii] the case amongst other variables. Most of the officers believe that a flexible approach that is responsive to needs is more effective than rigid enforcement.

4.10.5.2: The nature of the violation

Reactions to violations also varied according to the nature of the violation. Two officer-defined violations were identified; namely, persistent and minor violations. In most cases, the difference between persistent and minor violations rests on whether or not the probationer contacts the officer or the office in the event of an absence. With persistent violations, absences may be consistent and may develop into a pattern but ultimately the key factor that would trigger enforcement is the failure to contact the officer or the office before or after the absences. Minor violations on the other hand, involve absences that may be frequent, infrequent or sporadic, but notification is provided before or after the absence.

The data revealed that full deactivation -no warning letter sent- occurs where the officer is notified *before the event* of absence (minor violation) (see Figure 4.6 below). This suggests that the conditions influencing the decision to activate, deactivate or ignore violations would vary according to the degree of violation. That is, according to whether the violation is defined by the officer as persistent or minor. As noted above, with minor violations, notification is made before or after the absence. An interesting finding was that the types of violations described by the

officers as either minor or persistent will typically exceed the boundaries set by the National Standards - one final warning after the first unacceptable absence and breach on the subsequent absence. The officers reported breach action is typically reserved for cases of aggravated or persistent violations. Breach action constitutes the full activation of the enforcement requirements. Like the interview data, the data generated from an examination of breach reports and attendance records also revealed that only persistent absenteeism would attract breach action. The case records revealed that in some cases, several absences were permitted before breach action was commenced and these absences exceeded the limits set by the National Standards.

This finding that breach action is typically reserved for persistent violations was also reinforced by the finding that the 8 probationers breached reported that they missed several appointments (sometimes up to 6 appointments) without notifying the office. This finding was confirmed by their case records. Given that they had failed to make adequate contact, their absences were tantamount to persistent violations warranting breach action.

In confronting the unpredictability of the probationer, the officer may use their professional discretion to activate the enforcement process or ignore the violation (See Figure 4.6 below). As Figure 4.6 depicts, activation may be full or partial. Partial activation occurs where the officer reacts to an absence by sending out a final warning letter. Where notification is provided after the absence, the officer would typically withdraw the letter. Where absences are persistent and no excuse is provided afterwards, the officer may fully activate the enforcement process. The nature of violation precipitating this reaction is typically persistent and would exceed the limits permitted by the National Standards.

Full activation is a strategic act of employing either constructive or punitive enforcement procedures. Constructive enforcement is the typical response where the probationer complies in the interim before breach hearing in court. The officer commences court breach action but recommends a reprimand rather than a revocation and a resentence. This is colloquially termed 'constructive breach'. An analysis of several breach reports also revealed that the reports tended to contain a recommendation for a more a lenient response where the probationer had resumed attendance.

Figure 4.6: Developing the category: responding to absences

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                        │  Absences   │
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            ▼               ▼               ▼
    ┌─────────────┐  ┌─────────────┐  ┌─────────────┐
    │ No excuse   │  │  Excuse     │  │ Excuse before│
    │ after absence│  │ after absence│  │ absence     │
    └─────────────┘  └─────────────┘  └─────────────┘
            │               │               │
            ▼               ▼               ▼
    ┌─────────────┐  ┌─────────────┐  ┌─────────────┐
    │   Full      │  │    Full     │  │    No       │
    │ activation  │  │ deactivation│  │ enforcement │
    └─────────────┘  └─────────────┘  └─────────────┘
        ┌──────┴──────┐
        ▼             ▼
  ┌───────────┐ ┌───────────┐
  │Constructive│ │ Punitive  │
  │ breach    │ │ breach    │
  └───────────┘ └───────────┘
        │             │
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  ┌───────────┐ ┌───────────┐
  │ Reprimand/│ │ Risk of   │
  │ fines/    │ │ custody   │
  │ more hours│ │           │
  └───────────┘ └───────────┘
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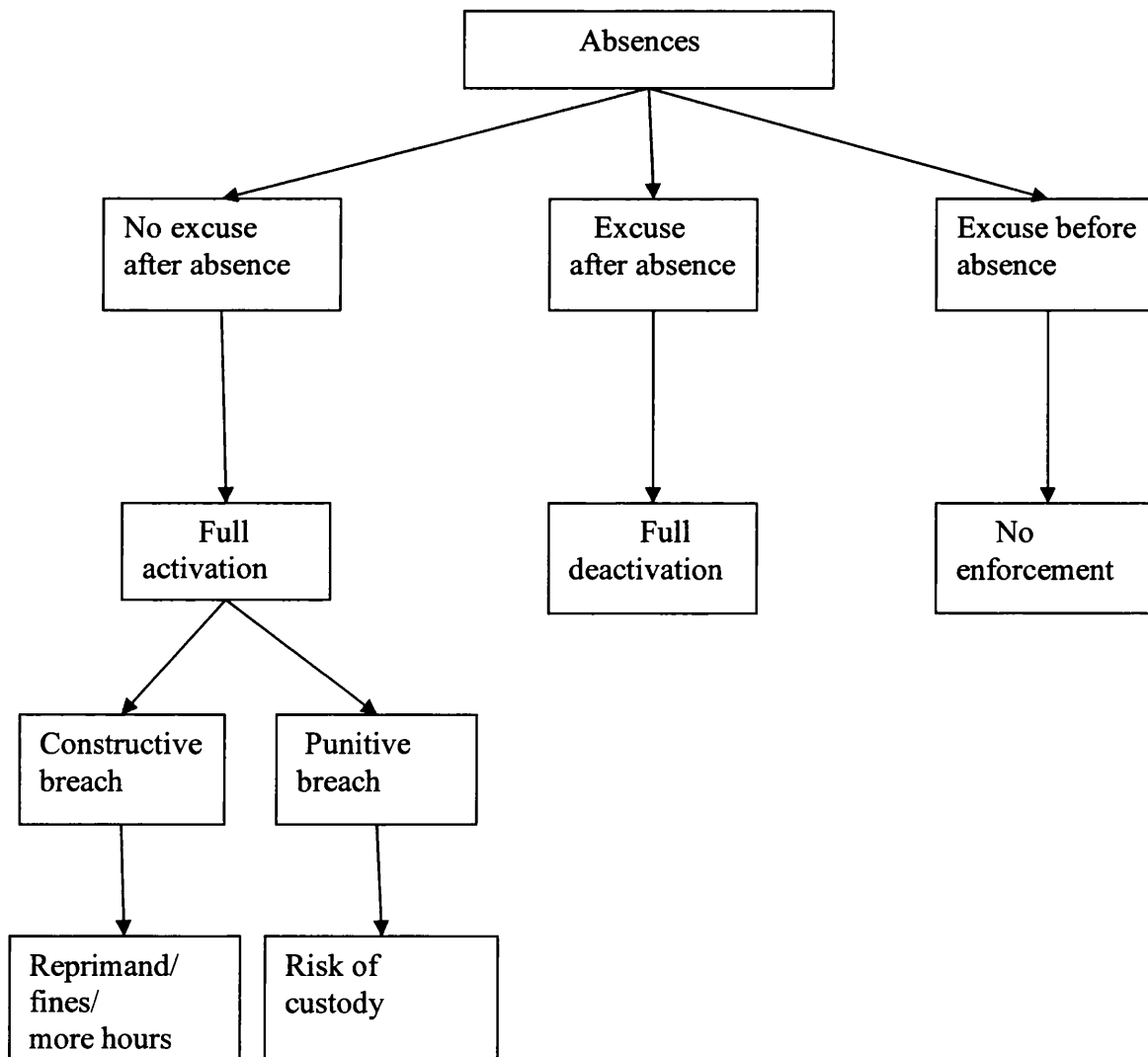
Thus, ordinary enforcement may subsequently evolve into constructive enforcement depending on the nature of the breach report prepared by the officer and presented to the court. In this case, the officer adopts a defence role and produces a positive report. The courts would usually accept the officer's recommendation. Much will depend on whether the probationer complies in the interim.

Punitive enforcement action by the officer is reserved for violations by the probationer in the interim between initiating breach action and the breach hearing in court. Where the probationer fails to comply in the interim, the officer adopts a prosecutorial role and produces a negative breach report. The failure to re-engage in the interim places the probationer at greater risk of a custodial sentence for breach. The court's willingness to accept the recommendations made by the officers during constructive breaches indicates a degree of collaboration with the officers to ensure compliance although a higher degree of collaboration was observed in the Jersey Probation and Aftercare Service. As already mentioned, new sentencing arrangements removing the possibility of constructive braches were introduced during the study. Reprimands are no longer permitted; rather, the courts are required to impose a sentence. This affects the previous levels of collaboration accompanying constructive breaches.

In invoking either a prosecutorial or defence role, the officers would justify their actions to the probationers by adopting a projected role- one of the unwilling/reluctant enforcer. The projected role is a strategic act designed to foster good relations between both parties. Probationers confirm this tendency to invoke a projected role. As such, the projected role achieves its intended objective.

In sum, it appears that activation (full or partial) would usually be the response where there have been several absences with no notification provided. The nature of the explanation provided is not as vital as the act of providing the explanation itself.

4.11: Policy constraints

In confronting and managing unpredictability, officers operate within policy constraints. They are the conditions that may shape the negotiations occurring between both parties (see Figure 4.7). A subcategory/concept of the category 'policy constraints' is 'poor quality supervision'. This subcategory represents the consequences of the restrictive policy conditions that impinge on the quality of supervision. Additional subcategories –deskilling, high case loads and increasing bureaucracy - emerged during the examination of the concept- poor quality of supervision. These are the products of recent policy changes and they impact on the quality of supervision by limiting the amount of time and commitment the officers can expend on their client.

According to some of the officers, the subcategory 'deskilling' represents the systematic delegation of functions traditionally reserved for probation officers. It appears that this is designed to alleviate heavy caseloads although for some of the officers, the delegation of functions to external agencies or to ancillary staff has engendered the gradual erosion of the probation officer's skills. In addition, although reporting centres are used to alleviate excessive case loads, one of the officers expressed the belief that reporting arrangements lacking any qualitative content (for example, intervention focused or other work with the probationer) may discourage attendance. Added to these, the increasing amount of paper work and computer based functions was held by one of the officers to be another element in reduced levels of contact with clients and the erosion of professional skills.

Figure 4.7: Developing the category –policy constraints

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                          ┌─────────────────────┐
                          │  Policy constraints │
                          └─────────────────────┘

┌──────────────────────┐   ┌──────────────┐  ┌──────────────────┐  ┌──────────────┐
│ )emonstrate enforcement│  │  Deskilling  │  │  High case loads │  │  Bureaucracy │
└──────────────────────┘   └──────────────┘  └──────────────────┘  └──────────────┘

┌──────────────────┐  ┌──────────────────────────┐   ┌──────────────────────────┐
│ Prescriptive rules│  │ Limited enforcement options│  │  Poor quality supervision │
└──────────────────┘  └──────────────────────────┘   └──────────────────────────┘
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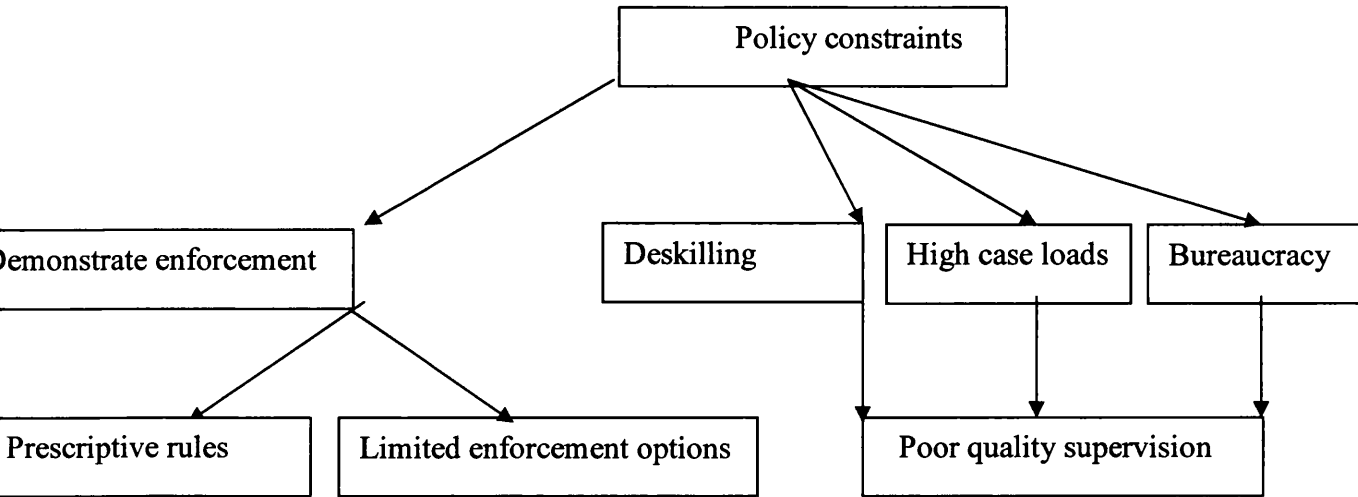
An additional policy constraint stems from the requirement to 'demonstrate enforcement'[xxix]. This is linked to the 'performance culture' and the managerialist objectives of accountability and cost effectiveness. Central to this category are the subcategories: 'limited enforcement options' and 'prescriptive rules'. The category 'limited enforcement options' pertains to the abrogation of constructive breach known in common parlance as 'disciplinary breach' whilst the subcategory 'prescriptive rules' represents the rigid enforcement requirements. In sum, the requirement to demonstrate enforcement is accompanied by provisions that aim to reduce autonomous decision making. The data revealed the processes through which the officers are able to reassert a degree of autonomy by formulating more flexible rules using their professional discretion.

4.12: The informal rules

A concept that emerged in the second phase of analysis is – informal rules. It represents the revised enforcement rules the officers employ to confront the unpredictability of their clients. The concept emerged as an attempt was made to explore how it was that the officers appeared able to override restrictive policy

requirements in confronting unpredictability. To understand this phenomenon, the officers were questioned about their ability to deactivate enforcement in conditions that override policy requirements. Responses revealed the ease with which officers are able to withdraw warning letters using their discretion. There is apparent flexibility of enforcement practice in the early stage of the enforcement process when the officers may ignore violations, activate the enforcement process (send a warning letter) or deactivate the enforcement process (withdraw a warning letter). The flexibility of enforcement practice explains the officers' ability to override policy requirements and restrict enforcement to types/degrees of violations that exceed policy prescriptions. These processes facilitating discretionary practices remained constant across the different offices. Warning letters are withdrawn manually by stamping the letter and dating it, emailing the administrative staff, or by simply removing the letter from the post tray. Electronically the letters are withdrawn retrospectively by entering the reason for the withdrawal into the computerised case management and recording system - CRAMS. According to the National Standards operative at the time of the study, the probationer is required to provide evidence that an absence is for valid reasons (National Probation Service 2002). However, again in practice, this requirement is dependent on the discretion of the individual officers.

A question that arose was the extent to which the probationers are aware of the minimised definitions of non-compliance and the flexible enforcement practices. Deterrence theorists would argue that such awareness would undermine perceived risks and hence defeat deterrent objectives (Paternoster 1987; von Hirsh et al. 1999; Doob and Webster 2003). It became clear in the data that the probationers become aware of the revised enforcement rules during induction and also, through their experience of the officers' reactions to rule violations (see Figure 4.8.).

Figure 4.8: Developing the category –Informal rules

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┌─────────────────────────────────────────────────────────────┐
│   Proactive rule clarification: communicate formal and informal rules │
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                              ▼
                   ┌──────────────────┐
                   │    Absences      │
                   └──────────────────┘
                              │
                              ▼
                   ┌──────────────────────┐
                   │ Professional discretion │
                   └──────────────────────┘
            ┌─────────────┴──────────────┐
            ▼                            ▼
┌──────────────────────┐      ┌──────────────────────┐
│ Persistent violations │      │   Minor violations   │
└──────────────────────┘      └──────────────────────┘
            │                            │
            ▼                            ▼
┌──────────────────────┐      ┌──────────────────────┐
│ Punitive enforcement  │      │ Flexible enforcement │
└──────────────────────┘      └──────────────────────┘
            │                   ┌────────┴─────────┐
            ▼                   ▼                  ▼
┌──────────────────────┐ ┌──────────────┐ ┌──────────────┐
│   Full activation    │ │Full deactivation│ │Ignore violation│
└──────────────────────┘ └──────────────┘ └──────────────┘
                              └────────┬─────────┘
                                       ▼
                          ┌──────────────────────────┐
                          │ Communicate informal rules │
                          └──────────────────────────┘
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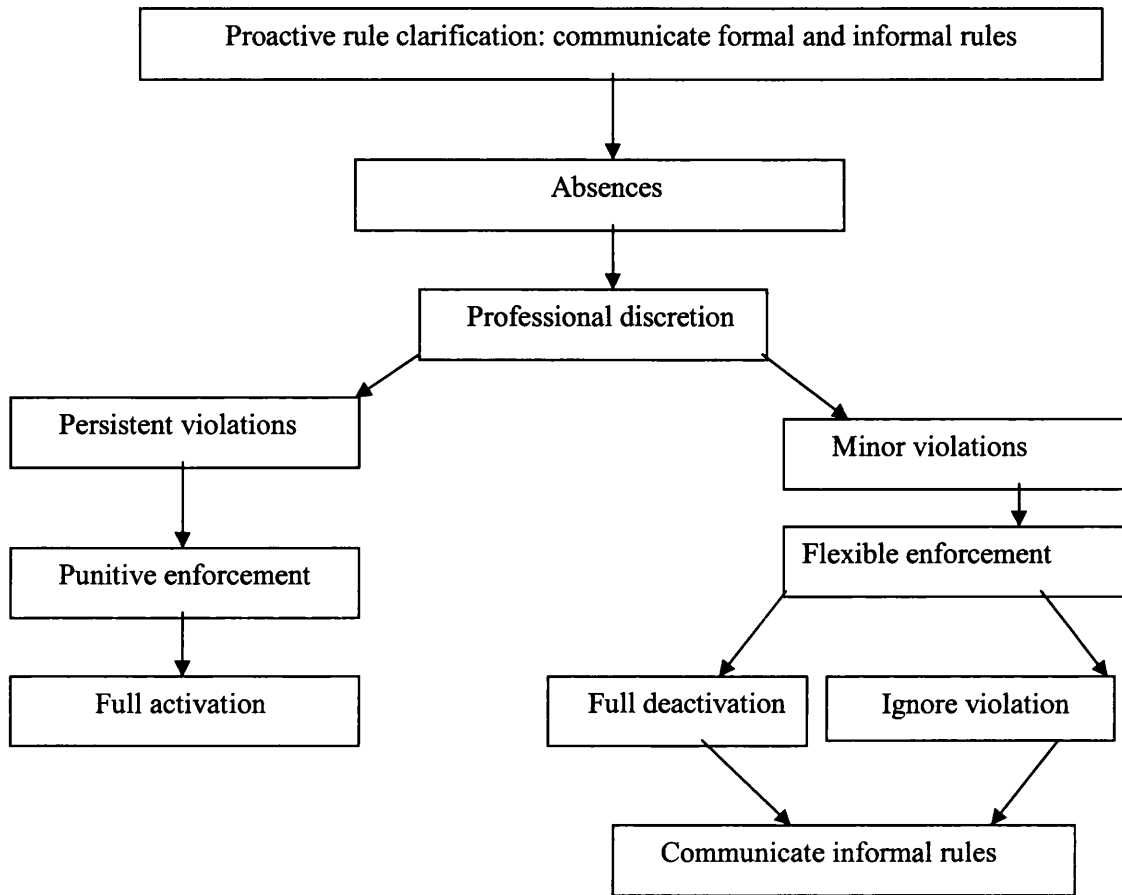
Where violations are minimised (partial activation – sending and subsequently withdrawing warning letters) or ignored (full deactivation- no warning letters sent), the probationers soon realise that normally, only persistent absenteeism (with no contact made to the officer) would warrant enforcement.

The new concept -'devising informal rules' - was used to explain these processes. The concept provides a theoretical explanation of the processes by which the officers implement alternative rules in order to secure compliance. The activities of the officers in devising informal rules appeared to contribute to an understanding of the nature and extent of compliance with community penalties. Therefore, although the study intended to sample only 10 officers, several more officers were recruited into the study and another jurisdiction was visited in order to explore the concept of

informal rules more closely. As with the other processes and conditions of confronting unpredictability, the processes of establishing the informal rules are underpinned by the use of unofficial professional discretion.

4.12.1: Making comparisons: the Jersey study

As noted in Chapter three, five additional interviews were conducted in the Jersey Probation and Aftercare Service. The Service was selected on the basis of theoretical sampling – a technique for sampling new data sources in order to explore and develop the emergent categories. The analytic objective of sampling additional officers based within the Jersey Service was to further develop a category that emerged in the second phase of the study - 'informal rules'. This category appeared to be a key strategy for securing compliance and central to an understanding of compliance. It represents the process through which probation officers replace what they perceive to be a prescriptive enforcement framework with more responsive informal rules. As mentioned above, although the study originally intended to sample 10 officers, it became necessary to sample additional officers given that the emergent category 'informal 'rules' appeared to be pertinent to an understanding of compliance. Thus, to explore the category 'informal rules' further in order to fully develop it, the study employed a analytic device central to Grounded Theory methodology known as 'making comparisons'. This device provides the opportunity to explore an emergent category from a wide range of perspectives in order to fully develop the category by highlighting its patterns and variations (Strauss and Corbin 1998).   Thus in implementing the device, the objective was to explore the emergent category 'informal rules' further by making comparisons between the compliance strategies employed by the officers in the probation area in Wales which operates a prescriptive enforcement framework (the 'prescriptive rules') and the compliance strategies

employed by the officers in the Jersey Service which operates a less prescriptive framework. It was envisaged that comparing practices across offices located within different jurisdictions which operate different policy frameworks would contribute to an understanding of how compliance strategies vary across different policy conditions.

Unlike the policy requirements stipulated in the National Standards of England and Wales which provide that enforcement action should follow a second unacceptable absence, the Jersey Service offers a three stage enforcement process. Likewise, a client centred approach operates at both organisational and policy levels. Compliance is achieved through corroborative processes between the service and the courts. It follows that the collective goal is one of securing compliance rather than a focus on enforcement.

A total of five respondents were sampled comprising 2 members of senior management, 1 senior probation officer and 2 main grade officers. The data revealed that a client-centred approach which is endorsed at management level permeates all aspects of practice including enforcement. There is widespread use of discretion in enforcement. Further, the officers are appointed as officers of the courts. As such, securing compliance becomes a collaborative effort between the probation service and the courts service.

Broadly, in both jurisdictions a client centred approach to securing compliance operates accompanied by more flexible and individualised enforcement strategies. The crucial difference is that whilst the client-centred approach and individualised enforcement are endorsed at policy and senior management levels in Jersey, the policy climate in England and Wales prevailing at the time of this study reflects a more punitive agenda. Importantly, there appears to be greater collaboration between the

court service and the probation service in Jersey to ensure compliance. By discouraging a frequent resort to breach action, the courts in Jersey actively convey to the practitioners the need to devise strategies to ensure compliance.

4.13: Adaptation techniques

Another category that emerged is 'adaptation techniques' (see Figure 4.9). On internalising the informal rules, the probationers develop breach avoidance techniques in order to adapt to the shift from the formally defined rules to the informal rules. The avoidance techniques consist of ensuring that notification for an absence is provided before or after the absence.

Figure 4.9: The new category: adaptation techniques

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                    ┌──────────────────────────────┐
                    │   Adapting to informal rules  │
                    └──────────────────────────────┘
              ┌──────────────────────┐      ┌──────────────────────────────┐
              │ Internalise the informal rules │    │  Excuse before or after absence │
              └──────────────────────┘      └──────────────────────────────┘
                         ┌──────────────────────┐
                         │     Avoid breach     │
                         └──────────────────────┘
```
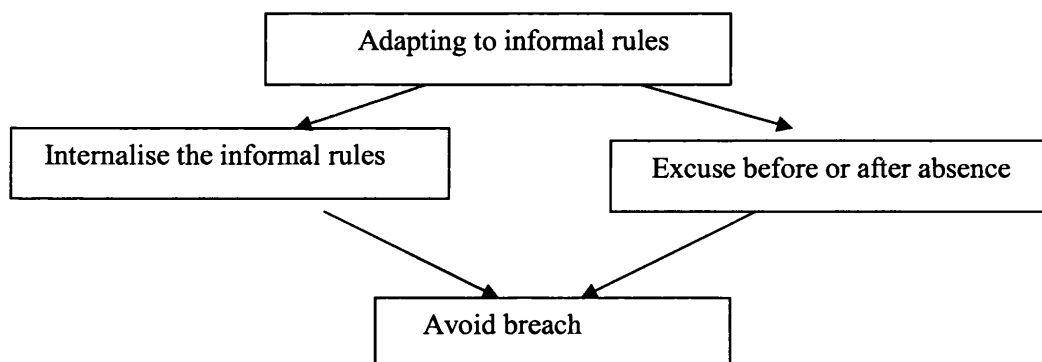
Most of the probationers breached during the current order reported that they had failed to maintain contact during their absences. They recognised that this contributed to the officers' decision to fully activate the enforcement process. Therefore, from the start of the order, the probationers internalise the flexible enforcement processes with the knowledge that:

- Compliance is restricted to attendance

- Frequent absenteeism exceeding policy prescribed limits is defined as compliance provided notification is received

- Officers readily reschedule supervision appointments

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- Therefore, there is no obligation to adhere to fixed appointments

The implications of these are considered below and also in the subsequent chapters.

4.13.1: Consequences of adaptation

Compliance defined in its reduced form may encourage technical compliance as discussed above. Further, it may engender the normalisation of violations whereby violations become redefined as compliance provided the minimum requirement – notification – is met. The probationers sampled tended to normalise violations by classifying behaviour that would normally constitute non-compliance as compliance. This was the case even where absences were supported by reasons that the probationers themselves defined as invalid such as: forgetting to attend an appointment or providing false excuses. There was an observed tendency to adapt to the informal rules and to internalise the revised definition of compliance inherent in these rules. The redefined term is markedly different from the definition intended by policy. This tendency to internalise the revised definition of compliance inherent in the informal rules was captured by the research question posed to probationers;

Have you ever missed any appointment since you started this order?

It is worth noting that all the probationers sampled had indeed missed one and in most cases, several appointments at some point of the order. Nevertheless, all responded that they had not missed any appointment. Their absences had been validated under the revised rules and were not perceived to be a breach of requirements although it may have been clear to them that it would constitute a breach of the formal rules that were inculcated in them during 'proactive rule clarification'. The high 'degree of assimilation' demonstrated by most of the probationers would support this hypothesis. It became apparent that a revision of the question was required. Consequently the question was revised to read:

Have you not been able to come in to this office for your appointment for any reason since this order started?

This yielded more productive responses which uncovered the extent of absenteeism with impunity that was permitted by the informal rules. The revised questions enabled me to examine compliance patterns without focusing entirely on the types of behaviour normalised by the informal rules.

Another implication arising from adaptation stems from the officers' readiness to reschedule appointments. This necessarily engenders unstructured attendance patterns. As such, it reduces the opportunity to utilise structured appointment as a mechanism for encouraging compliance with non-criminogenic routines. Yet another implication of adaptation is the possibility that the internalisation of the flexible enforcement patterns undermines the perceived certainty of punishment for breach.

The foregoing represents the axial coding of the 9 emergent categories using relational statements. In the next chapter, the analytic tools used during open and axial coding are described.

4.14: Conclusion

The findings suggest that of the 4 mechanisms of compliance developed by Bottoms (2001) which also constitute the conceptual framework guiding this study, the participants perceived instrumental mechanisms based on incentives to be more closely linked to compliance than the other 3 mechanisms. However, the rate of violations appeared to be high suggesting that incentivised compliance may be as unproductive as the deterrent enforcement framework. The data reveals that more closely linked to compliance are the actions of the officers in confronting unpredictability and devising informal rules. The next chapter describes the analytic tools utilised to develop the 9 categories.

Chapter Five: Describing the analytic devices

As mentioned above, several analytic tools were used during data collection and analysis. These are 'asking questions', 'making comparisons' and 'theoretical comparisons'. They were used to interrogate the data during the conceptualisation of incidents in the data.

5.1: Asking questions

The act of 'asking questions' of the data was a useful technique for discovering the specific properties[xxx] and dimensions[xxxi] embedded in each emergent concept. An example of asking questions in order to develop the category 'reacting to the formal rules' is provided below:

The category 'reacting to the formal rules' describes how the formal enforcement framework impacts on the probationers' compliance patterns. To develop it further, several theoretical questions were posed:
1. How do the probationers react to the formal rules?
2. What affects how they react?
3. How do the officers react to violations?
4. How do the officers' reactions affect compliance?

Armed with these questions, further inspection of data (theoretical sampling) revealed that despite proactive rule clarification, the probationers would typically 'violate the formal rules'. In answer to number 2 the data revealed several obstacles, mechanisms and responses to violations that might affect how the probationers react to these rules. The data highlighted the officers' actions in responding to violations as central to an understanding of the nature of compliance. Thus, an exploration of question 3 above revealed the answer to question 4. It appeared that compliance is linked to the officers' reactions to compliance which would typically involve the definition of compliance in its unilateral sense, the tendency to ignore certain violations, or to deactivate enforcement or activate the enforcement process. The officers' reactions may also be linked to the nature of the violation as defined by the officers or to the extent of the evolving relationship between both parties. Therefore, in terms of question 4 above, the data revealed the links between the nature of the officer's reaction and the nature of compliance achieved. The data appeared to suggest that the actions of the officers in 'confronting unpredictability' exert a significant impact on compliance.

Answering these questions highlighted the links between several concepts. For instance a link between 'obstacles' and 'violations' was observed.

Thus, asking questions 'sensitised' or directed the researcher's attention to the incidents in the data that best explained the emergent concepts (Strauss and Corbin 1998:75).

5.2: Constant comparisons

The objective of comparing incidents along different properties and dimensional ranges is to establish how each emergent concept varies in different conditions. During analysis, constant comparisons took the form of examining and conceptualising incidents in the data and comparing the conceptualised incident with other incidents in the data. The aim was to label the incidents exhibiting similar characteristics (properties) under the same code and to establish the different patterns that each emergent concept exhibits. This ensured that each emergent concept was explored as fully as possible for its patterns and variations (see also Strauss and Corbin 1998). Importantly, although the existing concepts served as guides to relevant properties and dimensions, each new incident provided the opportunity to develop new insights which were further explored during constant comparisons. Therefore, during microanalysis, each new incident was a potential source of concepts.

Below is an example of making comparisons by comparing the concepts: 'literacy deficiencies' and 'rule clarity'

So far, the data suggests that many probationers suffer severe literacy deficiencies. Indeed three of the officers reported that literacy deficiencies may hamper the ability to fully comprehend the enforcement rules.

One needs to compare the concepts – literacy deficiencies - and – rule clarity –in order to understand how literacy deficiencies may affect the extent of rule clarity and ultimately, compliance. Further areas for theoretical sampling arise from the questions: How do the probationers become aware of the rules? How far do they understand the rules?

If one extends this line of questioning, one can make theoretical comparisons by drawing on the deterrence literature and the concept of perceived risks described in chapter two. It is held that potential offenders are only deterred by their perceptions of the risks of offending. A question posed by the finding that literacy deficiencies

hamper rule clarity is: How does the degree to which the probationers comprehend the formal rules affect their behaviour? These were explored during the second and third phases of sampling. The data revealed the probationers demonstrated high levels of perceived risks although there were factors that appeared to undermine perceived risks. It appeared that more closely linked to the nature of compliance achieved are the officers' actions in confronting unpredictability and the adaptation techniques adopted by the probationers.

5.3: Theoretical comparisons

A corollary to constant comparisons is making theoretical comparisons. To examine the emergent categories in more detail, theoretical comparisons were made by comparing them with other concepts derived from the relevant literature. This was used mainly where the meaning of the incident was not immediately apparent in the data. As such, the relevant literature was examined for examples of comparable phenomena. The ideas derived from the literature did not replace the data. Rather, they provided a base against which a concept or an idea contained in data in order to could be interrogated in order to gain a better understanding (Strauss and Corbin 1998). This does not mean that all emergent concepts were verified by the literature. They were verified by data instead. In all, the literature was used as an analytic tool and not as an alternative to data. Ideas imported from the literature were subjected to rigorous testing by comparing them with incidents in data. Below is an example of making theoretical comparisons by referring to a concept that was derived from the relevant literature namely 'demonstrating enforcement'.

The concept 'demonstrating enforcement' was borrowed from Hearnden and Millie (2004). They use it to describe how managerialist enforcement policies prioritise quantifiable enforcement strategies that also produce quantifiable outputs. With the concept 'demonstrating enforcement', officers are required to demonstrate enforcement by attaining set targets, whilst the objective of 'securing compliance' is underemphasised (Hearden and Millie 2004). As mentioned above, there are monitoring processes established to ensure compliance with the enforcement policy. The focus is on quantifiable outputs that easily demonstrate levels of compliance and not on outcomes which are not as easily condensed into numerical measures.

I became interested in the extent to which this concept 'demonstrating enforcement' affects enforcement practice and compliance. Most of the officers acknowledged that they apply discretion in enforcement despite the strict monitoring of practices. The question asked of the data to further develop the concept is: How does strict regulation and the requirements to demonstrate enforcement by implementing prescriptive rules affect compliance? Further data collection and analysis revealed the use of unofficial discretion to formulate more responsive informal rules. Thus the concept 'demonstrating enforcement' borrowed from the literature, was useful for understanding the possible implications of restrictive enforcement requirements.

The memo facility provided by Nvivo also aided the analytic processes. It enabled me to create and link memos containing theoretical comparisons and theoretical questions (and other questions forming part of the data interrogation process), to specific texts in the data. These questions provided the basis for further data collection. They informed the content of subsequent interview schedules (theoretical sampling).

5.4: Theoretical questions to guide theoretical sampling

During initial analysis, it emerged that perceived risks and compliance are not linked in any straightforward manner. Rather, the nature of compliance achieved appeared to be more linked to the adaptation techniques developed by the probationers to ensure that they are able to comply with the informal rules devised by the officers.

The axial coding of the 9 emergent categories revealed several situational, structural and practical contexts underlying the processes from which compliance emerges, that is, the contexts within which the actions that may affect the nature of compliance are located. Several policy constraints and also, the probationers' unpredictability affect the actions of the officers as they interact with the probationers to secure compliance. To secure compliance within these contexts of policy constraints and client unpredictability, the officers formulate informal rules using professional discretion.

The probationers are also affected by several factors that might affect their compliance patterns. These were categorised as: structural factors such as

socioeconomic difficulties, practical factors such as transportation problems and situational factors such as the nature of their interactions with their officers. The officers attempt to resolve these problems in order to secure compliance using the officer-defined mechanisms described above. They also devise more responsive informal rules. Compliance is achieved where the probationer adopts adaptation techniques in order to adapt to the informal rules devised by the officers.

To develop the 9 emergent categories, in each of the three phases of interviewing, additional interviews were conducted with participants selected on the basis of the emergent theoretical framework. This sampling technique is the process of theoretical sampling. The following theoretical questions guided the theoretical sampling process. They were designed to aid the further development of the emergent categories:

How do perceived risks affect compliance patterns?

As the deterrence doctrine would have it, does a link exist between perceived risks and behaviour?

The data suggested that despite the noted tendency to overestimate risks, the extent of violations among the probationers was quite high suggesting that perceived risks have little impact on compliance patterns.

Another theoretical question that arose is:

Why do the probationers appear to overestimate the risks of non-compliance?

One possible explanation is that their previous experience of breach makes them more risk averse. This assumption is somewhat countered by the probationers' reports of rule violations after breach action.

A third theoretical question emerged from this observation:

How do the probationers acquire knowledge of the risks of non-compliance?

As noted in previous chapters, 5 possible reasons for the high level of perceived risks emerged:

- Previous experience of breach action
- Threats made by the courts (during sentencing) that severe consequences will accompany non-compliance
- The perception that the current offence was serious enough to warrant a custodial sentence
- Information gleaned from peers
- The belief that a severe outcome is likely because the order is an alternative to custody which if breached would be construed by the courts as a failure to take full advantage of a 'second chance'.

In terms of the first two listed above, the study found that despite the perceptions of risks triggered by both factors, many probationers tended to violate their orders even where they had been breached during the current order. The effects of perceived risks were therefore minimal. Further, several factors that may have undermined perceived risks have been described as:

- Information gleaned from peers
- Variability of sentencing for breach
- The variability of the officers' responses to violations
- Obstacles to compliance

Additional theoretical questions that emerged were:

How to do the probationers react to the formal rules following proactive rule clarification?

How do typologies affect enforcement decisions?

Initial analysis and subsequent analysis based on theoretical sampling revealed that the probationers would typically violate the formal rules. In addition, it emerged that enforcement decision making appeared to be more closely linked to the evolving relationship between both parties and the nature of the violation.

Exploring these theoretical questions revealed the factors that appeared to be most closely linked to the nature of compliance. At the initial stage, the data suggested that the activities of the officers in responding to violations were central to an

understanding of compliance with community penalties although not in the manner envisaged by the deterrent enforcement policy. Officers permitted rule violations that appeared to exceed policy requirements. To explore this phenomenon, additional officers were recruited for interviews. The study found that compliance is ultimately linked to the actions of the officers in confronting the unpredictability of their clients and the adaptation techniques adopted by the probationers. Thus, the data suggested that ultimately, compliance is the product of the definition applied by the officers to the probationers' behaviour. Though based on a unilateral definition (attendance), it may assume one of several forms. Two key examples are provided below:

1. Absences exceeding the limits set by the formal framework constitute compliance where they are accompanied by notification

2. Attendance constitutes compliance even where the probationer fails to commit to the order or to fulfil some other requirements although the officers are reluctant to offer early revocation in these cases.

In all, the theoretical questions focused upon during theoretical sampling revolved around the insights generated from the emergent categories. These questions were answered during the further development of the emergent categories.

5.5: Theoretical Sampling: recruiting additional participants

As mentioned above, with Grounded Theory, the mutuality of data collection and analysis is emphasised. This permits sampling to proceed on the basis of the emergent concepts and categories. Theoretical sampling aided the process of developing the emergent categories described above. Three phases of interviewing through theoretical sampling were conducted in order to saturate[xxxii] the emergent categories and generate new categories (Strauss and Corbin 1998). As such, once the initial categories were identified, analysis shifted from induction and became deductive.

Relational statements describing the links between the categories in the previous chapter formed the provisional hypotheses to be explored during the second stage of data collection and analysis. Based on these hypotheses several questions were devised for exploration during theoretical sampling and subsequent analysis. The questions that guided theoretical sampling have been discussed above.

The hypotheses were verified or discarded after further comparisons with the existing or incoming data. For instance, below are the provisional hypotheses derived from defining the subcategory/concept 'proactive role clarification'. The concepts/subcategories are italicised.

Proactive role clarification conceptualizes the strategic actions and interactions entailed in *defining the boundaries* of expected behaviour as dictated by *formal rules*. Proactive role clarification begins during induction. It consists of a range of strategic actions namely, *defining the formal rules*, and *ensuring rule clarity*. The latter is the condition underlying the definition of formal rules.

In *defining the formal rules*, the probationer is informed of the full consequences of non-compliance. Most probationers reveal a high degree of *rule ambiguity* but an *overestimation of risks*. Despite this, in *reacting to the formal rules*, they tend to *violate the formal rules*. Factors that may contribute to *rule ambiguity* include *literacy deficiencies* and *time lapse*. The tendency to *overestimate risks* may be linked to previous experiences of breach action for non-compliance amongst other factors.

These provisional hypotheses were tested using the processes of theoretical sampling, asking questions and making comparisons. The aim was to verify the hypotheses against the incoming data by making constant comparisons in order to refine or discard of some of the propositions based on insights derived from the incoming data. Theoretical sampling, making comparisons and asking questions of the data in order to develop the concept 'proactive rule clarification' yielded further insights into the conceptual links between the concept and compliance. For example, insights into the factors affecting the degree of rule clarity (for example, time lapse) emerged to further develop the concept 'proactive rule clarification'. Further data also revealed the tendency to overestimate the risks of non-compliance. Importantly, the data revealed

that most of the probationers will tend to violate their orders irrespective of the degree of rule clarity. This highlighted the conceptual links between the following concepts and compliance patterns: 'proactive rule clarification', 'rule clarity', 'rule ambiguity', 'overestimating risks', 'reacting to the formal rules'. It emerged that in reacting to the formal rules, irrespective of the perceived risks of non-compliance; most of the probationers would tend to violate the rules. In analysing the existing data and also, the incoming data, the three techniques employed during open coding were employed; namely, making constant and theoretical comparisons, and also, asking questions. Further, during the second and third phases of data collection and analysis, the interview schedules were revised to reflect the focus on seeking answers for the theoretical questions in order to develop the emergent categories further.

5.6: The three phases of interviewing

The table below illustrates the distribution of the sample across the three phases. In all, the offices visited were in different geographic areas ranging from urban to rural areas, and from densely to sparely populated areas.

Table 5.1: Interviews conducted during the three phases of interviewing
Numbers sampled

Phase	Officers	Probationers	Total
One	4	4	8
Two	4	10	14
Three	20	11	31
Follow-up	2	8	10

Total interviews	**63**

The offices had different social and economic topographies and different organisational ideologies. The aim was to increase the variability of emergent categories. Theoretical sampling guided the selection of additional data sources. In the

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third phase, all subsequent theoretical sampling became hinged on the attempt to sample the specific data sources that were deemed highly relevant at this stage of analysis.

5.7: Conclusion

In sum, open coding entailed the use of microanalysis to identify concepts. Once a concept was identified, its properties and possible dimensional ranges were enumerated in a memo. With these in mind, I explored the data comparing further incidents in data with the emergent concepts. Axial coding extended analysis by facilitating the categorisation of groups concepts into 9 categories. Relational statements were used to explain the processes and conditions (conceptualised as subcategories) pertaining to each of the 9 categories.

The analytic tools employed enabled a systematic approach to generating categories which ensured the embeddedness of the categories in the data. The emergent categories revealed that compliance is linked to actions of the officers in reacting to non-compliance by devising the informal rules that the probationers subsequently adapt to.

PART THREE:
THE EMERGENT THEORETICAL FRAMEWORK:
MANAGING CONTRADICTIONS AND SECURING COMPLIANCE

Chapter Six: Identifying the core category

6.1: Introduction

In the third phase of analysis an attempt was made to identify the 'core category' which represents the central theme emergent from the data. This chapter describes the identification processes highlighting the resort to theoretical comparisons to aid the process. The chapter also demonstrates the conceptual links between the core category and 3 key categories that appear to explain how compliance with community penalties is achieved. The 3 categories were developed during the integration of the 9 emergent categories described in Chapter 4.

6.2: Selective coding: integrating the categories

To begin the process of identifying a core category that illuminates the central processes and conditions underlying the mechanisms of compliance, two analytic tools were employed namely: the paradigm and the conditional matrix as devised by Strauss and Corbin (1998). Both analytic tools were useful for integrating the processual and structural components of the emergent analytic framework. 'The matrix'[xxxiii] facilitated the identification of the structural conditions and the processes pertaining to compliance. The objective was to ensure a contextualised understanding of compliance. This was done by exploring the existing and the incoming data (theoretical sampling) in order to identify the conceptual links between the categories representing the contextual aspect of compliance and the categories representing its processual element. Thus, the matrix extended the function of the paradigm utilised during axial coding.

6.3: The three key categories

To identify the micro and macro conditions pertaining to compliance, the 9 emergent categories described in Chapter 4 were examined and re-categorised into 3 key categories according to their attribute as either representing the processes (actions/interactions/strategies) or the structure (consequences/conditions) linked to compliance. Three key categories emerged: reacting to formal rules, confronting unpredictability and adaptation techniques (see Appendix 8). Each of the three categories incorporates the processes and underpinning conditions that are central to an understanding of compliance with community penalties.

Thus the first category – reacting to the formal rules – incorporates the subcategories 'probationer defined mechanisms', 'policy defined mechanisms' and 'obstacles to compliance'. The subcategories represent the structural, situational and practical factors that confront the probationers as they react to the formal rules (mainly by violating the formal rules communicated to them during proactive rule clarification).

In terms of the policy mechanisms, most probationers demonstrated rule ambiguity despite proactive rule clarification processes although for those who reported that they were fully aware of the rules, their comprehension of formal rules appeared to have no impact on their behaviour as most of the probationers violated the formal rules. The factors that helped explain why high perceptions of risk appeared to have limited effects on compliance patterns resided in the probationers' awareness of the variability of sentencing for breach. This awareness stems from previous personal experience of breach and also from the experiences of their peers. Further, those who had experienced breach action also reported that they received lenient outcomes. Added to this is the flexible enforcement strategies permitted by the informal rules.

The second key category – confronting unpredictability - incorporates the subcategories: 'officer defined mechanisms', 'policy constraints' and 'informal rules'. The subcategories also represent the structural and the situational factors underlying the officers' actions in reacting to violations (confronting unpredictability). The development of the informal rules is an integral aspect of the second key category – confronting unpredictability. The informal rules permit greater flexibility in enforcement based on the degree of violation. Persistent absences with no excuse will result in breach action, whilst minor absences with excuse, certified or not, will result in flexible enforcement processes. These processes are internalised by the probationers and they subsequently develop adaptation techniques to avoid enforcement action. Therefore, - adaptation techniques – represents the third key category central to an understanding of the nature of compliance with community penalties. Like the first key category 'reacting to the formal rules' the key category – adaptation techniques – also incorporates the subcategories 'probationer defined mechanisms' and 'obstacles to compliance'. Again, the two subcategories represent the structural, situational and practical factors that may affect adaptation. In adapting to the informal rules, the only 'policy defined mechanism' that assumes any significance is the possibility of early revocation. Thus, of the 9 emergent categories described in Chapter four, most of the subcategories linked to the category 'policy defined mechanisms' (enforcement machinery, new sentencing for breach and proactive rule clarification) appeared to be of limited significance to an understanding of compliance.

6.4: The core category: managing contradictions to secure compliance.

As noted above, the core category represents the central theme emergent from analysis. The key categories should be theoretically linked to this core category. Therefore, once it became apparent that the existing categories had been fully developed, the study proceeded with the process of selecting the core category. The theoretical comparison technique of referring to the literature in order to enhance sensitivity to the data was used to broaden the search for the core category. The concepts 'industrial deviance' and 'contradictions' were subsequently derived from the literature (Pearson 1975). Industrial deviance represents the formulation of more responsive rules to overcome the contradictions posed by the formal rules. The latter are perceived to be unresponsive to the realities of practice. The concept of industrial deviance also reflects the arguments of the interactionists who traced deviance and compliance to the activities of those with the power to confer such labels (Becker 1963). The links between control and deviance will be explored in more detail further below.

With the concept of industrial deviance in mind, the data was further interrogated and the structural, situational and practical factors linked to the processes of securing compliance were conceptualised as - 'contradictions'. The category 'contradictions' appeared to be significant to the subject matter of the research. It represents the underlying conditions that contribute to a contextualised understanding of compliance. The core category was conceptualised as: managing contradictions to secure compliance. Compliance can be understood as the process through which the probationers adapt to the informal rules that the officers devise in response to the probationers' actions in violating the formal rules. Underpinning the actions of the probationers and the officers are situational, structural and practical contradictions.

The officers attempt to resolve the contradictions confronting the probationers by utilising several compliance strategies such as: addressing socioeconomic difficulties; making home visits and scheduling flexible appointments. Ultimately, compliance is linked to the actions of the officers in managing the contradictions posed by several policy constraints and the unpredictability of the clients by devising more responsive informal rules.

6.5: Theoretical links between the core category and the key categories

The core category is 'managing contradictions to secure compliance'. Here an attempt is made to demonstrate the theoretical links between the core category and the three key categories (see Figure 6.1).

Figure 6.1: Diagrammatic representation of the possible links between the major categories
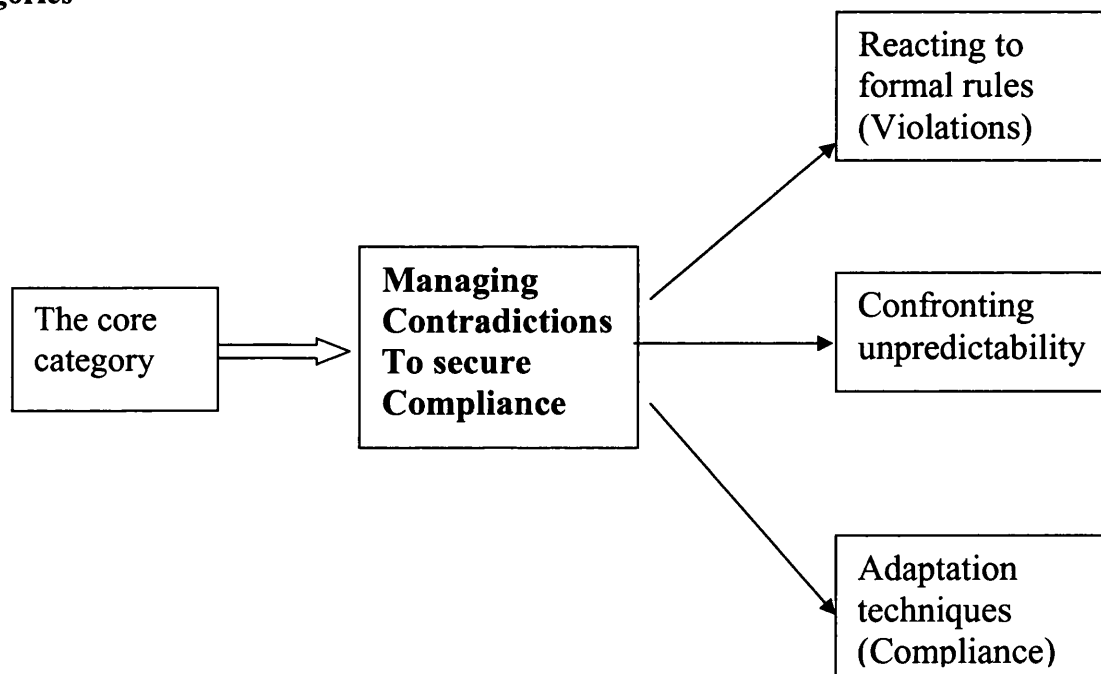
The core category at the centre of Figure 6.1 is demonstrably and conceptually linked to each of the key categories reacting, confronting and adaptation. Compliance emerges from 3 key processes. Underpinning these processes are practical, structural and situational contradictions. The officers devise several strategies to manage these contradictions in order to secure compliance. Central to the strategies developed by

the officers are the informal rules that are more responsive to the contradictions that confront the probationers.

6.6: The contradictions confronting the probationers

In reacting to the formal rules, the probationers are confronted with practical, situational and structural contradictions. Practical problems comprise travel related problems and other lifestyle obstacles, for instance, substance related chaotic lifestyles that impinge on compliance. Situational contradictions are posed by the nature of interactions between both parties. As mentioned earlier, in two cases, negative interactions produced non-compliance. The circumstances as described by the probationers involved will be explored in more detail in the next chapter.

The policy mechanism (the deterrent framework) and the various obstacles to compliance described earlier also constitute structural contradictions. The deterrent enforcement framework discountenances the obstacles that affect compliance. Later in the order, the probationers will adapt to new and more flexible rules facilitating 'compliance'. The type of compliance achieved would typically fall short of policy prescriptions. The informal rules are created by officers exercising their professional discretion and the rules help to overcome the contradictions posed by the inflexible formal rules.

6.7: The officers: managing contradictions

Similarly, in confronting the unpredictability of their clients, the officers have to overcome practical, structural and situational contradictions. The practical and situational contradictions are posed by the unpredictability of the clients. Structural contradictions are posed by the policy constraints that necessitate covert professional discretion in enforcement. Professional discretion is a key ingredient of the effort to overcome these contradictions (see also Figure 6.2).

Figure 6.2: The processes of managing contradictions to secure compliance


```
┌─────────────────────────────────┐
│ Confronting unpredictability    │
│                                 │
│ Contradictions                  │
│ Client unpredictability         │
│ Policy constraints              │
│                                 │
│ Managing contradictions         │
│ Devise flexible rules           │
└─────────────────────────────────┘

┌──────────────────────────────┐
│ Reacting to the formal rules │
│ Violations                   │
│ Contradictions:              │
│ Deterrent framework          │
│ Interactions                 │
│ Obstacles                    │
└──────────────────────────────┘

┌──────────────────────────────┐
│                              │
│   Adaptation techniques      │
│                              │
└──────────────────────────────┘

┌──────────────────────────────┐
│ Managing contradictions      │
│ to secure compliance         │
└──────────────────────────────┘
```
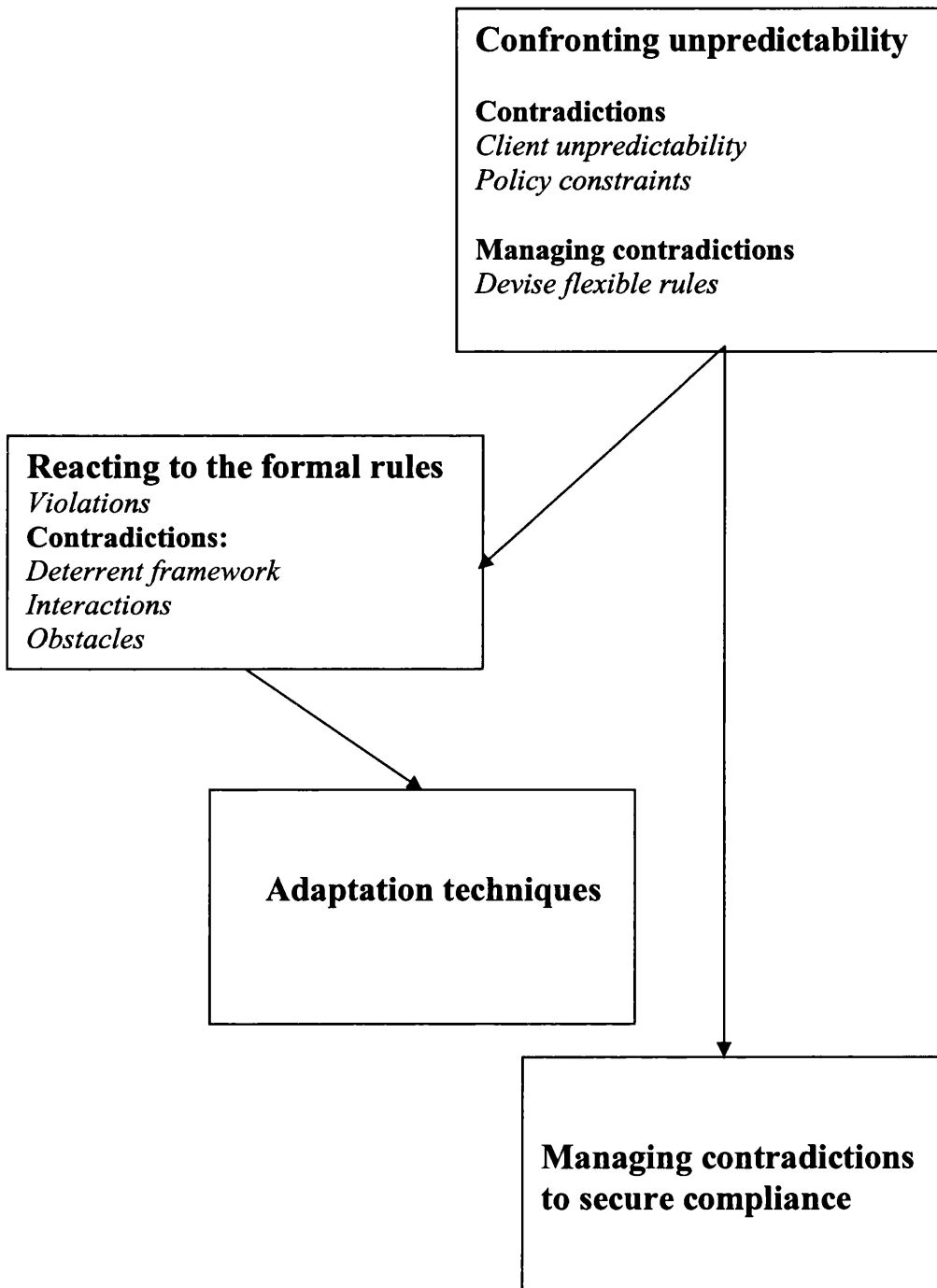
As Figure 6.2 shows, there are contradictions that affect the processes of securing compliance. The role of the officers in managing contradictions by replacing the formal rules with more flexible rules using their professional discretion is central to an understanding of compliance. The officers' actions ensure that the enforcement rules applied in practice are more responsive to the practical and other problems that may affect compliance. Given its centrality, the concept 'managing contradictions to secure compliance' was selected as the core category.

6.8: Conclusion

In sum, compliance is the product of the definition applied to specific behaviour. It evolves from three complex processes in which probationers initially violate the formal rules communicated to them at the start of the order. This triggers the processes of confronting unpredictability in which the officers react to the violations based on the nature of the evolving relationship between both parties and the nature of the violation. The processes of confrontation reinforce the importance of adapting to the informal rules. Furthermore, underlying the activities of both parties are several contradictions or conditions.

Chapter Seven: Reacting to the formal enforcement rules

7.1: Introduction

The previous chapters elaborated the processes of data collection and the analytic tools that were used to analyse the data. They also described the emergent conceptual framework for understanding compliance with community penalties as revealed by the data. According to the data, interactions between three key categories contribute to an understanding of the nature of compliance with community penalties. This chapter and the next two chapters explore these three categories with reference to relevant extracts from the data.

In this chapter, the category – reacting to formal rules – is examined. It depicts how the probationers respond to the provisions of the formal enforcement framework communicated to them at the start of their orders. Several illustrative case studies are also provided.

7.2: Structural contradictions: the deterrent framework

The study examined the possible impact of the deterrent framework on compliance patterns. Efforts are made to proactively communicate the formal rules to the probationers at the start of the order. Proactive rule clarification begins during the report writing stage before a sentence is imposed. The process is repeated during the induction meeting. The objective is to ensure that a key element in ensuring deterrence is present, namely awareness of the formal rules (perceived risks).

The probation officers and the probationers interviewed confirmed these processes. To cite one example, below a probation officer explains the processes involved:

> *At what stage do you tell them [the probationers] what would happen if they fail to comply?*
> Well they'll be told at the stage prior before them going to court because most offenders come to us for a PSR. So we will discuss the disposal and if it's going to be a Community Order then we

would have explained to them what the circumstances will be of breaching that order. What the consequences might be for them so they know. PO6M10-20

Therefore, care is taken to communicate the formal rules. Despite this, most probationers revealed limited awareness of the rules. The data revealed that of the 25 probationers interviewed, only 8 had accurate knowledge of the formal rules. The reminder (17) displayed limited knowledge of the rules although all the probationers interviewed reported that the rules had been communicated to them during their induction. The quote below demonstrates the limited awareness of rules observed. P12M is a male probationer on a CPRO for burglary:

> *Did you know how many times you could be absent [before you were breached in court]?*
> No
> *So he [your probation officer] didn't explain it to you then?*
> He did but ... basically for me to understand all of it I think I might as well have a book on the law like you know? That's the way it's gonna work, they should get every criminal, every whatever, a book on the law. So they know everything. So they got a better insight into it... P12M

Other probationers also revealed rule ambiguity. As mentioned earlier, according to the National Standards operative at the time of the study, breach action should be commenced after a second failure to attend appointments without an acceptable reason (National Probation Service 2002). The probationers below demonstrate limited understanding of this rule:

> You get all the leaflets and stuff from the first appointment. Gives you all the regs you know? ..but I think you get, you miss one appointment, I think you get a warning letter. No you miss one appointment then you've got to either bring in a sick note or give a damn good reason why you missed that appointment. If you miss again you get your warming letter, three times, if you miss the third that's it you've breached and then you're back to court. I think its three, but I've got a funny feeling it's only two. Two, three at the most I think, but on your third I think you're breached definitely and you'll be back to court" P6F

> I think it's you have two warnings and then one back to court then,
> so its three innit? P26M

To exacerbate matters, the study found that knowledge of the rules appeared to be affected by time lapse as the order progressed:

> *Did she [your probation officer] say how many appointments you could miss before that [court breach] would happen?*
> No I don't recall …it's been a while….there was, on the first week of probation there was about three new people coming in and we all gathered round the table and talked through, went through the leaflets with one probation officer. So everything was explained if you had any questions you could ask... P23M

Initially, it was hypothesized that in line with the deterrence doctrine the extent of rule clarification would have an impact on compliance patterns. Therefore, the high degree of rule ambiguity observed may be a possible explanation for the high rates of violations. As such, the study explored how proactive rule clarification may be linked to compliance. In doing so, it became possible to explore the presumption inherent in deterrence theory that knowledge of risks is crucial for achieving deterrent effects.

However, it became apparent that the degree of rule clarity was not linked to compliance patterns. This is because, 6 of the 8 probationers who demonstrated a full understanding of the rules also reported violations. P3M below for instance, a male probationer on a Combination Order for violence was fully aware of the formal compliance rules:

> *You were told about what would happen if you don't attend weren't you?*
> Yes
> *Was it in written form or were you told verbally?*
> I think both I'm not sure. You gotta sign at the start that explains everything. They give you leaflets and pamphlets when you first start so you know all about it... if I don't turn up like say through skiving then I get breached which is a warning, they give me a warning on paper. Then if I do it again then they send me back to court. So then you got two options one which is more likely to happen that they send me away…because it's a major offence.

...I've been on this 3 times now probation. if you actually behave yourself, turn up and not cause many troubles they cut it down ...if you turn up I cant remember how much it is think its about 3/4s away from your what sentence given to you in court if you behave yourself they can take you back to court and say he's turned up and he's done it all and they cut it down and stuff...you've only got two strikes in this place. P3M

However P3M above reported that he had violated his order. Below he describes the

circumstances:

> ...I was in [a]show cos we didn't want to travel back on the Thursday night because of the traffic. We travelled back on the Friday morning. So I said that I might not be able to make it. So she [probation officer] was like alright don't worry about it cos she already knew I was there, cos it's not too bad. P3M

Below other probationers who reported full awareness of the formal rules describe the

circumstances of their violations:

> I'd just ring up and make an excuse. I've done that before. I wanted to go shopping with my little boy..I done that once.
> *And what did they say?*
> They just said its fine ...they threatened to send me to court twice, which I think that was on the last order though that was about a year ago now, they're pretty soft here... P24F

> .... I have turned up pissed up before like [the] drunk and alcohol counselling pissed up because they used to put it on a pay day ...They weren't happy you know I mean? But I'm sorry like ...change the day of probation, its pay day like... P15M

> *But on the two occasions that you've had warnings can you remember why?*
> Because I just couldn't be bothered. It's just like one of those days you know... I remember once I was in the pub and I was having such a good time and I thought I'm going so I phoned and said I can't come. So I phoned from outside the pub.
> *Was it during this order or the previous ones?*
> It might be this one actually and I've actually turned up on probation absolutely hanging drunk once.
> *And what were you told?*
> Well [PO3M my probation officer] just (makes eyes gesture) just one of her looks. As soon as I walked through the door I said yes I know I'm drunk I apologise that's all I could say. P6F

Although many probationers displayed limited awareness of the formal rules, they also demonstrated heightened levels of perceived risks. Like P3M above many probationers reported that a custodial sentence is the likely outcome of non-compliance:

> I know people who have been breached for probation and they've gone back to prison.
> *Did you know that before you started the order?*
> Oh yeah.
> *So you were in no doubt then that the courts might react with a custodial if you are breached?*
> Yeah definitely...well I knew it's all circumstantial I am aware of the fact it depends on the circumstances and every case is relevant to whatever is happening in that case yeah, but yeah I know that prison was not ruled out of you consistently breached. P2M

P2M above violated his order despite this apparent perceived severity of punishment.

Below another probationer demonstrates heightened perceptions of severity:

> *What do you think the court will do?*
> They'd retry me for all my, for the original offence which possibly because I've gone and breached my probation order there'll be bye byes prison
> *Were you told that at the start of the order?*
> No I already know that. P6F

Notwithstanding these perceptions of risk, like P2M above, P6F (also cited above, a female probationer on a CRO for violence) reported several violations already described above. The heightened sense of perceived severity was linked to 5 factors: previous experience of breach action, threats made by the courts (during sentencing) that severe consequences will accompany non-compliance, the perception that the current offence was serious enough to warrant a custodial sentence, information gleaned from peers and the belief that a severe outcome is likely because the order is an alternative to custody which if breached would be construed by the courts as a failure to take full advantage of a 'second chance'.

The quotes below demonstrate the impact of these factors. For example, P13M below demonstrated heightened perceptions of the severity of punishment for non-compliance stemming from previous experience of breach action:

> ... *If (PO8F your probation officer) takes you back to court what do you think the courts will do?*
> They'll send me back to jail, well not back because I haven't been to jail before, they'll send me to jail ...
> *Did anyone tell you this is what the courts will do?*
> I've been told the consequences. You could be taken back to court and your other offences brought back up. P13M

Similarly, P5F below reported that her heightened perceptions of severity for non-compliance stemmed from threats made by the courts during sentencing:

> *What do you think the courts will do if they take you there?*
> They'll send me to prison
> *You think so?*
> Yeah I know for a fact. They said next time you're in trouble we'll send you to prison and I know that for a fact... P5F

For P9M below, the perception that the current order warranted a more severe punishment explained his heightened perceptions of severity:

> ... I was a hair's breadth from being sent to prison. I know that for a fact. It was serious offence ...P9M

Finally, P6F below reported that she had heightened perceptions of severity because of the belief that non-compliance and breach would be interpreted by the courts as the failure to take full advantage of a 'second chance':

> *Do you think it's likely the court will impose a prison sentence?*
> If I've got good enough circumstance then the court might take it leniently and then say right, this is your last final warning. If we see you before the court again there will be no second chance. I know these words off by heart. P6F

As mentioned above, the probationers were also aware of the severity of punishment through information gleaned from peers:

What happens to your friends when they miss probation...when they're taken back to court?
...they take things like that very seriously I think. I know a couple of people who missed probation who ended up in prison...P19F

Added to heightened perceptions of severity most probationers believed that non-compliance would result in breach action in court. They fully recognised and accepted the enforcement role of the officer:

> *But do you really think that (PO7F your probation officer) will take you to court if you don't attend?*
> It's not down to her ... it's what is specified in the law. So it wouldn't be like her decision. I mean if I didn't turn up and I did go back to court I couldn't stand here and say well (PO7F) is a cow for letting me ..Cos it's not her fault....Her hands are tied...P8F

The high levels of perceived certainty and severity reported did not appear to affect compliance patterns. As noted above, the incidence of rule violations was high despite high perceptions of risks. 17 of the 25 probationers sampled reported rule violations. Furthermore, only 5 probationers cited perceived risks as a motivating factor. For 4 of this number, the perceived risks interacted with the perceived benefits of supervision to motivate compliance as can be seen in the quote below by P5F a female probationer already cited earlier. Below she discusses the factors that motivate her to comply:

> ...otherwise you get taken back to court you know? Because the courts have told you that this is what they've given you. They could have sent you to prison but they've given you a chance. They've given you a probation order and you've got the probation officer who you confide in and if you've got any problems then you talk them out... I just think that you get something out of it. I can't really explain. It's hard to explain something like that to put over but in a way it's good. You can talk out if you have any problems or anything. P5F

Further still, 4 probationers in the 5 probationers who cited perceived risks as a motivating factor reported that they had violated their orders. Of this number, one was

interviewed early in his order and a further 2 were breached in the interim between the

initial interview and the follow up interviews. An example is the case of P15M a male

probationer convicted of theft offences and sentenced to a Community Order with

Unpaid Work and Rehabilitation requirements. He reported in the first stage of

interviewing that he was motivated to comply because of the need to secure his newly

acquired accommodation:

> *How has being on probation affected you if at all?*
> Its alright I mean, [its] weekly…so I might as well just pop down.
> Never used to bother before because I couldn't be a**** like but
> well I was homeless at the time. But now I've got somewhere to
> live and I don't wanna screw it up by not turning up to probation.
> P15M

During the follow up interview he reported that he had since been breached for

several violations:

> *Since the last time I spoke to you in March have you not been able*
> *to come in for your appointments for any reason?*
> Emmm no. I missed Community Service that's because I've been
> working or too drunk…
> *What happened then when you couldn't come in?*
> I got breached and they gave me more hours like   …120 hours…
> *How many times have you not been able to come in do you*
> *remember?*
> Only went to one community service.
> *Do you think it was fair that the officer took you back to court?*
> Yeah. At the end of the day they give me loads of chances. Been
> called up to court loads of times but didn't used to turn up to court
> either. So I had a lot of chances like. P15M

The second probationer (P10F) breached in the interim between the initial and follow

up interviews also reported clear awareness of the formal rules:

> *So about being taken back to court, who told you that would*
> *happen?*
> If you like miss your days to come here and you don't phone them
> they can send you back to court… P10F

P10F had reported in the initial interview that she was motivated to comply mainly by

instrumental reasons:

> ...if I don't attend them I'll be taken back to court and I could be
> imprisoned.... .....I'm doing it for my daughter basically because I
> don't want to go back to court and I don't want her to go through
> all this again for her sake either... So it's just easier. P10F

In the follow up interview she reported that she had since been breached for violations. She reported that she had become homeless and the need to secure an accommodation overrode any perceived risks of non-compliance:

> *When you missed the appointments because of the difficulties you*
> *had did you think that you would end up in court?*
> I knew I was gonna end up in court because they told me, but at
> the time my head was so messed up that I didn't really care
> whether I ended up in court, which is a bad attitude to have but I
> had so many other things. I was trying to find a home; I was trying
> to get my daughter back. I had 20 million things going through my
> head all at the same time and (it's a) bad thing to say but
> community service came very low on the list of priorities at the
> time. P10F

Thus when confronted with socioeconomic difficulties such as homelessness and other obstacles to compliance, the need to resolve these could override considerations of risk.

7.3: Factors potentially undermining perceived risks

Given that most probationers reported several violations despite high perceptions of risk, the study sought to understand why risk perceptions appeared to exert no significant impact on behaviour.

7.3.1: Peers, previous experiences and variability of official reactions

The data revealed that just as information from peers enhanced perceived risks they may also undermine perceived risks where they alert the probationers to the variability in sentencing for breach. Probationers also learn of this variability through personal experience. Further, the individualised and flexible rules formulated by the officers undermine the perceived certainty and celerity of punishment. Likewise, perceived severity is undermined by the individualised and sometimes lenient

sentencing for breach. The probationers became aware of this through previous personal experiences. The quote below demonstrates this:

> *Do you think it's likely the court will impose a prison sentence [or breach]?*
> It all depends on how (PO3F my probation officer) will put across how my probation order is going at the moment and if I've got good enough circumstance then the court might take it leniently...P6F

Perhaps also undermining perceived severity is previous experience of a lenient sentence for breach. Below the probationers who reported several violations after breach action in court describe their experiences in court:

> *So what happened in court then when you were breached?*
> They just told me to continue my order end of. P2M

> *What did the courts say when they took you court?*
> They were alright about it you know they just, they didn't give me any more hours, they just give me the court costs and you know more money really £70 quid. P12M

Indeed, for some of the probationers the possibility of custody for breach was not a significant threat:

> *So it's not the fact that (PO3F your probation officer) might take you back to court that would make you come in?*
> No no no not at all. That doesn't bother me. I've been to prison and prison is not hard it's the easiest... it's a holiday camp
> *Really?*
> It's a holiday camp, (...)'s a holiday camp...well it's a good place to go and have a rest innit? P1M

The officers provided insights into one additional factor that might affect perceived risks. They revealed that poor literacy skills pose a significant obstacle. According to the officers, this problem which afflicts the majority of their clients may undermine the accurate comprehension of rules. Asked what the main obstacles to compliance are, PO1M a probation officer states:

Literacy if we don't acknowledge that ..., I just think it's one we
need to acknowledge and we need to ensure that our
correspondence is easy to understand for those varying needs...

Most of the officers noted the high incidence of poor literacy skills.

Huge problem, huge problem. I couldn't believe until I started this
job how big an issue literacy is in this area... When you do a PSR
you do the self assessment form. I had one guy filling it in asking
me how to spell need and ...you know, really bad. You know they
were putting 'no' down as 'know'...And the way the warning
letter and a lot of written information here, the way they are its
almost as if they expect people to have very high basic skills
levels. But you find that most, not most but many probationers will
probably struggle with some correspondence. PO13F

Like the officer above, other officers also acknowledged that poor literacy levels may

affect the probationers' ability to understand enforcement correspondence.

I don't think they (warning letters) are very good. We get a lot of
offenders who are here and they've got low basic skills and we
know they got low basic skills because we test everybody who
comes through the PSR process and it's really difficult because
that's the only way we got of warning somebody who isn't in the
room and it's the only way we've got of actually proving that
we've actually warned them. PO18M

To overcome this problem, officers ensure that the enforcement rules are clearly

defined to all probationers:

It [the enforcement rules] is always explained to them verbally,
you never just give them a piece of paper particularly in cases
where you either know there are literacy difficulties or if you don't
know whether there are or not, then you have to assume that they
might not be able to. ...PO3F

Despite the officers' allusion to poor literacy skills as a significant problem that may

affect accurate rule perception, the probationers reported that they have no difficulties

understanding the formal rules. One officer recognised the possibility that the

probationers are unwilling to reveal this potentiality 'embarrassing' problem:

... the thing is some people are too embarrassed to say that they do
have issues and I had one the other day who has got major issues

with reading and writing and doesn't want to do anything about it. PO12F

According to the officers, added to poor literacy skills there are several additional factors that may undermine rule clarity. The probationer may be overwhelmed by their experiences that they are unable to assimilate the wealth of information. Further they are inundated with too much information at once.

> I think the main problems are, this is my personal opinion, that they're in the induction stage, I think it's too many leaflets given out, too many bits of paper. I think it would more successful if they were given one piece of paper which says this is your order......I think we give out too many leaflets. I am sure as soon as they walk outside..., I am sure they are all in the bin out there on the floor. That's my feeling, and I think some people can be, if they haven't been on probation before, if it's their first visit, can be a bit dazed if you know what I mean? ... and also obviously some people have got reading and memory difficulties which is a problem. I think it doesn't help...PO9F

These quotes illustrate the factors that may impinge on the levels of rule clarity. Notwithstanding these, as mentioned above, the probationers demonstrated high perceptions of risk, which appeared to have little impact on compliance patterns.

7.4: Structural contradictions: the obstacles to compliance

The obstacles to compliance also pose structural contradictions. Financial and travel difficulties for instance, affect attendance:

> *Since you started have you not come in for any reason at all?*
> I think I've missed one appointment that was because my benefit money stopped and I didn't have any money to come and I didn't fancy going pinching to get any. P26M

The wide geographic area covered by the probation area and the rurality of most of the areas covered, meant that transportation posed a significant problem. Below a probationer recounts his experiences.

The probationer P2M regularly travels more than 10 miles to attend his appointments:

> *Do you always find someone to bring you in?*
> No that's why I missed quite a few appointments but he's [PO1M my probation officer's] given me other appointments to cover them but yeah it's been terrible. It's been murder getting here definitely. Like when I leave here tonight I don't know how I am getting home you know I got my boss to drop me off on his way through to (...) P2M

Lifestyles and routines may also pose practical difficulties. An attempt was made to ascertain how these affect compliance in line with Bottoms' (2001) conceptualisation of routine compliance. The study found that most of the probationers lead unstructured lives. Many are unemployed and often involved in substance misuse, some up to the level of dependency. This fuelled chaotic lifestyles which in turn posed significant obstacles to attending routine appointments. In the previous chapter, substance misuse related violations appeared to be prevalent. The quote below demonstrates how this may affect compliance. The probationer cited is substance dependent:

> *Is there anything that makes attending here difficult...?*
> Sometimes if it's early in the morning because I am not very good at getting up early in the mornings. Just because my sleep pattern's all over the place because I've been taken off my sleeping tablets. So like it takes me a long time to get to sleep. I wake up in the night and then I end up sleeping till about 11 o'clock in the morning. And then I looked in my diary this morning and I seen that I had probation and I thought oh!
> *Have you missed appointments then because of the difficulty of getting up in the morning?*
> I think I've missed maybe about two appointments cos if you miss more than 3 they can take you back to court. P5F

Non criminogenic routines such as employment commitments also affect attendance patterns:

> *Does it affect your job...?*
> It has done, that's why I've had to ask, because I've had to stop jobs that I needed to go out on time and I had to leave them to

attend here. That's why I've asked to have appointments after 5 o'clock now so that it's not interfering with my work. P13M

These obstacles may also explain why the probationers tended to violate the formal rules despite perceived risks. The data suggested that compliance patterns appear to be more directly linked to the ability to adapt to the informal rules that are designed to accommodate these obstacles.

7.5. Situational contradictions: the limited impact of normative mechanisms

Most of the probationers cited instrumental reasons for compliance. 16 of the 25 probationers acknowledged the normative dimensions of supervision by reporting that the order constitutes appropriate retribution for their actions, or by acknowledging the perceived obligation to comply. Notwithstanding this, the 16 probationers did not cite these normative considerations as the central factors motivating them to comply. Only 2 probationers – P2M and P23M cited normative mechanisms: the perceived obligation to obey as the central factor motivating them to comply with their orders. Both were male probationers aged 33 and 22. The 33 year old probationer – P2M - was on a twelve month CRO for fraud offences whilst the 22 year old – P23M - was on a 24 month CRO for a violent offence.

7.5.1: Normative mechanisms: an illustrative case study

Although P2M above was breached for non-compliance he continued with his order and completed it successfully. When asked how the experience of breach affected him he replied:

> It didn't affect my decision to come in no not at all. I came in because as I said I was taking my punishment on the chin. This is what my punishment was so get it over and done with... I am a great believer in, this is my personal opinion, if you commit a crime if you do something that is against society then you got to take it on the chin. If you get caught you got to take it on the chin there's no point moaning about it P2M.

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The experiences of P2M above illustrate the impact of perceived legitimacy as defined by Tyler (2003) on compliance. P2M was interviewed at the end of his order. During the interview, he revealed that he was breached early in his order for missing 6 appointments. He reported that the key reason for his failure to attend was his belief that he had been treated unfairly and without respect. Below he recounts his view of his officer's actions:

> *Can you remember what he did specifically...?*
> One time I was on appointment and I phoned up and I told him. I said I can't, I am struggling my lift hasn't turned up and I don't know how I am gonna get there and his reply to that was well its part of your order you have to get here and he was all negative and he didn't come back with any ideas or with any support. It was just totally negative like, almost bullying like, you've got to get here and I was not having that basically. ... alright fine, I broke the law, I got a probation order but that doesn't mean I have to be treated like nobody yeah, I bet he wouldn't talk to his son like that if his son phoned up late for an appointment or something. So you can't treat me less of a human being just because I've committed a crime. So then I ended up with PO1M (a second probation officer) P2M.

This case illustrates one of the antecedents of perceived of perceived legitimacy - 'perceived fair treatment'. Perceived unfair treatment led to non-compliance. The features of unfair treatment were disrespect in the form of a rigid application of the unresponsive formal rules, and also a domineering and dictatorial enforcement approach in which the probationer was denied the opportunity to state his case. The quote below by the probationer (P2M) highlights how perceived legitimacy may be enhanced where decision making processes are perceived to be fair. This is so even if the outcome is negative:

> ...He [PO1M – the current probation officer] breached me but in the same breath he breached me but he didn't breach me cos he understood what happened. He took the time to look into why, ... cos I didn't actually start the cognitive thinking thing till I think it was about week 5 and up till then I'd been on time and every week....And then that 'one to one' and then puff, and I think PO1M took the time to see that and in the breach report done for the courts he said : I believe that if P2M continues to do his probation

properly the he can carry on with the order....it was done with respect, I felt that he always treated me like I was a worthwhile human being. Never made me feel small, never made me feel like a criminal, never made me feel any less of a person than he is you know?...It's most important you know, you can't have communication unless you have that, because it won't be equal. If the communication is not balanced someone's not listening and someone won't be hearing and you'll be talking, it will be going like that phew... and POIM just got that to a T. P2M

P2M above validates the decisions and actions of the second probation officer stating that although the second officer prosecuted him for breach, the process was fair because he was given the opportunity to state his case and also because a fair account was given to the court. These were perceived by P2M to be the indices of fair treatment. The case also demonstrates that even where the perceived obligation to obey the law exists, perceived unfairness may engender non-compliance.

Thus, negative outcomes do not undermine the perceived legitimacy of authority as long as the process through which the outcome is reached can be regarded as fair. In addition, the opportunity to present one's case is a key element of fair procedures as is the perception that one has been treated fairly. These findings are consistent with the empirical literature discussed in Chapter two. We can recall that studies have found that the perceived legitimacy of authority may encourage compliance with legal authorities and legal rules (Tyler 1990; 2003; 2005). Tyler argues that in encounters with people in authority, outcomes are not nearly as important for preserving perceived legitimacy as the actual decision making processes.

Therefore, although it was the second probation officer PO1M that eventually implemented the breach, P2M described his relationship with this officer in positive terms contrasting it with his relationship with the previous officer who he believes treated him unfairly as described above:

I tell you the first PO I met here (…) didn't like him at all
Why didn't you like him?

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....he was very, he was a robot, by the book kind of there was no humanity and I am sorry to achieve an effect in someone's life you have to have some love no matter how distant you have to be and how professional you have to be you have to express ... I told him how I felt about the way he talked to me that he was very negative ... to achieve any effect on a human being you have to have a positiveness and support..

Asked about how his order affected him, P2M replied:

It's changed my life you know but actually if I'm honest, it's not the probation service that's helped me its [PO1M my current probation officer]. As I said it all comes down to the probation officer. You can have any set of rules and regulations but if they're put across by the wrong person they're not gonna do anything.

The quotes above also highlight the importance of the 'relational element' of supervision.

7.6: Situational contradictions: the impact of interactions

The foregoing suggests that interactions between both parties may also affect the probationers' ability to adapt to the informal rules. These findings prompted further explorations of the importance of the interactions between both parties. Further data reinforced the finding that a disrespectful and dictatorial approach undermines perceived legitimacy and may affect compliance. A similar case was presented by probationer P23M. Like probationer P2M above, P23M also cited normative reasons for compliance based on perceived obligation:

I committed the crime; I have to take some kind of punishment ...P23M

However, P23M failed to comply with the directives of his officer because of the quality of treatment he received. Like P2M, he rejected what he perceived to be a domineering approach and a lack of empathy:

...the way he [my probation officer] was coming across was a bit not to my liking, we clashed straight away so I knew I wouldn't like him but I put on a front,... he was just talking to me like I was a child, a school boy sort of thing, he didn't put himself across very well from my perspective that's the thing..

What type of things will he say...?
Just mainly about: have I got a better work? How is your relationship with your mother?...Don't you think you should do this? don't you think you should do that? Sorry mate you don't live in my house you don't know what it's like. P23M

The quote above also reveals that an approach that is perceived as intrusive and lacking in empathy may also engender non-compliance. The officer's approach is more likely to be perceived as intrusive where an established relationship is lacking as can be the case where the probationer is supervised by more than one officer. For the probationer - P24F, an approach that she believed to be intrusive led to a failure to defer to the authority of a probation officer with whom she had not developed an established relationship.

> ... I won't speak to him (the probation officer), it's just I don't know, I can't get on with him...he goes on about how he wanted me to write out a drinks diary how much I drink, I just wasn't having it because I've got other agencies that deal with that. So I say no I'm not doing it. (my current probation officer) did not ask me to do it, I aint doing it and she's my probation officer...he's slow, I just find him stupid...It seems too personal to me... probation they've got to know a lot about you but there are things that I just won't discuss with people...Well no I just refused I said cos I do actually, I've got a (substance misuse rehabilitation) worker, I said I won't. P24F

So far it appears that in interacting with the officer, the perceived quality of treatment may be undermined if perceived to be:

- Disrespectful
- Dictatorial/domineering
- A rigid application of rules
- Lacking in empathy
- Intrusive

Therefore, the quality of interactions as perceived by the probationers may affect compliance. The examples cited above suggest that negative interactions based on perceived disrespect for instance, may trigger non-compliance even where the

probationer reports that they are primarily motivated to comply by normative considerations.

Exploring these issues also revealed additional features of the interactions between both parties. These are linked to the motivational strategies primarily relied on to encourage compliance.

7.7: Instrumental compliance mechanisms: the centrality of incentives

In describing the central factor/s motivating them to comply, most of the probationers pointed to the importance of their interactions with their officer. They described their relationships with their officers in positive terms. During initial analysis, this provided a *prima facie* case for interpreting the nature of the relationship in normative terms. That is, the relationships may be such that the officer is able to exert a normative influence on the probationer which produces compliance. Further, positive evaluations of authority may indicate perceived legitimacy (Tyler 2003). However, subsequent analysis revealed that the central element of the relationships between both parties that was cited by the probationers as motivating compliance was not its potentially normative dimension. Rather, the perceived benefits accruing from these relationships underpinned the positive evaluations. This is because the probationers described their relationships with their officers in positive terms highlighting the importance of the perceived benefits accruing from these relationships.

7.7.1: Describing supervision relationships in instrumental terms

Most of the probationers evaluated relationships with their officers and their experiences during supervision positively mainly because of the opportunity to 'talk' to their officers or confide in their officers in order to overcome mental or emotional stress. The quotes below reinforce this point.

What do you think is the best thing about being on probation?
The best thing about probation? I've got to let some of my feelings
out rather than bottling it up.. .... P13M

I enjoy coming into probation, it's like having somebody sensible
and straight to talk to. Somebody that I know I can trust as well, I
can tell them whatever I need to tell them and I know [PO13F -my
probation officer] will try and help me as well... P17F

It was nice talking to [PO17F - my probation officer], having
someone, and it was nice having someone to talk to you know, if
you've got problems, someone else outside of the family to talk
to, it won't go further and all that. That's nice about probation, and
I can't say anymore than that... P25F

The quotes above also demonstrate that the probationers invest a high degree of trust

in the probation officers. Other probationers reinforce this:

She's [PO8F –my probation officer's] brilliant she's good to talk
to. She's a good listener. ...she listens to me well, she's good. It's
nice to have someone to talk to. I can talk to my girlfriend and
stuff but not about the stuff that's happened. P13M.

... I can sit there and tell him almost anything you know? So he
gets a lot off my mind because I can't really speak to my girlfriend
about some things my head thinks about and me and my family
sort of broke up but and that P7M

It is difficult to maintain this degree of trust where there is discontinuity during

supervision. The quotes below reveal the difficulties posed by discontinuity:

...few times I've seen someone else. I prefer to see [PO9F-my
current probation officer]. [A certain probation officer] gets on my
nerves…just asking me question after question that I just don't feel
is appropriate …you start getting on with someone you trust
them...I prefer to stick to the same person but if she's off ill can't
be helped. P24F

[P06M- my probation officer] sort of plans my route out a bit. It
helps me cos I have suffered with mental illnesses and stuff you
know? After I came out of the army my head was up my a** you
know? I weren't really thinking straight and my marriage broke
down and I did go the wrong way down the path like. But I sit
down and try and talk to him about what I wanna do and just
personal stuff and like I don't feel like I can talk to the other
people like that because I haven't spent as much with them you
know? P7M

The disruptive impact of lack of continuity during supervision was reiterated by the officers:

> *Do you think changing the supervisor affects relationships?*
> I think so yes
> *In what way do you think?*
> Well we did notice that once when we had an idea, somebody had an idea of a report centre where people would just come and see whoever happened to be at the office on that day. We found that attendance dropped off tremendously. This was before we were quite strict on enforcement admittedly but people seem to get in a relationship with that probation officer and they don't seem to want to talk to somebody else. I think it's to do with the feeling that the first person knows quite a lot about you and then if you go and see somebody else that doesn't know much about you, you're starting from scratch and as a probation officer it's not so easy sort of picking up a case half way through either cos you're thinking, oh my goodness! I can't remember now, what they did......if you got it right from the beginning you tend to remember more about them. P07F

This view was reiterated at management level in Jersey during a discussion about discontinuity in supervision:

> I don't like changing. We try to keep changing to the absolute minimum. Sometimes it happens. Sometime it has to happen, a probation officer leaves. Occasionally probation officers and offenders clash. We've had a case of that recently. The probation officer said I don't get on with this client I really don't. I feel unsafe, I think she feels unsafe can we change. So that's okay. But we do try to have, like I said before, the SER (Social Enquiry Report) writer will work generically. We don't have specialist teams, and they will supervise that person in the community and if that person goes to prison they will supervise that person as well.... JPO1M

The finding that supervision relationships are described in instrumental terms was constant even among the probationers who also reported normative reasons for compliance. P2M for instance, cited normative mechanisms such as perceived legitimacy as the central factor motivating him to comply. However, he also reported

that the emotional/mental benefits of the talks with his probation officer constituted another important motivating factor:

> [POIM - my current probation officer] is amazing ... With [my previous probation officer] I felt that he was sitting there with a case, yeah, that's how I felt. I felt that I was case. When I am talking to POIM I feel that he's sitting there talking to a young man he needs to help. He's here to help and he can help....I come and I spend half an hour to a quarter of an hour here and me and POIM chat. But with [my previous probation officer]... it was like ..yeah yeah goodbye....you know? ..I used to go wow! Man! That just cost me six quid and like I travelled for ten times longer than I was here and that just seemed pointless. That is when it just seemed like they were just trying to p*** me off, just give me a dig, just put a bigger lump in my week really... P2M.

Thus, according to the probationers the key element of interactions or relationships with the officer motivating compliance was the problem solving role of the officer especially the officer's role in listening to problems and relieving mental stress. This was a recurring theme that underpinned the positive evaluations of supervision offered by the probationers.

Added to the benefits of the therapeutic role of the officer, most of the probationers were of the view that the primary objective of community penalties is to provide support and help to overcome problems. It was not perceived to be a punishment. This may also explain the positive evaluations of supervision offered. Positive evaluations of an authority would normally indicate the perceived legitimacy of that authority. However, it has been argued that distinctions can be made between positive evaluations based on perceived legitimacy and positive evaluations based on the belief that the authority is primarily concerned with solving problems and providing other benefits (Tyler 2003). The latter would indicate an instrumental view of interactions with that authority and may engender instrumental compliance.

7.7.2: Welfarist objectives: the benefits of supervision

The view of community penalties as an alternative to punishment was observed despite the sustained efforts by successive governments to rearticulate the image of the service from a welfarist organisation to a correctionalist service. For instance, the 2002 National Standards that were in operation during the most part of the study cited the provision of a 'rigorous and effective punishment' as the first objective of community penalties (National Standards 2002). Notwithstanding these developments, most of the probationers rejected the idea of probation as punishment. They perceived the primary objective of community penalties to be the provision of help and support:

P23M the 22 year old male probationer serving a 24 month CRO for violence (already cited above) describes his experiences of supervision:

> I find it to be a positive thing. It's working out really well. For me
> it's just somebody to actually tell my problems to ... P23M.

At worst, the order was perceived to impose a constraining influence given the requirements to attend routine appointments. Most of the probationers perceived the order's objective to be the provision of practical and other help. For many, the anticipated benefits of supervision motivated them to comply:

> ... in a way it's a bit of a punishment because it takes a day out of
> your week you know to come here and stuff, but just get to sit
> down and speak to [PO6M my probation officer] and let out my
> problems or whatever...No it's not punishment no.P7M

> ... It's gonna help which is what I needed. Punishment wouldn't
> have done anything I don't think so... P8F

> ...they [the probation officers] are only trying to do the best for
> you, you know? That's what they're there for, to help you. They're
> not here to punish you or anything like that. They're here to help
> you. That's why I wanted to be put on probation and that... P5F

...if I could change what happened I would but what I said to the
Judge like yeah, I want to get on college courses and things. So
like I gotta come here see? It's to my advantage you see? If I can
get something out of it... P19F

Reinforcing the view of community penalties as a welfare-based alternative to

punishment, some probationers viewed their orders as tantamount to being given a

'second chance' as an alternative to being punished:

... I committed the crime, I have to take some kind of punishment
and that punishment could have been prison or it could have been
coming here and I know which I would prefer. So it's really kind
of like a second chance almost. I appreciate being given it. P23M

These quotes suggest that from the probationer's perspective, the anticipated benefits

of supervision provide significant motivation to comply. The tendency to cite

perceived and anticipated benefits as central motivating factors remained constant

across probationers at different stages of their orders. In the five examples above, two

of the probationers (P7M & P5F) were midway through their orders and (P23M) was

interviewed at the end of his order. P8F a female probationer serving a six month

CRO for benefits fraud was interviewed at the beginning of the order. In the follow up

phase, she maintained her earlier position about the perceived benefits of supervision:

...they've been so helpful and I mean I am now on monthly
reporting but I know that if I need to speak to someone any other
time I can. Cos that was one of the first things I asked before I
went on this monthly thing was if I needed to speak to somebody
are you gonna be there?...
*And so what would you describe as the best and the worst aspects
of being on probation*
The best bit is probably knowing that you've got somebody there.
P8F

P8F's supervisor subsequently reported during the follow up interview that P8F's

compliance pattern had been tantamount to technical compliance. This case is

discussed in more detail further below. Other probationers interviewed during the

follow up reinforced the importance of the perceived and anticipated benefits of

supervision. Below a probationer -P1M – states that he is motivated to comply by the

opportunity to talk to his officer:

Is there anything that makes it difficult for you to attend your appointments?
Me head, that's the only thing really, it's me head, if I get too depressed or I get too
negative about things then I find it difficult to get in but apart from that I quite enjoy
coming in ..
Why do you enjoy it though?
Why? it means I can, I get to see somebody I get to interact with people and I get to
be able to say what I need to say about what's happening in my life. I think that's
important, that's very important...I think that's probably more important than a lot of
the other stuff that goes on you know? Yeah I think that's very important.
*The last time we spoke you were saying that you were trying to make new friends now,
better friends. Have you been able to?*
The old friends are beginning to fall off they're not coming as much as they used to
which is quite good. I find it quite lonely at times because a lot of the old people
don't come anymore.....P1M

The quote above reveals that although the opportunity to attend and discuss problems

can be considered an important element of supervision, adequate emphasis should be

directed at equipping the probationers with skills that can ensure longer term

compliance following supervision when the opportunity to interact with the officers

and discuss problem ceases. Compliance should not be motivated primarily by the

opportunity to discuss problems or to obtain other accruing benefits. Although this

may encourage short term instrumental compliance, longer term compliance may

become more difficult to achieve where these perceived benefits are no longer on

offer.

7.7.3: Perceived benefits: an illustrative case study

A case study may be provided to further illustrate these findings. P5F a female

probationer serving a 12 month CRO for theft was interviewed midway through her

order. She was breached early in her order for failing to attend several appointments

without notifying the office. She reported that she failed to attend because she disliked

her officer. The underlying reason for this dislike was the belief that the officer was unable to provide the anticipated help.

> *When you were with [your previous probation officer] were you attending all the time?*
> No I wasn't.
> *Why was that?*
> Because he was going on about his wife and kids and things like that...and I didn't want to know about that and I thought I am not going to attend something that I don't wanna hear about you know what I mean?...I just didn't get on with him...he just didn't seem to be putting in enough input like into my probation...
> *What did you expect him to put in?*
> Well he used to be talking about his wife and kids most of the time and I thought I don't want to know about your b***** wife and kids you know I mean? I felt like [he should be] supervising me, sort of helping me because I'm on probation and that.
> *What sort of help did you want?*
> Well somebody to talk to I suppose really, and to advise you about things P5F

The quote above demonstrates that the provision of help and support is a key factor in ensuring compliance. The probationer above failed to comply and was breached for persistent absenteeism. The reason for non-compliance was the perception that supervision was lacking its essential ingredient: anticipated help.

7.7.4: Reconceptualising perceived welfarist benefits as instrumental mechanisms

As mentioned above, during initial analysis, the perception that the primary objective of community penalties is to provide help was categorised as a normative mechanism of compliance. This is because I interpreted the officers' therapeutic role (listening to problems) and also their welfarism (addressing the difficulties confronting the probationers) as normative mechanisms. However, subsequent analysis revealed that the office's therapeutic role and welfarism were perceived by the probationers to be the benefits accruing from short term compliance.

We can recall that normative compliance mechanisms encourage compliance based on perceived legitimacy. Normative mechanisms include the fair application of authority,

fair treatment and trustworthiness. In addition forming bonds which encourage adherence to pro-social behaviours may also encourage normative compliance. Alternatively, the use of incentives to encourage compliance is more likely to encourage instrumental compliance based on perceived benefits.

A careful reflection on these issues led to the reconceptualisation of the central mechanism of compliance cited by the probationers namely, the officers' therapeutic and welfarist roles, as instrumental mechanisms that encourage compliance based on perceived and anticipated benefits. This is because in interacting with the officers, several benefits were anticipated and described as central motivating factors by the probationers. These include: the mental relief and other benefits linked to the talks with the supervisor, the new qualifications that may be acquired by participating in rehabilitation programs, the advice provided for debt management, the referrals to agencies providing assistance with socio-economic and other difficulties.

7.7.5: Some recognition of normative dimensions

Some of the probationers recognised the normative objectives of supervision. In recognising these, the probationers were able to make the connection between the incentives offered and possible longer term objectives particularly- reduced offending. Below P22F a 22 year old probationer serving an 18 month CRO for alcohol fuelled violence describes the role of the officer:

> .....that's what they [the officers] are here for really to advise you not to commit crime. They do advise you not to commit crime....like every time I get a bit wound up and I have to come here, they say to me calm down...do you know what I mean? And that stops me from doing it then. So basically it stops me from committing crime...P22F

For P22F, the quote above appeared to reflect a recognition of the normative dimension of supervision. Despite this recognition, there was still a tendency to

emphasise the instrumental dimensions of the objectives of supervision. The quote below made by the same probationer illustrates this:

> .... I know probation is there to help you and [PO11F my probation officer] is there to help. She does help me a lot, so I go to all my appointments normally......it's helped me a lot. ...But probation has helped me. Like if I need to talk to someone and I want to open up to someone or there's things in my head that I can't tell other people, I can tell PO11F as well and she helps me with it and she says right keep your head under water do you know what I mean? She explains things to me, like other people won't tell me that. They'll be like 'sort them like this', but probation, they give you the right advice and then if you're lucky ...let's say if you're homeless, they help you if you want to get qualifications, they help with stuff like that. ...P22F

Thus, added to the immediate short term benefits motivating compliance such help with socioeconomic difficulties, there appears to be some recognition of the normative dimension of supervision – its longer term rehabilitative objective. This is quite different from the narrow focus on the short term benefits accruing during supervision which were cited as central motivating factors by most of the probationers.

7.8: Officer Mechanisms: the reliance on incentives

The officers' accounts also appeared to reinforce the finding that incentives represent important compliance mechanisms. Below two female probation officers illustrate this:

> ... I think it is made clear at the beginning of every order that if they comply then they will receive incentives...if alcoholism is the main factor contributing to their offending then that's what we have to concentrate on...PO2F

> ...you get the odd few who actually don't need incentives because they can actually see that something's happening and something's working and that things are getting better so with others it's the carrot and stick approach ... a lot of them come here because, or are happy to come here because they know that we are actually helping them sort out other stuff. Although we do the accredited programs

that are very much aimed at the offending behaviour, there is still an awful lot of other work that goes on like alcohol counselling, helping them get employment, helping them find accommodation... We got we've got one partnership agency that actually comes in and sees people in the office once a fortnight but we also refer to another alcohol agency depending on which is more appropriate, whether its harm reduction or abstinence that they're working towards.. So we can refer to either, but the housing and the employment can be a very big incentive for people to comply. P3F

This tendency to emphasise the instrumental benefits of compliance was also observed in Jersey:

> ... if someone is a bit motivated to attend probation, then I think there will be an amount of selling it ...you'll be talking about what might be on offer to support them to change their behaviour. So you'll be looking at ... unemployment and other criminogenic factors. Mainly be looking at ways that maybe probation could support that....We really try and sell it, sell it to them, that there's a number of benefits ..." JPO3M

Instrumental mechanisms which operate through the use of incentives to encourage compliance may encourage instrumental compliance based on perceived and anticipated benefits. Thus the effort to communicate to the probationers the incentives on offer in order to encourage compliance may equally encourage the probationers to view the objectives of supervision primarily in instrumental self interested terms rather than in normative terms. Perhaps this reflects the policy focus on instrumental mechanisms of compliance as is evident in the deterrent strategies and also in the use of an incentive – early revocation – to encourage compliance. A normative view of supervision may encourage compliance even where no tangible benefits can be seen to accrue from complying with the order. Compliance is then achieved because the authority of the officer and the law in general, are deemed to be legitimate and deserving of obedience.

7.9: Balancing instrumental mechanisms against normative mechanisms

Of course one acknowledges that short term welfare based interventions are crucial because they help to address the needs that may pose obstacles to short term compliance and indeed to longer term change. Studies reveal this to be the case. For instance, McCulloch (2005) explored the processes through which probation supervision may address the social problems linked to offending. 6 practitioners and 6 of their probationers were interviewed. The participants pointed to a clear link between addressing social problems and reduced offending. Probation was perceived to be an appropriate forum for facilitating this link although the study found 'limited success' in the attempts made by the officers to address social problems (p. 18),

The current study reinforces these findings. Help provided to resolve problems is according to the probationers, a central factor motivating them to comply. However, the degree of success with which the officers were able to address problems was limited in some cases. For instance, the officers acknowledged the limited provisions available for reimbursing travel costs. Likewise, the provisions for addressing accommodation related obstacles are limited:

> *Those agencies are they effective in addressing those problems as far as you know?*
> Some of them are. I mean we have problems with housing in this area simply because there isn't enough of it. But they are doing their best. It's a bit unfortunate recently because (a housing agency) has lost some funding in this area and so they're having to cut back and they were incredibly effective at dealing with particularly people who were having unfair evictions or substandard accommodation...So that's going to be quite a lot and we always need more. We could do with an alcohol counsellor here everyday not once a fortnight but on the whole I'd say yeah it's pretty good. PO3F

The case of the probationer P10F cited in Chapter eight illustrates the importance of providing help to resolve problems as a useful compliance strategy. P10F a female

probationer on an unpaid work order for benefits fraud reported that she was highly motivated to complete her order. She was interviewed at the start of her order and she reported that the only potential obstacle that would affect how she complies with her order would be accommodation related difficulties. The probationer - P10F - was subsequently breached in court for non-compliance in the interim following the initial interview. During the follow up interview, she reported that she became homeless and as such, she became more preoccupied with securing adequate accommodation for herself and for her daughter. At that time, compliance ceased to be a priority. Below is the discussion with P10F in the initial interview. Asked what motivates her to comply she cited instrumental factors:

> ...if I don't attend them I'll be taken back to court and I could be imprisoned.... ....I'm doing it for my daughter basically because I don't want to go back to court and I don't want her to go through all this again for her sake either... So it's just easier. P10F.

In the follow up interview she described the circumstances that led to her failure to attend and subsequent court breach:

> Back in November time I had trouble with a partner that I was with at the time and he went to prison and I ended up homeless. So I breached my Community Service. I didn't go a few times and I had to go back to court and I got some extra hours which wasn't too good...I just didn't turn up because I was homeless at the time and I had nowhere to live and I was trying to find somewhere for me and my daughter to live so.... I didn't turn up for about four appointments or so, and I did get in touch once but the letters were getting sent out to an address I wasn't living at anymore. So I didn't realise what was going on cos I wasn't getting my mail and stuff so it was all a bit awkward really but....I am supposed to get in touch, but my head was all over the place. I'd been assaulted and I had nowhere to live. I had sent my daughter away to live with her grandparents for six weeks. I had a property up in Leicester as well a house up in Leicester, and I lost all the stuff in that property and everything went wrong at one time and even though I should have been doing my Community Service it was sort of the last thing on my mind, do you know what I mean? Because I had so many other things to try and sort out...P10F

The last quote demonstrates that when confronted with obstacles, compliance becomes a less significant issue. In addition, perceived risks also become insignificant in that they produce no deterrent effect. The probationer also reported that she received limited support:

> *I am sorry to hear about all the difficulties, but did you tell them (the officers) that you had accommodation problems?*
> Aha
> *What did they do then?*
> They didn't really help me a lot ha ha!..I didn't really get much help. [UWO1F unpaid work officer] wrote off to [a homeless agency] for me. I met the woman from [the homeless agency] twice but nothing came of it.
> *I wonder why that was.*
> They just couldn't find me anything and there was problems because I still had a property in Leicester so that was a bit difficult, but like I said I have given up that property now, found myself a flat in town....when I was having all these difficulties nobody really helped.
> *How do you feel about that?*
> At the end of the day I managed on my own. I did come in here once and was quite upset. I spoke to [UWO1F unpaid work officer] when she was still here. She got me the interview with [the homeless agency] but that never came to nothing. It didn't really help but she did do that for me so I suppose they did do something.
> P10F

The case discussed above illustrates the importance of addressing needs and the limited success with which this can be done during supervision. Furthermore, some of the officers reported that although the probationers are reimbursed their travel expenses, the reimbursements are not nearly adequate in some offices. In terms of securing compliance, this becomes a pertinent issue in those offices covering wide geographic areas.

Desistance studies reveal that being responsive to social and economic needs may be useful for achieving longer term compliance with the law. Indeed insights emerging from the literature on effective practices reveal the importance of targeting the needs of those who offend as one of the key principles of effective practice (Dowden and

Andrews 2004) although addressing social and environmental needs in isolation without due reference to interventions targeted at cognitive and behavioural development is not advocated (Poporino and Fabiano 2007). Further, it has been acknowledged that being unresponsive to these needs may undermine the perceived legitimacy of authority (Tyler 2005). However, an unduly narrow focus on addressing needs may fuel the perception that the primary objective of probation is to provide the help or assistance needed to overcome the problems confronting the probationers. Such a perception overlooks the normative dimension of supervision. The latter is more concerned with encouraging both short term and longer term compliance because of the obligation to obey regardless of any accruing benefits. Meanwhile, so far it appears that for most of the probationers, the perceived benefits accruing during interactions with their officers motivate compliance.

7.10: Conclusion

This chapter described how the probationers react to the formal rules. As noted earlier, the probationers' reactions are mainly in the form of violations. Although most of the probationers displayed limited knowledge of the consequences of non-compliance, they demonstrated high levels of perceived risks. The levels of perceived risks did not appear to have a significant influence on behaviour. Rather, the probationers reported that they were primarily motivated to comply by the perceived benefits accruing from their interactions with their officers.

Having violated the formal rules, the probationers will experience the actions of the officers in responding to the violations. We can recall that these actions were categorised as –'confronting unpredictability'. The category 'confronting unpredictability' which represents the officers' reactions to violations, appears to be

directly linked to the nature and extent of compliance achieved. The category

'confronting unpredictability' is described in more detail in the next two chapters.

Chapter Eight: Confronting unpredictability: the situational and structural contradictions

8.1: Introduction

In the early stages of analysis, it appeared that the probationers were sometimes able to violate the formal rules with impunity. To understand how this could be so despite the prescriptive enforcement rules, the study explored the activities of the officers in responding to rule violations. The study found links between the officers' activities and the nature of compliance with community penalties. Before undertaking a detailed exploration of the officers' reactions to non-compliance and how these appear to shape compliance, the situational and structural contradictions that affect the officers' actions will be examined in this chapter. An understanding of these conditions should ensure an accurate contextualisation of the officers' actions.

Thus, this chapter begins with an exploration of the structural contradictions affecting the officers' efforts to secure compliance. These are mainly posed by rigid policy requirements. The chapter also examines the situational contradictions posed by the unpredictability displayed by the probationers. The chapter concludes with an examination of how the officers manage these contradictions in order to ensure an individualised and responsive approach to securing compliance.

8.2: Structural contradictions: the policy framework

There are conditions that affect how the officers react to violations, these have been conceptualised as situational and structural contradictions. The situational contradictions stem from the unpredictability of the clients whilst the structural contradictions stem from policy provisions. As would apply in other public sector organisations, there are policy requirements that guide probation practice (see Home Office 2000b; 2005, NOMS 2007a). Chapter one revealed that enforcement policy

reflects wider trends in probation policy and hence, in line with the managerialist agenda, there are demands for accountability and standardisation in enforcement. There are also target-driven policies that link performance ratings to resource allocation in order to ensure cost effectiveness. These encourage a focus on producing quantifiable outputs rather than outcomes (Humphreys and Pease 1992; Raynor and Miles 2007). Cost effective practice is prioritised over the quality of work done with the probationer. In practical terms, enforcement and breach are prioritised over securing compliance. The officer below describes the implications of target driven practices and managerialist objectives:

> How can we be equated to a business? ...we don't have profits here and margins and losses. We are dealing with people. We're dealing with people and we have targets and we have KPIs (key performance indicators) right? How can we equate that to people? I mean yeah, that's what they tell us, but I got my own morals my own values and my own system as well and I know how I don't want to be treated so I treat my people with the same due respect. But yes, policy changes they're changing again we got NOMs, now. To me it's reinventing the wheel. We're here with people. I know we need monitoring and I know we need risk assessment and I know we need lots of things, but lots of what we have Pam is not fit for purpose. OASYs I wouldn't say it's a joke but it's just laborious and I wonder who put that together. You know, it's not fit for purpose. We've got Charles Clarke who's gone, we now have Reid [the then home secretary], I mean this is my own b****
> here. I have been a member of the labour party all my life. But you know, they've just gone to the right and they're sort of, to me as far as I am concerned, the policy changes are just about vote winning. It's about vote winning it's not about people... PO11F

The quote demonstrates discontent with managerialist objectives, the bureaucratic functions that affect the quality of supervision, and the perceived politicisation driving populist yet inadequate policies. According to some of the officers, additional policy provisions that affect practice include perceived deskilling; heavy case loads and the increasing bureaucracy that are held to undermine the quality of supervision. Contradictions are also posed by the requirement to demonstrate enforcement. There

are prescriptive rules that are unresponsive to the realities of practice and also, there are limited enforcement options.

8.2.1: Deskilling

As mentioned in Chapter one, reflecting wider trends in criminal justice policy making, the probation service has a statutory duty to work collaboratively with external agencies and ancillary staff. The study examined the impact of these developments on compliance and the officers' comments reflected mixed views about the implications of delegating the roles traditionally reserved for probation officers. Some officers believed that this is necessary given the time constraints that impinge on their work with probationers:

> ..with the drive towards partnership agencies we've actually got a lot of ways in which we can deal with that [obstacles to compliance]. Whereas if we had to do it all yourself there simply won't be time...But if you've got somebody who's got alcohol and accommodation and employment [problems] we've got partnership agencies that we can refer to address that as well as us ... PO3F

Delegation may also ensure that specialist care is available to the probationers although the quality of care provided by the external agencies is in some cases questionable:

> I think it's better now in the sense that various expertise that we had to try and master the whole lot and we couldn't possibly do it. Now you actually say well: 'drug and alcohol go to that counselling agency'. Problem is we know it's there but its hit and miss whether it's functioning well enough really. But I mean it's better than me trying to do it because I really don't have the time... PO8F

Other officers rejected the increasing requirement to delegate to agencies and ancillary staff. They defined it as an element in the longstanding effort to erode the caring aspect of the officers' role and to deskill probation officers.

The officers decried the current arrangements in which officers increasingly find themselves preoccupied with the bureaucratic and enforcement aspects of supervision:

> ... It's changed so much from what it used to be. It's more a case management role where, they come in; we refer them to other people. PO2F

> ...my role is more and more monitoring people really....my role is getting less and less working with people it's more overseeing it....when I trained you did the alcohol counselling, you did all the work really, programmes, one to one work. And it's getting more and more specialised...so you're just the case manager really overseeing it all... Some people get seen by the agencies so you don't see them as much but what I find difficult is job satisfaction. You are stuck in front of the computer doing lots of paper work whereas I'd rather be working face to face with people.
> *Do you think it's important to be able to maintain that contact?*
> Oh yes I think it's is otherwise you get distance from it and you lose your skills. PO4M

The delegation of duties engenders discontinuity and it has been noted in Chapter six that from the probationers' perspective, this can affect supervision relationships and ultimately compliance. Some probationers reported that having built a degree of trust with one officer, they were often quite reluctant to invest their trust in a different officer. The quote below reveals that the probationer failed to attend her appointments for three months. She did not maintain adequate contact because her probation officer was absent when she contacted the office and she did not wish to confide in anyone else.

> *How did you breach in the three months?*
> I had a miscarriage ... I was seeing this boy in Cardiff, so I went up there for a couple of months cos me and my mum don't talk, we're so much alike we argue like cats and dogs we clash. So I went up there for a couple of months to sort my head out. So I moved back down here now. So I am back down here. So I come to probation. But I did phone up in December after it happened but [PO11F my probation officer] wasn't here and I didn't want to speak to anyone else. So I just left it and thought I'd come back in January ...P22F

The reluctance to confide in a different officer in the absence of her probation officer appeared to escalate the violation and render her liable to breach action in court. Furthermore, this reluctance can impinge on the quality of disclosure and undermine the problem solving process. Some of the officers alluded to the possible links between discontinuity and undermined levels of disclosure:

> ...I wonder as well with compliance, ...I do wonder, I know what I would prefer, seeing the same person and I think if you come on a Wednesday you see session people and I think in the end you won't wanna talk you just say yep, no... Cos it's always a stranger you see when you come in, isn't it? ...But I would imagine that if it was me that would be an issue with compliance because I prefer to see my own offenders... PO9F

> *How do you feel that affects motivation to comply where probationers have, see different (people)?*
> Very very badly. I think that's where we lose a lot of people to be quite honest. Because we're telling people, you've got to comply with this order, this is important, that's important. So important that you won't see the same person every week and you'll be asked exactly the same questions. Because basically in that sort of emergency situation, you're just monitoring risks. You're not really getting to know that person or working on change. You're trying to be a bit of a detective and work out what's going on with their life to work out if he's alright to be managed ...no matter whether if he's gonna go off and stab somebody. I shouldn't really say that but its true that does happen unfortunately and I really disagree with it. Unlike a lot of my colleagues, and I am not putting people down. I see all my own cases myself the majority of the time unless I am off ill, sick, training whatever. But if I'm training and I know I'm gonna be training, then I'll rearrange so that my cases will see me on another day. And I found that by taking that approach even though it's very stressful, its paid dividends in terms of building a relationship with people. Because I know that I will very much resent somebody telling me what I need to do with my life and how I need to change it particularly if I have only met them three times. PO13F

> ... you need continuity. If you don't get that continuity, usually it will have a negative impact and you will have a higher rate then of non-compliance.PO15M

The quotes above also suggest that discontinuity can trigger non-compliance.

8.2.2: Heavy caseloads

Large case loads also affect the quality of supervision and ultimately, compliance.

Some of the officers stated that their large case loads and also, time constraints

impinge on the level of contact with probationers thus undermining the quality of

supervision:

> It [the level of contact] is declining because of the fact that we're
> forced to see everybody in three days of the week instead of five.
> And like today there's two of us needing the rooms and in fact if
> [UWO1F the unpaid work officer] gets anybody from the
> Community Punishment it's going to be three of us needing the
> rooms and we've got case loads of a hundred and something to see
> in those three days. Therefore you've got to cut it down to half an
> hour sometimes if they're nearly over their order, compliance is
> great and they're near the stage where they're going to discharge,
> you see them for five minutes, quarter of an hour, whatever,
> which I don't like because I was first told (before I was a trainee
> actually I was a volunteer) it's the squeaky wheels that get the
> most oil but it's the quiet wheels that you need to worry about the
> ones that don't seem to need the input otherwise they go off the
> rails ..I hate that I hate the fact that we have to cram it into three
> days a week...PO7F

The new tiering system of supervision in which the probationers are categorised

across tiers based on levels of assessed risks as described in chapter one extends the

delegation of duties by empowering probation service officers to manage the cases

assessed as lower risk. Some of the officers reported that the restructuring of functions

in this manner may help to alleviate their heavy caseloads:

> .... I did have about 30 odd people you know? I wasn't managing
> very well then because I had too much work to do and I was only
> working part time. And so it's not just managing people I was
> falling behind but sort of risk assessments and stuff. And so I did
> say you got to do something about that. But the tiering thing is
> coming in at the same time. So now I've got about 13 people
> instead, and [a probation service officer] has got the rest of the
> people still on my case load but she manages them so she liaises
> with me. PO10F

In addition, the use of reporting centres to redress the problems posed by rising case loads was noted. In these centres the probationer is required to simply report and record their attendance. However, one officer believed that many probationers are discouraged to comply given that this type of supervision lacks any qualitative content:

> Those who are working they don't wanna come here after work because they feel like they are not getting anything out of it. And a lot of the time they are not because nothing has been done with them because there's just no time. And that becomes difficult and they sometimes don't turn up...PO2F

Such poor quality supervision whereby the probationer simply reports their attendance may be prompted by large case loads. Whatever the cause, this type of supervision may trigger non-compliance. For instance, PO2M the probationer below describes his experience of poor quality supervision:

> But with [my previous probation officer]… it was like ..yeah yeah goodbye....you know? ..I used to go wow! Man! That just cost me six quid and like I travelled for ten times longer than I was here and that just seemed pointless. That is when it just seemed like they were just trying to p*** me off, just give me a dig, just put a bigger lump in my week really... P2M

The quote suggests that supervision lacking any perceivable qualitative content can be viewed negatively by the probationers. The probationers valued the opportunity to 'talk' with their supervisor during supervision. As mentioned in the previous chapter this served as a major motivation to comply in many cases. Routine appointments simply to report or register their attendance denied them this opportunity. PO7M below also introduced in the previous chapter cited the opportunity to 'talk' with his probationer officer as an important mechanism encouraging him to comply. Supervision appointments lacking this important mechanism are perceived to be unfair and unproductive:

You don't see [PO6M-your probation officer] all the time?
No sometimes he's got an appointment and stuff so I miss him
now and then. But majority of the time I do see PO6M.
Are you happy to see someone else? Does it make any difference?
Well it does if I can't really sit down and talk to them like the way
I do to PO6M. I just go in there and they write me my next
appointment and just see how I've been and stuff like that and
that's it.
*So you prefer it when you come and you have a sit down with
PO6M and talk things through?*
[P06M- my probation officer] sort of plans my route out a bit. It
helps me cos I have suffered with mental illnesses and stuff you
know? After I came out of the army my head was up my a** you
know? I weren't really thinking straight and my marriage broke
down and I did go the wrong way down the path like. But I sit
down and try and talk to him about what I wanna do and just
personal stuff and like I don't feel like I can talk to the other
people like that because I haven't spent as much with them you
know? P7M

The last quote above highlights the problem of discontinuity in supervision. This is

linked to large case loads and the accompanying delegation of functions to ancillary

staff.

8.2.3: Increasing bureaucracy

Another policy constraint that may impinge on practice is the rise in bureaucratic

functions. The quote below by a female probation officer of 6 years experience

demonstrates discontent with the bureaucratic functions that affect the quality of

supervision.

I don't sit comfortably with the policy changes. Making money the
ethos is. I feel I'm a very poorly paid probation officer but a well
paid administrator. I can be like this all day Pam, this is what
irritates me. I'm here to work with people. And you know some
days you're sitting doing a report and somebody says oh! [a
probationer's] turned up and you almost feel irritated that you've
gotta stop and I pull myself back and I say no, people come first.
Every single time they can wait, but we're being tied more and
more into this. This is becoming like big brother as well. But that's
how I feel I don't sit comfortably with it at all. Yes we need to be
looked at and yes we need monitoring and yes we need
inspectorate but not driven by market forces, not driven by making
profit, not driven by how can we make money. I don't agree with

it Pam at all, we are a public service not a business corporation...
PO11F

This view that contemporary policy changes have created a rise in bureaucratic functions that impinge on the levels of interactions was reiterated by other officers. In enforcement practice for instance, the officers are required to record their enforcement decisions. Further, the focus on risk management and public protection has been accompanied by the need to complete voluminous and sometimes convoluted assessment tools. According to some of the officers, the rise in bureaucratic functions impinges on practice because it exacerbates the problem of time constraints, leaving the officers with limited time to interact with their clients. Nevertheless, some of the officers strive to maintain contact:

> ... if someone comes on like I got cases that are quite dependent on agencies, and if someone came here 3 o'clock in the afternoon on day that I am doing paper work, then I suppose it's my nature to get up and see them if it was quite a serious problem... PO15M

Not all officers are able to maintain adequate contact. In some cases, the case manager loses contact almost completely. The only input would be where the need for enforcement arises:

> *Are there probationers on your case load that you case manage but you don't supervise on a regular basis...?*
> There are, not so many as before because the probation service officers now have their own cases. When somebody goes on a program, then I'll case manage them until they come back off. I will see them at some points through the program. But from week to week basis then it will just be case management duties.
> *How do you feel about that?*
> ... It's very easy then to forget about them unfortunately. I just wait for an email telling you that they've, you know they're in prison or whatever. But you know it is okay you gotta keep them in mind and you gotta meet up with them every so often. But it's okay I mean as long as you got confidence in the group work that's going on then you can quite happily pass them on to the program and then you have them back. P18M

Added to the problems posed by the increasing levels of paper work, there is a requirement to 'demonstrate enforcement'. As such, the officers are monitored to ensure that they comply with rigid enforcement rules. Below an officer describes the rigidity of the enforcement framework:

> I think from my perspective and my philosophy they're trying to run it like a private business and its not. It's a public service we're not dealing with people who live normal lives, whatever normal lives is. A lot of people with chaotic lives. I think it seems to be getting really prescriptive and tick box, like we're dealing with robots or something. They will turn up on time, ... I know people who, if people are late they will breach them .... We have our notes monitored. There'll be a comment there's no proof but I record that I've accepted it. I could be overruled ...It is getting more prescriptive... PO4M

It appears that the policy intention is that accountability in enforcement should be achieved if enforcement decisions adhere to strict National Standards and are duly recorded. This implies that the policy focus is on monitoring the officers' compliance with the enforcement standards. The activities of the officers in engaging the client and ensuring compliance are somewhat marginalised whilst enforcement becomes the key policy focus. The officers below state that the monitoring exercises examine the extent of compliance with the enforcement framework and not the extent to which the officers successfully secure compliance:

> *Are you monitored by a senior probation officer?*
> We have audits as well we have certain audits that check on how we are complying with National Standards. PO1M
>
> Each month so many cases are checked and it will be checked but other than that no, it's down to the officer really.
> *In checking those cases is the extent to which sending out breach letters or the extent to which you are able to successfully engage offenders. What's the definition of success?*
> It's more...just a sample exercise where they check to make sure that letters were sent within time and things like that. PO2F

Just as the monitoring exercises examine the extent to which the officers comply with the enforcement standards rather than the extent of engagement, official performance

audits report the rate and celerity of breach action (see for instance HM Inspectorate of Probation, HM Inspectorate of Courts Administration and HM Inspectorate of Constabulary 2007). The timeliness and rates of breach are held out as the indices of effectiveness rather than the rates at which the officers are able to secure compliance with community penalties. Whilst breach rates represent quantifiable outputs; the rates of successful engagement represent outcomes that may not be readily amenable to quantification. Furthermore, from an objective standpoint, enhanced accountability should ensure standard enforcement practices. However, in actual practice, when confronted with the reality that individual circumstances vary substantially, the officers opt for 'consistency in outcomes'[xxxiv] and not necessarily the 'consistency in treatment'[xxxv] envisaged by policy. The officer below articulates this by describing his individualised approach to enforcement:

> ...you aim for consistency but it's impossible to be totally consistent in your policy of approaching breach because different people have got different characteristics and different needs. Then you will go for a consistent outcome but then employ a variety of different methods. For one individual I may, if they don't turn up I'll just send them a letter. But if I know that someone generally does turn up, or if I know they've got difficult circumstances at that time, then I'll phone them and find out what's going on. Aiming for consistency but then you know looking to accommodate their needs. And sometimes the sort of the person that you may at the beginning of the order send a warning letter to, towards the end of the order you've learned that they are reliable and therefore something unreliable may have happened so you do phone them in those circumstances. P18M

This underpins the individualised approach to enforcement alluded to by almost all the officers. The approach is made possible by the use of professional discretion. It underlies the caring role articulated by most of the officers and confirmed by the probationers.

Added to the perception that the current enforcement framework is prescriptive some of the officers reported that a flexible approach that is responsive the needs of the probationer is the more productive approach to enforcement:

> I really do believe if you take a very authoritarian approach to people quite often you're gonna to come to a brick wall.
> *That's why I am wondering about the current enforcement framework you know two strikes and you're out, I don't know how that would work with probationers...whether that's an effective deterrent if at all?*
> I don't think there's anything to show that it is, do you see what I mean? I think all that does is just basically mask the problem up. There's only so long that can go on for anyway, everyone is gonna be locked up you know? PO13F
>
> *So you are able to use your professional discretion?*
> That's right yeah...and I think if people realise that we are not sort of hard-line, straight down the middle they're much more willing to be compliant and engage with us..
> *So how do feel about your ability to define absences as acceptable or unacceptable...*
> I think I'm soft ha ha ha. There are times when I do sort of think to myself afterwards, should I have accepted that? But then when I look at the success rates with my orders I think this is working okay and as long as you retain a bit of flexibility....
> *How do you determine whether an absence is valid...?*
> We give more leeway than, we obviously give more leeway than we should. If I stuck to the -if you're not here within 15 minutes you get two warnings -you won't get much of a caseload... PO7F

Further exacerbating the problems posed by the prescriptive rules and the demands to demonstrate enforcement is the new policy prohibiting the use of disciplinary breaches. This was introduced during the study. The new policy provides that additional or more onerous requirements should be imposed during sentencing for breach (CJA 2003). According to some of the officers, the more punitive response to breach intended by the new policy may become counterproductive. This is because it is likely to engender further unpredictability given that the probationers who have been unable to comply with their orders would become encumbered with even more onerous requirements:

There are now new provisions restricting the court's decision in breach cases how do you feel that will affect compliance...?
... I think it makes it much harder for people to comply because it's imposing more restrictions on people who are already struggling with what they've got ...I was happier when we were able to ask the court to give a warning or a fine. PO8F

What do you think the courts will go for now more with the new CJA?
Additional requirements to start it off until they see that it won't work because they'll be having them back again. PO7F

These predictions highlight the possible implications of the new arrangements. If the courts resort to revocations and resentence as predicted, more probationers may become vulnerable to custodial sentences, particularly those probationers serving the higher tariff orders. The officers below highlight this:

Was custody a likely option [following disciplinary breach]?
Not unless somebody had been quite persistent in their lack of contact with us and really seemed to be not engaging at all. But to get to the point of custody I think we've got to look at the types of offenders as well ... If a high risk offender breached then it probably would be more likely to happen. After April the fourth [2005] with the new CJA [2003] I think people will be finding their feet a bit with breach because they [the courts] have to take some action now they can't just not do anything. They have to sentence somebody to something and I think then may be that might have a sort of knock on effect of making custody more likely... PO5F

How do you feel about the loss of the ability to take disciplinary breach action?
Well you're gonna end up with a lot more people going to prison I think and getting more community punishment you know, they're struggling through community punishments already and they're getting more hours. PO4M.

Thus the officers believe that the new enforcement arrangements may make non-compliance more likely and may also render more probationers vulnerable to a custodial sentence for non-compliance

8.3: Situational contradictions: the unpredictability of clients

Added to the high rates of absenteeism reported by the probationers, another factor that highlights the extent of unpredictability displayed by the probationers is the rate

at which the officers commence initial activation of the enforcement process (sending

a final warning letter following an absence). This somewhat illuminates the extent of

absenteeism:

... We send warning letters all of the time. So it happens every week... PO2F

Have you ever sent warning letters?
Yes, yeah, yeah, I do frequently... PO7F

At an early stage of the study it became apparent that the officers found the question

'have you ever sent a warning letter' laughable given the frequency of this practice:

Yeah ha ha ha every week! PO11F

Yes I have, bucket loads... PO15M

Yes ha ha, loads! PO18M

Oh yeah pretty regularly I done one this morning... PO16M

*Ha ha yes! But I have withdrawn lots of them though because obviously you send the
warning letter and then they get a week then to explain to you. I usually give them an
appointment within a week's time anyway so I do withdraw lots of them anyway.*
PO10F

The last quote above indicates the ease with which the early stages of enforcement

can be deactivated. This is explored in more detail further below.

Given the high rates of absenteeism, it became apparent that the next stage after the

initial violations by the probationers would be the reaction of the officers to these

violations. The processes of reacting to violations were conceptualised as 'confronting

unpredictability'. This is because the probationers have revealed a degree of

unpredictability evident in the tendency to violate the formal rules.

The officers internalise the unpredictability of the clients. Apart from frequent

absenteeism, incidents of total absconsion also fuel this internalisation.

One of the officers cited the example of three of his clients who have absconded:

> ... I've got at least three [probationers] where there are warrants
> outstanding ...these warrants have been outstanding for three
> months...I have this suspicion they've left the country... I found
> that since I moved down here from England that because we are
> right next to the port from Ireland, southern Ireland that's where
> they go. That's where I think the last two have gone. PO1M.

Thus, complete absconsion and high levels of absenteeism contribute to the internalised unpredictability. Added to these are the incidents of frequent absenteeism I witnessed during the attempt to recruit probationers for the study.

In the previous chapters I described some of these experiences. Another example concerns my effort to interview P5F a female probationer serving her order for theft offences. She is a heroin dependent probationer receiving a rehabilitative course of methadone. On several occasions I attended her probation office in order to interview her on her appointment date but she failed to make her appointments for reasons ranging from forgetfulness due to her chaotic lifestyle, to the inability of her officer to ascertain her whereabouts. Another example pertains to the case of a probationer who failed to attend his appointment. His officer's remarks cited below demonstrate the extent to which the officers internalise the unpredictability of their clients:

> *So the person I am going to see is it a female or male*
> *probationer...*
> Oh the one that hasn't turned up, it was a male...
> *Do you think he will still turn up?*
> He's a half an hour late I don't think so...
> *What do I do then? Is he on a weekly or a monthly?*
> Weekly I think because the thing is he's not my offender, I'm
> seeing him on behalf of somebody else, and what I will do now is
> rearrange for him to see somebody else instead of me...so he is on
> weekly but I know next week he's starting the program next
> Thursday if he does what he's supposed to do today you
> know?...he's half an hour late so I don't have great expectations
> for him really... P12F

The quote above reveals the uncertainty with which the officer discusses the possibility that the probationer would attend the appointment. I decided to wait for the probationer but he failed to turn up for his appointment. This scenario almost became the routine in my efforts to recruit the probationers into the study. Many probationers scheduled to be interviewed on their appointment date did not attend their appointment and the interviews had to be rescheduled. Their officers demonstrated little or no optimism about their likelihood of attending on that day or on other appointment dates.

Therefore, given this unpredictability, I hypothesized that the officers recognise that they are working under conditions of consistent unpredictability displayed by probationers.

8.4: Internalising unpredictability- the role of typologies

In examining the factors that affect how the officers react to rule violations, it emerged that having internalised the unpredictability of their clients, the officers devise typologies of probationers based on expected compliance patterns. These typologies are mainly in terms of demographic attributes namely, the nature of the offence, the degree of involvement in substance misuse and the age of the client. For some officers, these attributes are linked to degrees of motivation.

8.4.1: The nature of the offence

Some of the officers pointed to offence type related compliance, suggesting that those serving their orders for specific offences (sex offences and drink driving offences) are more likely to comply with their orders. The noted difference in the compliance patterns of probationers serving their orders for drink driving offences or for sex offences may be linked to the demographic attributes of these groups of probationers. They are more likely to be employed and their social orientation is more given to

compliance than other groups of probationers. The officers below describe their compliance patterns.

> People who commit certain offences are more compliant. Sex offenders are more complaint cos they're usually adults...older and not offenders as in dishonesty offences...So they're sort of employed and their lives usually aren't like our usual cons... PO4M

> The most compliant are sex offenders, are drink drivers and women generally are more compliant and older men.... the sex offenders on the whole they span society as you know it's not a class crime really. On the whole they are older as well and they are frequently more intelligent and although the sex offenders they turn up for probation, their non-compliance takes the form of manipulating you. They do what they need to do to get by ... they will turn up if they have to but their non-compliance is often just sitting there and not responding to you but they turned up so what do you do, you know? PO17F

The last quote also suggests that those serving their orders for sex offences are more likely to demonstrate technical compliance.

8.4.2: Degree of involvement in substance misuse

For some of the officers, the substance misusing probationers were the group most likely to violate their orders. Below the officers describe the groups categorised in this typology:

> Main causes [of non-compliance]? Alcohol misuse and drug misuse those can just sort of detach people. They just become sort of oblivious to coming in here. ... I've sent people to [substance misuse rehabilitation] to have counselling and they've had one session and that's enough. They've done an assessment and they don't want anymore even though the [substance misuse rehabilitation] counsellor is saying: I need to see you again. But they just don't wanna end up complying with that. And sometimes what we see as a problem they don't see as a problem... PO15M

The link between substance misuse and non-compliance was traced to the chaotic lifestyles it engenders.

8.4.3: Age

Most of the officers did not perceive significant gender differences in rates of compliance or violations. It was acknowledged that any gender-related discrepancy in compliance rates can be attributed to the greater representation of male probationers on probation. Meanwhile, the younger probationers were categorised as being typically non-compliant. The officers below illustrate this:

> ... I mean probably you're probably looking at over 30 are a bit more compliant. People I've had who are over 40 have generally been compliant and I haven't supervised a large number of women because you know the nature of the job you generally do get very small ...proportions of female offenders and again a female offender who's been sentenced who's a mature woman is generally reliable in terms of compliance and when you get to the 18 and 25 year olds then it's difficult to know. PO18M

> We very rarely find that many differences between the male and female offenders in their attendance and compliance. PO7F

The officers traced the link between age and compliance to several factors: the younger probationers are less able to maintain the degree of structure required for routine appointments, they are less likely to display consequential thinking or to assume responsibility for their actions and the experience of less onerous reporting requirements or enforcement practices within the Young Offending Teams. According to most of the officers, the older clients tend to be more compliant particularly because they are at a stage in their lives where they feel they need to make a change. This serves as a motivational factor:

> The older clients I think have got to an age where they know that they can't go on and it's become, not necessarily that they have become better people it's just that they have got more of an understanding of what they need to do to survive to get by. So its turn up for probation becomes a survival mechanism and not getting into more trouble. And they've got families and they're older and wiser...PO19F

The probationers aged over 30 were more likely to indicate that they were at a stage of their lives where they quite motivated to make positive changes. P6F below is a female probationer already cited earlier. She was serving a Combination Order for violence and she stated that:

> I think it's a bit easier actually, maybe because I am older...I've got more patience. Whereas when you're younger you're just like: 'do we have to be here you know?' it's just attitude, that attitude is gone because I'm older now... I've actually said I'm not going back to court anymore...Because I'm getting to old for all this malarkey, I'm getting too old for it, I'm bloody 38 for ...sake and it's like I need to put my life in a different direction you know? I've got myself a new fella even though we have our arguments because of drinking. But on the whole we got a very good relationship and it's nice for a change you know? My life is a lot happier than it's ever has been, you know? P6F

Thus, the older probationers aged thirty and over were more likely to report that they felt ready to make a change in their lives and desist from offending. As such, they were also motivated by this decision to attend their appointments.

8.5: Level of motivation

Some officers pointed out that compliance is closely linked with the self-motivation to comply. The quote below by a male probation officer illustrates this:

> ...We'll find that you will get the same the same difficulties if that particular person isn't committed or ready to be involved in that kind of order....I think they say they vote with their feet is that one of the phrases? They would not attend ...PO1M

Officers emphasising the link between levels of motivation and compliance were more pessimistic about the rehabilitative potential of supervision.

> *... do you think that rehabilitation is an aim that can be achieved at all?*
> I think they can be but it depends on their motivation at the time it's not gonna work for everybody. There those that it does work for yes. PO2F

According to this group of officers, with the unmotivated client, the best you can achieve is 'technical' compliance as described below:

> ...a lot of them say they will comply at PSR stage cos they'll do anything to stay out of prison. Then once they've actually got the order they'll think well f*** I don't wanna be here. I don't wanna do that. Particularly those who have been found guilty at trial they don't even think that they should be punished so that could be a problem. I've had people on probation who don't think they've done anything wrong and they can be incredibly difficult to deal with....some of them are hostile. Some of them are just incredibly withdrawn. They don't want to engage properly, they just grunt in answer to a question ... PO3F

The difficulties posed by the unmotivated client did not alter the officers' efforts to encourage compliance in these cases. As in other cases, the officer offer incentives, attempt to address obstacles, and offer more flexible enforcement processes to ensure compliance.

8.6: The criteria for flexible enforcement

It emerged at an early stage of analysis that flexible enforcement is more likely where both parties have had a degree of interaction (usually through supervision). The quote below demonstrates this.

> ... if I've got a working relationship with the offender and it's good normally and he comes in and says I can't evidence but and I know that there's an 80% element of truth in what he's saying, I'll take that risk and accept it yeah they can sack me if they want to... PO16M

Furthermore, on the basis of their interactions with the probationers, the officer makes a personal assessment of the trustworthiness, circumstances and general characterises of the probationer.

> We know people and we are professionals...We know people who are not compliant and people who have missed for genuine reasons ...you do learn who's not complying, who's trying to pull the wool over your eyes or stuff like that you do know the people you work with... PO4M

Thus, flexibility is more likely where a relationship has been established and also where the officer is assured of the trustworthiness of the probationer. In these cases,

the officers are more likely to believe that the excuse provided is genuine. The quotes above also suggest that factors such as the probationer's past compliance record may also affect enforcement decision making:

> ...I can't remember where I read it; it's in one of the books we've got. But the best predictor of future behaviour is past behaviour. I think basically that's what we have to go on. So I will sort of check what their response has been like. If they've had previous orders, look at response to supervision in the past. To try and get an idea of is this person trying to pull a fast one? Can I accept this reason? PO14M

Other personal circumstances also influence enforcement decision making. For instance, the officers consider the mental stability of their clients when making enforcement decisions. They are unwilling to breach probationers with mental health problems:

> I made a decision the other day not to breach based on the person's stability. They were quite unstable and I think to take someone back to court at that stage would have been you know...I mean there were mental health issues. Her children had been taken away she was trying to sort of come to grips with a lot of things in her life and to actually breach at that point, I think would have probably tipped the balance, you can lose someone. But as it is now, I didn't breach. I got some sort of input from that person. Now they are working with us. PO15M

Here the decision not to enforce the order was based on the belief that breach would impinge on the ability to successfully secure compliance. Securing compliance was prioritised over enforcement.

Having examined the structural and situational factors that affect how the officers react to violations, the section below explores how the officers overcome these contradictions in order to secure compliance.

8.7: Managing structural contradictions: client centred strategies

It has been noted in the wider literature that since the 1980s the changes to contemporary probation policy have been characterised by the shift from welfarism to correctionalism (Raynor and Vanstone 2002). This did not appear to affect the efforts of the officers to secure compliance. Although the officers acknowledged the impact of correctionalist policy trends such as the focus on risk management and the prescriptive enforcement rules, most relied on a client centred approach to securing compliance. This was mainly in the form of individualised responses to violations. The informal rules devised by the officers facilitated a more responsive approach to encouraging compliance. Further, there was an articulated preference for building and sustaining positive working relationships as part of the effort to encourage compliance. This was considered by the officers to be more productive than applying rigid enforcement rules. The quote below provides an example:

> I like having the discretion because I don't want to breach people unless I have to breach people because I don't think it's very useful...I just like to try to sort of get some sort of relationship going with people and try and help them make the changes that they need and so there's not that many that I've had to sort of breach really. P10F

Similarly some officers described their role in welfarist terms differentiating it from other criminal justice agencies that have been traditionally associated with an enforcement ethos namely, the police and the prison services. Below an officer trained in the new style correctionalist approach describes his role:

> We do assess risk a lot but everything about reducing the offending is good for an individual who is on an order because if they are reducing their own reoffending then they are building up a productive and prosocial life style. I do try and convey that. Rather than just say you are in breach we are gonna get you. I'm not here as a prosecuting agency or as part of a prosecuting agency; I'm here for the individual. PO18M

Added to these, the data revealed how the officers ensure that their enforcement functions do not impinge on their relationship with their clients. They do so by adopting a projected role. This role serves the purpose of preserving the welfarist or caring image of the officer in a punitive policy climate. It may also preserve relationships given that they encourage the probationers to view their officers as reluctant but mandated to pursue the control aspect of their role. The tendency for probationers to accept this projected role has been noted above. Below, an officer describes how this role is communicated:

> ...to be honest, sometimes I actually want to pass the buck. I say well, the court says we have to breach you after two. I like to not, but the court says we have to. And sometimes I'm not trying to protect myself but I think that's useful in allowing them to try and have a relationship with me without it tainting cos we might have had quite a good relationship ..I have to breach you, they can understandably be a bit snippy but I find if you can kind of push the breach over to someone else, then you can try and get your relationship back on track. PO9F

It has been shown in Chapter six that the projected role achieves its intended outcomes. This is because the probationers acknowledged the control aspect of the officer's role. So far, it also appears that despite the policy attempt to re-define their role in correctionalist terms, to secure compliance or to engage the client, the officers would tend to prioritise a caring role.

8.7.1: Responsiveness and flexibility

The caring ethos is reflected in the compliance strategies many of the officers employ. These are designed to address the obstacles to compliance. The strategies include listening to problems and encouraging disclosure as part of the problem solving role, making referrals to relevant agencies in order to address substance misuse problems, accommodation difficulties and unemployment. Further there are organisational provisions for reimbursing travel costs and in some offices, for child care provision.

The officers also make home visits to alleviate child care and travel difficulties, offer reminders to ensure compliance, offer flexible appointments to accommodate the needs of probationers with chaotic lifestyles or other problems and devise flexible enforcement practices that are designed to accommodate unstructured lifestyles and other presenting difficulties that impinge on compliance.

These compliance strategies have been conceptualised as representative of the caring ethos because the officers are not mandated to implement all these compliance strategies. Indeed several officers reported that they tended to responsibilise the probationer. The latter approach places the responsibility for compliance entirely on the probationer. In such cases the officers are unwilling to make home visits or to offer reminders as part of a comprehensive compliance strategy:

> I wouldn't normally phone because at the end of the day any order made between the court and the offender is between them. We don't make the order, we stand back and we supervise it. So it's actually the offender's responsibility to comply. By constantly phoning and chasing people you're actually removing that responsibility from them and that then in my opinion makes the order less onerous. They are on a Community Order for committing an offence. So they've committed an offence against the laws of society So therefore part of the consequences is that they know what their order is about, they know they have to comply, and that is their responsibility. So I see probation as a job with two hats: one of a social aspect and one of enforcement... PO14M

The current National Standards (published after the interviews) encourages the officers to adopt compliance strategies such as reminders or home visits (NOMS 2007a). The standards operative at the time of the study, were silent on this issue (National Probation Service 2002). At the time of the study, most of the officers reported that they would make home visits as additional compliance strategies. For instance; the officer below reported that home visits can be vital for ensuring compliance:

> ... I have thought it's risky but I felt I had to go out because people
> are not gonna come in... P10F

Although, most of the officers reported that they make home visits to follow up an absence, it appeared that the use of home visits as a compliance strategy is limited to specific cases. It is not an automatic response to an absence. Therefore, for some officers this is a compliance strategy that is used in specific circumstances:

> *If they miss an appointment will you make a home visit to find out why?*
> Yes I mean yes with the lady last week this happened I actually went on a home visit to find out a little bit more. And yeah, I mean I've used home visit after missed appointments. I mean sometimes I haven't used home visit after a missed appointment. But I mean circumstances, different circumstances. PO15M

Home visits are also used to alleviate reporting difficulties:

> ... I have used the home visits one yeah. For people who find it very difficult to come in I'll say if you come in 4 times I'll come round and once very fifth appointment I'll come out and you know generally that would work. PO2F.

> Travel is a biggy round here as well. I mean people from (...) which must be 20 miles...30 miles away, and the bus service is not very regular here. So you will take into account... People live out in the countryside and if they don't drive, or they are banned from driving you can't force them to. So you know you drive out, home visits... PO4M

Home visits may be used to follow up absences where the officer is particularly concerned about the probationer. In one case, a home visit to follow up an absence proved to be a life saving act:

> If he [PIM - her probationer] suddenly disappears that usually raises alarm bells as to what sort of emotional state he's in. So he did it last week where he didn't come in and we went and did a home visit and it turned out he'd actually taken an overdose the previous night. So in those sort of cases we would actually, because there are concerns as to his emotional health. PO3F

Below, the probationer in question (P1M) recalls this incident. To him, the action of the officer represents a manifestation of the caring approach that prevails in current supervision practice.

> I missed the appointment but I mean they actually came down to see whether I was alright. So I was quite, (I mean that didn't used to happen in the old days you know? Nobody turn up) and that made me feel like wow! Hang about there is hope here. They do care. I think that's the difference nowadays I think people do care and they show it a lot more. Maybe they cared in the past I don't know but it's shown more now... P1M

On an organisational level, the probationers are reimbursed for part of their travel costs although the officers pointed to the limited provision for reimbursements.

> ...it (travel expenses) can be a problem, we can refund bus fares I think we can I mean they're tightening up on the budget all the time. At the moment I think we can still refund bus fares. Some of our people live miles from a bus stop even that's very difficult. Sometimes we can do home visits. That's frowned upon though... PO8F.

Added to making home visits, some officers contact their clients to remind them of their appointment in order to ensure compliance particularly where the probationer has established difficulties. The officer below describes this process:

> *Do you call them to remind them?*
> Yes there are few people we actually call to remind ...We don't ring many of them to remind them but if absolutely necessary we will especially if they got other issues going on in their lives as well. PO7F

Some of the officers reported that they do not contact the probationers to remind them of their appointment. One reason is the responsibilisation discussed above. Another is the possibility that telephone reminders cannot serve as adequate evidence in the event of a contested breach. Added to the use of reminders, the officers may also offer flexible appointments to alleviate reporting difficulties.

Flexible appointments are mainly used to counter the problems posed by chaotic lifestyles that are fuelled by substance misuse or to alleviate problems posed by

childcare difficulties. The officers below describe the flexibility permitted in cases such as these:

> ...we try to arrange appointments...time of day that is best of them. So if people have to take medication maybe first thing in the morning, we arrange it for later on. Some people just can't function in the morning whereas other people would rather come in before they start drinking... P2F

> *Do all probationers have that (flexible appointments)?*
> If they're chaotic and unwell through their alcohol or drug use we will sort of use that. if they're here we will see them and that's it and we also tend to be a bit flexible by whether it's a Monday or a Wednesday and sometimes they turn up they're supposed to be here on Friday and they turn up on Monday and you can't send them away and say come back Friday. You can sometimes, depends on how busy you are. If there're rooms available you'll see them and I suppose it's not really great for engendering compliance according to instruction yeah but at least its compliance in that they know they're gonna do something if they come into the office . But if they come in and they're actually off their faces on alcohol or drugs we turn them away. PO7F.

> ...you have to be aware of school holidays coming up and how you're going to get round that. It just takes a bit of planning... PO8F

In sum, reminders and flexible appointments are used encourage compliance although mostly for probationers with chaotic lifestyles or whose involvement in substance misuse have affected their ability to lead structured lives. The probationers acknowledge these efforts. For instance the probationer below has been involved in substance misuse for over 40 years. She describes the efforts her officer makes to ensure compliance:

> *Have you told PO5F about the difficulty of getting up in the morning?*
> Yeah she knows that, she tries to make the appointments for the afternoon. She's very good. She knows that I do have difficulties of like getting up in the morning... P5F

Another probationer discusses the use of reminders:

> *Does anyone in the office do they do anything, do they remind you or..?*
> Yeah they phone me up and all and send me letters out cos before some of my letters were going missing from where I used to live and just... that's why I phone them now and I say what day do you what me in? And they tell me and...You know its better like that. P12M.

Just as flexible appointments are used to accommodate specific needs in order to ensure compliance, fixed appointments are made in specific cases for the same reasons. For instance, PO3F'S client below reports that the fixed nature of his appointments makes it possible for him to attend his appointments:

> *How does [your probation officer] help to make sure that you attend your appointments?*
> ...normally I would just turn up on Tuesdays at eleven o'clock. Its Tuesday's eleven o'clock every week which is quite good. I could keep that in my mind you see? Tuesday eleven o'clock I know where I gotta be. That's good, that's one thing...They never changed my times about. They always keep my time. They always keep it at eleven o'clock which is good; cos I wouldn't get here otherwise I just wouldn't... P1M

The probationers' quotes highlight the importance of reminders in specific cases.

An additional means of overriding the punitiveness intended by policy is the formulation of more flexible informal rules using professional discretion. This constitutes a fundamental aspect of the officers' reactions to violations. The officers reported that without the discretion to introduce a degree of flexibility in enforcement, breach rates will escalate to unmanageable proportions. This important compliance mechanism is discussed in greater detail in the next chapter.

Meanwhile, the quotes above reveal how the officers ensure that they remain responsive to the potential obstacles to compliance in order to ensure compliance. The quotes also suggest that the compliance strategies are subject to each officer's discretion. Further they suggest that in the care/control dualism characterising the

probation officers' role, a caring approach prevails. The quote below encapsulates the

philosophical approach many officers adopt:

> ...my philosophy [is] I want people to get through the order and
> that is why...I phone them up if they miss an appoint to see why...
> PO4M

The finding that many probation officers utilise these compliance strategies indicate a

more caring approach to securing compliance and a desire to ensure that the

probationers are able to complete their orders. In all, the officers reported that an

approach to securing compliance that is responsive to the needs of the probationer

particularly those needs that affect compliance, is more productive than the strict

policy framework. The quotes below also support this finding:

> ....I mean the whole point, the reason people get into trouble is
> that they have, well one of the reasons is the difficulties in their
> lives and so to reduce the risk of re-offending you've got to look at
> those areas and work on them... you've got to take things a stage at
> a time and look at the priorities but you can't expect people to do
> huge amounts of work while they've got lots of practical
> difficulties that are really worrying them... PO8F

> ...we acknowledge like the Offender Manager side that individuals
> have lives of stress and you're sort of trying to understand where
> that person is in their lives. Especially if they're homeless.
> Probation might not feel a priority for them when they're like
> trying to find somewhere to sleep. It's like trying to get the right
> balance which is hard but you sort of do it ...you've got guidelines
> but you're sort of flexible according to the individual's needs...
> PO19F

The unpaid work officer below also subscribed to this view that being responsive to

needs is more productive than strict enforcement:

> I think that obviously there's an element of punishment but if
> you're not trying to address the reasons behind someone's
> offending or the reasons behind them worrying or being stressed
> and committing their crimes, then all you're going to be doing
> really is shutting the door after the horse is gone really aren't you?
> every time, and its not going to improve their situation. They're
> probably going to go on to re-offend. So if you could do anything

while they're on community service to help then I think that's probably great...

Do you think then that the warning letters and breach are effective in making them complaint or do think an alternative approach is required in terms of getting them to comply?

I would say probably alternative approaches are required if they are attending their [substance misuse rehabilitation] appointments that helps a lot. ...Emm I have had one male and a female hard drug user both of whom, one had his order revoked and was re-sentenced and he just wasn't attending his lifestyle is chaotic and he's now on rehabilitation. The female is currently in a Spanish prison in Tenerife... UWO1F

In sum the officers' reactions to violations are flexible, individualised and responsive to individual needs.

8.8: Managing situational contradictions: client centred strategies

Several theoretical frameworks guide practice but the basis of practice is client oriented and the aim is to secure the successful engagement of the client. Most of the officers reported that they tend to apply an 'eclectic'[xxxvi] mix of skills and theories in practice.

I suppose we're asked to be fairly eclectic about the approach we take. So that if you had someone say, who their problems were more of a psychological kind, say I mean the issues are relationships maybe domestic violence, sex offending, arson, offending where there is perhaps quite a strong kind of psychological component then we would take that kind of approach with someone. Whereas if the issues are much more kind of budgeting or kind of practical things and personal management then you wouldn't necessarily kind of be looking to analyse their personality and behaviour in that sort of way. I mean cognitive behavioural approach is the one that is kind of in at the moment but I certainty wont rule out intuition as being important because I think sometimes you can get a feeling about somebody when you meet them. You know that there's kind of more to it or there's something that kind of alerts you to something else... PO6M

Below another officer reiterates the above point:

I don't think any one theory really underpins my own approach. And I think that's because there as so many theories out there you can think of. By the time you finish the probation theory and by the time you get into the job, all the theories are kind of like a

mash in your mind and you do kind of pick little bits and draw on certain things and I'm really not sure if there's one thing that I can pick out... PO18M

Though influenced by wide ranging theoretical frameworks, most of the officers reported that establishing a good working relationship is the most productive approach. It should underlie the effort to successfully engage the probationer:

> Forget about motivational interviewing yeah? A lot of it is hot air. At the end of the day you've got to build relationships that's all it is. They can teach you all the techniques in the world. I'm sure you know about motivational interviewing...So all the training in the world is great but unless that person likes you and they've got to like you, then they're not gonna work with you unless they feel appreciated... PO17F

Another officer echoes this:

> I say again and I am quite convinced, the longer I do this job the more important I see that it is. No matter what is spilled out to us from government, no matter what they keep changing, with 'what works', with marketing us, that I think is horrendous, whatever works is my relationship with these people. It's how we set off from day one. But I am human, I do listen to them, I will give them scope within the parameters of what I think is acceptable, but I think it's the relationship Pam, and motivating them, motivating them... PO11F

Below another officer emphasises the importance of developing relationships in order to secure compliance:

> *How do you encourage compliance...?*
> ...it's about trying to develop a good working relationship with them from the very beginning so that they feel that there's actually some point to them coming here. PO3M

The quote below encapsulates the approach endorsed by most of the officers:

> *What do you think are the most important, the most productive ways of motivating compliance?*
> Engaging, engaging with them getting alongside them. It's no good hitting somebody with a big stick because they've had that all their lives. It like a dog, you hit a dog, you kick a dog, eventually it will bite you. You have to get down to their emotional level and they have to see that you're there. It doesn't mean that you have to befriend them and be one of them. In fact that's the furthest thing from my mind actually but by doing that

they automatically warm to you. They see you as a professional person with an awful lot of authority being able to open doors and being able to talk to them in their language and then talk to other people in their language and then convey the message I think that's the strength in probation. And to come in and not have that engaging process is dangerous and I think that's one of the skills lacking in training if I'm honest. I think that they do it on site straightaway. I remember when I did my training we did counselling skills, managing aggressive behaviour skills; these are hands on training before you even met that client do you know what I mean? And so you went out feeling confident you know? But I really believe that, my style of working and we all do differently ...first of all is to be honest and never deviate from your honesty even if it's saying something that's not very pleasant for somebody to hear. It's about being honest; it's about being respectful of them. You have to respect them. They're entitled to respect... PO16M

It appears that from the officers' perspective, a 'good working relationship' based on empathy, egalitarianism, honesty and respect is not likely to alienate the probationer and is considered the more effective approach. The officers are careful to ensure that appropriate boundaries are maintained. In Jersey, the views were similar. Describing his relationship with the probationers, JPO2M a probation officer echoes the views of the other officers:

Its one of mutual respect. It's not a friendship but it's got to be a sort of good working relationship. It's got to be one of trust. It's got to be one of shared goals, its gotta be goals that are mutually agreed... JPO2

Thus, the officers strive to develop good relationships in order to encourage compliance, whilst maintaining appropriate boundaries.

8.9: Conclusion

In the attempt to secure compliance, the officers' actions are affected by several contradictions. To secure compliance, the officers strive to manage these contradictions. Central to this is the formulation of client centred strategies characterised by an individualised approach that is responsive to individual

circumstances and maintaining good relationships. Thus, departing from managerialist objectives and the demands for standardised enforcement, the officers believe that an individualised and non-authoritarian approach that is also responsive to needs should ensure the successful engagement of the probationer to a greater degree than a standard punitive approach.

As noted earlier, the officers' reactions to violations ultimately shape the nature of compliance. This chapter examined contradictions that affect how the officers react to violations in order to provide a contextualised understanding the officers' actions; the next chapter explores the actual nature of the officers' reactions and the links between the latter and compliance.

Chapter Nine: Confronting unpredictability: reactions to violations

9.1: Introduction

This chapter examines the actual processes of enforcing compliance with community penalties. In this chapter it becomes clear that compliance and enforcement are interwoven processes. This is because the activities of the officers in reacting to the unpredictability of their clients contribute to an understanding of the nature of compliance. The previous chapter explored how the officers manage several situational and structural contradictions in order to secure compliance. This chapter demonstrates how the officers utilise their professional discretion to formulate more responsive rules in order to secure compliance.

9.2: Situational contradictions: the unilateral definition of compliance

As already noted above, the standard definition of compliance applied in practice is a unilateral one namely, attendance. This definition of compliance may encourage technical compliance and the normalisation of forms of non-compliance. The officers below define non-compliance:

> ...the standard failure to attend and that can have all different kinds of reasons to it acceptable or non... PO16M

> ...not attending appointments without good reason and without providing evidence for that. ... Often it's the non-attendance that ends up in court but that's not the only thing... PO19F

The same definition also applied in the Jersey probation service:

> I think missing without contacting us for whatever reason and they might give a reason at a later date, but I find that that's probably the basic one... JPO3M

Perhaps one reason for this narrow focus is that as mentioned earlier, attendance rates are easily quantifiable. The rates may then be held to represent the indices of successful compliance unlike other more qualitative forms of compliance such as successful engagement or securing the willing participation of the probationer.

These forms of compliance are not as easily amenable to quantification. Furthermore, recorded attendance rates can be used to support breach prosecutions. These records may help to reduce the evidential burden in the event of a contested breach. The officers did point out that it may be difficult to adduce evidence to prove other forms of non-compliance such as a failure to engage in cases where the probationer contests breach action in court.

One possible implication of the unilateral definition is that it may encourage 'technical compliance'[xxxvii] and the normalisation of other forms of non-compliance. Technical compliance occurs where the probationer fails to engage fully with the objectives of the order but only attends to fulfil the basic attendance requirements. An example can be seen in the case of P8F already mentioned above. Her officer PO7F reported that although the probationer - P8F - had physically attended her appointments and is as such was defined as compliant, P8F failed to adequately engage with the work being done to effect change. Therefore, P8F's attendance was tantamount to merely 'physical'/technical compliance. The probationer concerned was re-interviewed in the follow up stage and she reported that she had fully complied with her order and was hopeful that her order would be revoked early for good behaviour. Describing her experiences of supervision so far the probationer –P8F states:

> It's been okay actually, it's been really good because they are a
> great bunch anyway and they are really helpful.... it's been good. I
> mean hopefully it's going to be over soon. I think I am just about
> due for being discharged... P8F

However, according to her officer, P8F's compliance record is tantamount to 'technical compliance'. This can be differentiated from actually engaging and fulfilling the terms of the order. The officer PO7F illustrates this point:

> Compliance is attendance yes and actually engaging with the officer I suppose, but complete compliance obviously is addressing the needs, but as far as physical compliance is yeah she's [P8F's]been absolutely fine. PO7F

The officers also cited other forms of technical compliance such as where the probationer produces documentary evidence to support several absences even where it is clear to the officer that there is no genuine reason for the absences:

> ...there is lady I was dealing with until a couple of months ago and she constantly phoned in this, that and the other. But she did manage to produce a lot of medical certificates which did surprise me. But I didn't believe a lot of what she told me but then if they're coming in with evidence you have to accept the evidence. ...PO14M

Another officer provides an additional example of the degree of manipulation encouraged by the unilateral definition.

> There are other forms of non-compliance, as in not addressing your needs or putting barriers up to make sure that you can't comply. Sometimes because we have to accept certain absences, if they are due to childcare issues, illness supported by a doctor's note and things like working as long as your employer will speak to us or send us a letter on headed note paper stating that this is the case ...but you see we can't count that as non-compliance because of the fact that they are evidenced. But there are some people that would use those issues and there are some people who would go into the doctors'...I need a sick note...they would give them one in retrospect...Technically its compliance. If we took it back to court of course they would challenge that and we couldn't prosecute a breach.
> *How do you feel about that?*
> Sometimes it makes me cross because they are missing an opportunity; they really are missing an opportunity. PO7F

The problem of technical compliance was also replicated in the case of probationer – P13M. He was re-interviewed during the follow up phase and he reported that he had been fully compliant.

The probationer - P13M's definition of compliance was again restricted to attendance

or providing notification of an absence:

> *How do you comply then, what must you do to make sure you comply?*
> I turn up. I stick to all my time and dates I know when and what time I am supposed to turn up. If I can't make it then I ring in advance and let [PO8F- my officer] or whoever happens to be here know...
> Apparently they can half it by so many months, but that depends. I think they will half it for the simple reason is I haven't breached, I've always turned up, I've done all they've asked so in all fairness I think I deserve half my months knocked off. If I had been breached for not turning up then I can understand for them to keep the full 18 months but I think it would be rather unfair for them to keep the 18 months on me considering I've been here every time...and I've come in like today to help you with your work. So I think in all fairness it will be nice if they can knock my month. P13M

His officer disagreed with his assessment of his compliance record. She reported that

although P13M had fulfilled the attendance criteria, he had failed to adequately

engage with the rehabilitative objective of his order. Below P13M's officer highlights

the extent of his compliance:

> ... As far as coming here is concerned, I think he's okay when he comes in. He knows what he needs to do. His motivation isn't always what I would like it to be. Sometimes I have to give him a bit of a motivational talking to really and he's very ambitious, I don't know how realistic his ambitions are and he will talk about what he could do...And it isn't necessarily appropriate for keeping him out of trouble because we've done that bit of work but it will be nice to know that he was able to move on in life generally and I tried to get him to go to careers...I don't think he has done it. Saw one of my colleagues who was an ex-careers officer who does some work with him and he seemed quite enthusiastic and then they asked him to come...as far as I am aware he hasn't actually turned up. So you know, I think he's gonna end up being in a bit of a rut in a couple of years time if he doesn't make a move...
> *...Will he have an early termination?*
> Well I cannot do anything with him until he's finished his UW. There's another at least 6 weeks for him to go. I will look at it in May. PO8F

From the foregoing it appears that the reliance on the reduced definition of compliance may produce forms of compliance that have been described as 'technical compliance'. It may also engender the normalisation of other forms of non-compliance such as not engaging or failing to fulfil other requirements. Nevertheless, this the definition of compliance applied in practice. Reactions to violations are primarily reactions to absenteeism. Below is an examination of the actual processes of reacting to violations and the impact of the reactions on compliance.

9.3: The nature and extent of discretionary enforcement

A more standardised enforcement approach is prioritised by policy and the current enforcement policy restricts discretionary enforcement. There are monitoring exercises to ensure compliance with the National Standards during enforcement as described below by an officer:

> ... the files are assessed on a sort of random basis each month, then compliance and the acceptability or unacceptability of absence would be one of the things that will be looked at... PO3F

The objective of the exercise is to limit the amount of discretion available to the officers. Notwithstanding these, it became apparent at an early stage of analysis that the use of unofficial discretion traverses enforcement practices. The study sought to understand the nature and extent of discretionary enforcement and how it may affect compliance if at all.

9.3.1: Examining covert discretion

Unofficial discretion would necessarily entail a degree of covertness that is not readily amenable to empirical observation. My experiences during the initial stages of interviewing clearly demonstrate this. Here I will recount my experiences showing how I came close to overlooking what I initially dismissed as irrelevant but which subsequently appeared to be integral to an understanding of compliance.

During the negotiations to gain access to conduct this study in the probation area in Wales, I met with a member of the management team to discuss my proposal. At the meeting, I explained that one of the underlying objectives of the study is to examine the possibility of covert discretionary enforcement given the restrictive enforcement provisions. As noted in chapter one, studies have shown the use of covert discretion during enforcement decision making to be a likely outcome of strict enforcement guidelines (see for example Vass 1990). The manager informed me that discretionary enforcement practices would be practically impossible given the high degree of monitoring to which the officers are subject. In her words, any use of unofficial discretion would be 'picked up' promptly by a senior officer/manager.

I entered the field convinced that the use of unofficial discretion would not form any important aspect of an inquiry into the nature of compliance. I deemphasized the importance of this concept although I remained faithful to the tenets of Grounded Theory and thus open to any possibilities that would be revealed by the data. In general, grounded theorists advise against *a priori* theorising or theorising ahead of the data (Strauss and Corbin 1998). This may prematurely foreclose your investigation and hence limit your ability to fully examine the phenomenon in question. Therefore by prioritising developments in the data over preconceived ideas or predetermined concepts, I was able to recognise the existence, extent and importance of unofficial discretion early in the study. This unravelled during my interviews with the probationers – P1M and P2M – the first two probationers interviewed. They reported several violations –attending under the influence of substances and missing appointments. These violations appeared to be overlooked with a degree of flexibility that appeared to surpass the degree permitted by the strict enforcement provisions.

With this finding in mind, I revisited the data generated from my interviews with the 2 officers based in that office. The data yielded further insights into discretionary enforcement. Importantly the data demonstrated that although the 2 officers acknowledged the existence of wide discretion, they attempted to minimise its influence. This alerted me to the possibility that given the covert nature of unofficial discretion, more subtle questioning would have produced greater insights into its nature and the implications for compliance. I revised the interview schedules and my findings are discussed further below.

Meanwhile, here I have reproduced extracts from my interviews with the first officer interviewed and his client. PO1M, the first officer interviewed, suggested that he would demand physical documentary evidence to support every absence. In subsequent interviews, most of the officers reported that they would not usually demand documentary evidence to support every absence. The officers rightly alluded to the impractically of such an approach given that documentary evidence is not always obtainable. Contrastingly, PO1M above reported that he would demand documentary evidence to support *all* absences. Below he describes the great lengths he would go to in order to obtain such evidence:

> *...If you say for example transport difficulties, how would you provide evidence of that?*
> I guess that would difficult. It might be that we would phone, if it's a bus company and the offender says the bus didn't turn up until 10.45 we'd phone the bus company and say did you have a problem? Do you mind us asking, did you have a problem with your bus for so and so? And if they are happy to answer then obviously that would support it... if the offender's car breaks down, then we say: well were you recovered? Did it go in the garage? Can you show us the bill? It's a very difficult one. It's about the offender. The responsibility is with the offender to provide the evidence. PO1M

Meanwhile, the quote below was made by PO1M's client. He contradicts PO1M by describing the extent to which PO1M overlooks the need to obtain documentary

evidence and minimises violations. Below is the probationer's description of his actions following an absence:

> *Do you give him [POIM your probation officer] a valid reason and then you carry on as normal?*
> ...I wouldn't say all the reasons were valid but a few times I just forgot blatantly.
> *In cases that you forgot what do you say to him?*
> Car broke down, couldn't get a lift, whatever. I've never vindictively not come just because I didn't wanna come. I mean if I had a car outside I would have driven here. But I don't think he would have swallowed oh! I forgot, do you know what I mean? So I had to make it up but he probably knew, he's not a silly man. He probably saw past it, but he could see the sincerity in why I wasn't there... I think I might have missed a couple of appointments because I was stoned. Because I smoke weed yeah, and I think a couple of times, I probably had a big fat spliff and then ah! No I should be in probation.
> *What do you say to POIM on those occasions?*
> That I was ill, I fell ill.
> *Did he ask you to bring some sick certificate or anything?*
> No he was never that precious about it. He could have been that precious and like wanted everything; he saw that that wouldn't help the situation.
> *But you wouldn't risk coming in stoned?*
> No, I did a couple of times.
> *Did POIM know that you were stoned when you came in?*
> He might have known, he might have blanked it...
> *Did he say anything?*
> Oh no he never said a word. P2M

The discussion above highlights the degree of flexibility and discretion in enforcement. Further the quote contradicts the suggestion that all absences must be validated by some form of evidence. Importantly, it suggests that probationers are aware of the arbitrariness of enforcement decision making. From the probationer's perspective, the officer is able to accept apparently false excuses and to overlook violations.

Given these findings, the interview schedules were revised at the early stage of interviewing in order to ensure that more subtle inquiries into the nature and extent of discretionary enforcement and also its links to compliance could be made.

9.3.2: The extent of discretion

Most of the officers in the remaining offices did not prevaricate whilst discussing the extent of discretion, nor did their supervisees. They unambiguously highlighted the wide use of discretion in responding to absences. Thus, the strict monitoring and prescriptive rules designed to curb discretionary decision making did not significantly impact on the use of unofficial discretion. The officers below confirm this:

> ....I think there's still a bit of leeway ...it is getting more prescriptive...but there's still a lot of leeway. I'll accept things knowing that, I might get told off for this. But there's still a lot of leeway for my decisions anyway... PO4M

This certainly appears to be the case. Further, an unpaid work officer also confirmed the use of discretion in enforcement:

> *Under what circumstances will you withdraw the original...?*
> *(Warning letter)*
> If the explanation that they offer is acceptable. Well then, there is no definition in the whole probation service what is acceptable or unacceptable. I would say it differs from office to office or area to area. From office to office from individual to individual... UWO2M

The officers' activities in activating or deactivating the enforcement process clearly illustrate the nature and extent of this discretion. These are examined in more detail further below. Therefore, the earlier proposition emerging from the claim that officers would demand evidence (certified or uncertified) in all cases of absence was discarded as an unverified hypothesis.

9.4: Managing structural contradictions: the responsive informal rules

Interviews with the officers revealed that to secure compliance, the officers would, using their professional discretion, devise more responsive and flexible informal rules. The use of discretion traverses the entire enforcement process from defining the acceptability of absences to initiating breach action in court. Thus, the use of

professional discretion underlies the informal enforcement rules devised by the officers to counteract the rigid formal rules in order to ensure compliance.

We can recall that in devising the informal rules, the officers are motivated by the realisation that flexible enforcement is crucial for fostering compliance. The officer below reiterates this point:

> You will get: you will do this; you will do that. That's not how you deal with people. If you treat them with respect all the time you get respect back. If you're gonna be this sort of robotic probation officer then I think you're gonna be breaching a lot of people. People who've been through the system you know, right from school, you will do this, you will do that and they fight against that but it depends how you deal with people....I've worked with people in the past in other areas who've been really strict and not liked at all by anyone. So I think it's about respect really. You respect people and they respect you back. That's how it works. PO4M

The case of the probationer PO2M already discussed in chapter four further illustrates this finding. PO2M breached his order because his officer's strict enforcement approach was in his words, tantamount to acting like a 'robot'. The officer lacked empathy and was unwilling to understand the emotional difficulties that were in his view, linked to his failure to attend his appointments. The officer was in the probationer's words a 'by the book' enforcer:

> I tell you the first PO I met here (...) didn't like him at all
> *Why didn't you like him?*
> ....he was very, he was a robot, by the book kind of. There was no humanity and I am sorry to achieve an effect in someone's life you have to have some love no matter how distant you have to be and how professional you have to be, you have to express love... I told him how I felt about the way he talked to me that he was very negative ... to achieve any effect on a human being you have to have a positiveness and support.

P2M reacted against the rigid approach. This prompted further violations culminating in breach action in court. The 'robotic' and authoritarian approach also undermined

the perceived legitimacy of authority in that the probationer felt that the quality of treatment he received was unfair.

9.4.1: Implementing the informal rules: ignoring violations

Reactions to violations are based on professional discretion. These reactions tend to vary according to the nature of the evolving relationship and the nature of the violation. Where an established relationship exists, the officer is more likely to apply more flexible enforcement strategies. Where an absence is defined as 'minor', an excuse is provided 'in advance'[xxxviii] of the absence. Minor violations are typically ignored:

> *What if the probationer notifies you in advance that they won't be able to attend an appointment?*
> Well that's something we encourage because that shows like problem solving and transparency really ... So we encourage you know positive things like that but what we usually try and do is to arrange for a time later in that week to see them... P19F

> *Back to the issue then of warning letters, what do you do when the probationer notifies you in advance that they're going to be absent for whatever reason?*
> I will just make another arrangement then, just make alternative arrangements. P10F

> *What if they phone you in advance to let you know that they can't make an appointment will that be acceptable?*
> Yeah I generally, I mean even on the day if somebody phones up on the day and says I'm stuck in (...) and its flooded.... I can rearrange. I mean even if they phone up and its not a traditionally acceptable reason... P18M

> *What happens if they tell you in advance though [that they will not attend]...?*
> Ohhh that's fine, oh that's fine, that's fine. Again, I am human, I have children. I have a life, life impacts on us all. Pick up the phone and tell me. .... I can suspend National Standards, I can do lots of things as long as they tell me. They tell me that's fine. PO11F

Therefore with minor absences, the enforcement process is not initiated - no final warning letter is sent to activate the process. The importance of the temporal

proximity of the notification varies across the different officers. The officer below

discusses her response to advance notification received on the day of a scheduled

appointment:

> *...where a probationer tells you, notifies you in advance that they*
> *can't make an appointment what do you do?*
> It depends how much notice there is. If they ring you at five to
> two and they got a two o'clock appointment, saying I cant come in
> today,.. cos I got a dental appointment, then I would not accept
> that. That's a missed appointment because you shouldn't make a
> dental appointment when you know you've got a probation
> appointment. Unless you had an emergency tooth ache in which
> case I need evidence that you've been to the dentist. I often tell my
> cases look if you give me enough notice that an appointment is
> clashing with something important, by like the latest, the day
> before, then I could possibly re-arrange for you. But today P17F
> the girl you saw, she rang asking if she could come in a bit late in
> the afternoon. But I don't have a slot for this afternoon I am choc a
> bloc and that was because she had made another appointment
> ...that's bad planning then and so I wouldn't in those
> circumstances... PO13F

For many officers, advance notification is encouraged irrespective of its temporal

proximity to the actual appointment:

> ... ideally it's nice to have a phone call before, but if someone
> phoned me up at 12 o'clock and they said I am sorry I couldn't
> make my appointment this morning at 10 o'clock, then I probably
> would try to be a bit flexible and try to fit them in later that day. If
> they don't phone then I'd automatically send out a warning letter...
> PO15M

The nature of the excuse provided is not nearly as important as the presence of an

excuse. Further, the excuse need not be supported by certified documentation or other

documentary evidence:

> *But would you always physical evidence all the time?*
> We're supposed to but it can't always be provided to be honest.
> PO7F

> *But do you always require proof?*
> ...I think although we try and get documentary evidence for
> everything we have to use a bit of discretion as well and I think if
> you give somebody a chance once, you get to know if they're
> pushing it and pushing it... PO5F

... If a probationer notifies you in advance will you still demand evidence?
... We rarely ask for evidence because of the fact they always make a new appointment anyway and if it's within 2, 3 days and it would be with our opening arrangements, then that's fine... PO7F

If no excuse is provided before the absence, the enforcement process is activated.

Deactivation follows receipt of an excuse and the absence is defined as a minor absence:

> *... what happens if they (the probationers) don't say anything and then they come in afterwards, after the appointment date?*
> If they didn't say anything and then they came in afterwards and they had an acceptable reason, I will withdraw it and I would tell them that they need to tell me in advance in future, but I would withdraw it. P10F

The processes of deactivating the enforcement process also provided further insights into the nature of discretionary enforcement. It appeared that the officers are able to ignore violations or deactivate the enforcement process using their discretion. There is no automatic process by which absences are officially recorded. The entire process rests with the discretion of the individual officer.

9.4.2: Deactivating the enforcement process

As noted earlier, where no excuse is provided before the absence, the officer would usually activate the enforcement process by sending a final warning letter. This is not an automatic process; it relies on the actions of the officer:

> *When a probationer fails to attend are warning letters generated automatically by the computer or do you type them up yourselves?*
> No...you can type certain information and it will generate the letter but it needs you to actually record that they haven't come. It's not that automatic, you don't get reminders either or anything like that, it's up to you to manage that process...
> *But if the probationer fails to attend and you send a warning letter and then they give you an acceptable reason how do you withdraw the warning letters?*
> Basically in CRAMS, you will go into CRAMS, you could go in and open the letter which you haven't locked because after you've done reports and letters, you lock them, and you go in and put

> cancelled or something like that on them and then lock it. But quite often you will go into CRAMS there's: failed to attend? attended? Yes or no? And you put no and then there's follow up within two days and you tick that if it's within two days, and then you tick, acceptable or not. Well if you automatically tick that as unacceptable if they don't turn up, but then if they come back to you and they provide an acceptable reason, you go back in and you change that to yes and you put in, there's a list of reasons that you can tick like: explanation now received and acceptable and you put in a note of why... PO13F

The quote above describes the ease with which the officers are able to amend electronic records of enforcement decision making. Some of the officers reported that they would tend to postpone activating the enforcement process (sending the final warning letter) in order to give the probationer more time to make contact. Once notification is received, the officer may then destroy the letter. In most cases, the letters are sent to the client because the officers are mandated to commence enforcement action following an absence where no excuse is provided before the absence (see Home Office 2000b). There is little room for the use of discretion in such instances[xxxix]. This restrictive requirement denies the officers the opportunity to apply their discretion in relevant cases:

> *Under what circumstances will you withdraw a Warning Letter?*
> ... quite often I know people are b*******g me, he'll still have a doctor's note and I know that they just got a doctors note because they know they have to and there hasn't been anything wrong with them. The second they got that medical proof there's nothing I can do about it so I have to let it go... PO17F

The quote above also demonstrates the prescriptive nature of enforcement and the corresponding reduction in professional autonomy. The upshot is the possibility that officers are mandated to perform certain functions in an almost robotic fashion without the ability to question apparent discrepancies. In the Jersey Probation Service, there is greater autonomy. For instance, the officers are not mandated to

automatically issue final warning letters following an absence. This ensures that the

process is less convoluted because it reduces unnecessary bureaucratic functions.

> ... I mean that's very difficult about breach in England. If someone
> misses two it's all so automatic the breach paper work to get
> ready. Then that person may turn up the following week with a
> sick note. Then you've gotta withdraw all this paperwork and here
> I can almost keep a tight hold of things till the very latest point.
> You kind of prevent all that kind of unnecessary paperwork.
> JPO3M

Further eroding autonomy, in England and Wales, once breach action in court

commences, there is no option for the officer to reverse the process even where the

client has subsequently re-engaged. Even with the disciplinary breaches there were no

options available for halting proceedings. The officer below rightly questions the

prudence of such an inflexible breach process that also strips officers of their

autonomy:

> *What happens where the probationer complies in between the start*
> *of the enforcement process and the breach in court? Will that*
> *affect the outcome...?*
> They still go to court if you breach them. This is National
> Standards and this is a waste of everybody's money. Absolute
> waste of everybody's money because we are breaching them for
> failure to comply. We are offering them appointments they're
> keeping in contact, why waste money for court proceedings? Why
> can't we just pull out and say okay I'll take it away this time and
> we save £500 of the treasury's money? But no, its gotta go to
> court. It clogs the court up and in all of this, the thing's been taken
> away has been the probation officers' authority and the respect you
> know? Not the respect, his autonomy or their autonomy to do the
> job with confidence. Because when I first joined, probation
> officers had that authority, had that confidence. I would go into
> court and the magistrates will hang on every word I said and the
> judges will say they wouldn't sentence without asking your
> opinion. Now it's gone away it's been taken away. Now it's all
> papered now ...you know we've lost the plot somehow we have
> lost the plot. PO16M

Although it appears that there is an effort to erode flexibility and autonomous decision

making, the discretion with which the officers are able to deactivate the enforcement

process at its earliest stages reasserts a degree of autonomy. Using their discretion,

the officers are able to arbitrarily define the acceptability of absences, withdraw warning letters and amend computerised records. The officers below discuss their role in the early stages of enforcement.

> ... if it is your case you make that decision as long as you file a report on CRAMS which we fully record why we've made that decision and if you change something, if you put it in as an absence it asks you if they've attended and then you put no and then it asks if its been followed up and then you put whether it is acceptable and if you change that no to a yes, there's a box [that] comes up and you have to put in why.

> *How do you withdraw it?*
> You just, you just decide whether or not you are gonna accept their explanation and then stamp the letter with your withdrawn thing. Here we are (officer shows me the stamp) and sign it and put it on the file and on the computer... PO10F

> Usually I put on the system...which is highlighted in red, the minute somebody fails to attend you always put first of all that it is not an acceptable absence (until we get evidence, yeah) on CRAMS and that highlights in red. If you get an acceptable reason I'll go back and mark that to be a yes it was acceptable. Because obviously when we are doing reviews and stuff, we click on National Standards compliance button and it gives you the number of appointments they've attended or they've been offered and how many they've failed to attend. So we've got to make sure that information is right. There is a letter that we are supposed to send but I don't know anyone at this moment who actually sends out to say your evidence was acceptable. There is a letter like that being brought in but I don't know anybody ..I mean to be as long as you change the system and you let the offender know that's enough... PO19F

> ...if we sent out a warning letter to somebody, cos we do them within two days if they haven't contacted, they theoretically got five days to tell us. But if they haven't contacted us in two days we send a warning letter and say they didn't turn up on a Monday. if they haven't contacted us on the Wednesday I will send out the warning letter then and then perhaps they call the office on a Thursday or a Friday say I'm really sorry I wasn't well...or whatever and then I will say okay fine your next appointment is – and then I'll withdraw it then and date it when I was given the explanation. And then we've actually got the facility on CRAMS now to put in retrospect when we accept something that's was unacceptable before. PO7F

The extent of discretion remains the same even in offices where probation service officers perform enforcement functions. The probation officer is able to arbitrarily deactivate the process by sending an email notifying the PSOs of their decision:

> *How do you withdraw it then?*
> I just usually tell or email, I usually email just to cover as well...
> and they don't question, its up to us really... PO9F

The several mechanisms that enable the use of discretion were also noted in Jersey. Discussing the processes of deactivating enforcement the officer below states:

> You can just change it on the system to say that it's an acceptable...yeah. It's on the system that you change it yeah, you switch something and then you put in some recording... JPO5/M10-20

These quotes reveal the processes of deactivating the enforcement process and in doing so; the quotes reveal the nature of discretionary enforcement. Despite the strict monitoring processes operating in England and Wales, the officers are able to make manual entries of enforcement decisions into the computerised or file based records. As such where a final warning letter is sent to the client, this activation of the enforcement process is only partial. Deactivation involves the withdrawal of the final warning letter on receipt of notification from the probationer. The quotes above also provide further insights into the implications of deactivation. In such cases, the violation is minimised and redefined as a 'minor violation'. It appears that the probationers are also aware of the ease of deactivation (withdrawing the final warning letter). The quote below by a female officer illustrates this:

> ... when they [the probationers] do come in next time [after a warning letter has been sent], I explain that I had to send the letter and most people know that those letters go out as soon as they don't attend. But we can withdraw them so as soon as they come in. PO2F

In general the probationers are aware of the variability of responses to violations. From a deterrence perspective, this may undermine the extent of perceived certainty of punishment, an important variable in achieving deterrence, according to the deterrence literature (see generally von Hirsch et al. 1999).

9.4.3: Activating the enforcement framework

Full activation of the enforcement process (breach action in court) would usually be the response to persistent violations. We can recall that persistent violations involve persistent absenteeism with no contact made or total lack of contact. Discussing her decision to commence breach action, the officer below points to the persistent absenteeism of the client:

> *What made you decide to breach despite the excuse he had given...?*
> Because there were too many absences and there was no sort of communication from them to me about what was going on until it had come to the crunch and they were being breached and then they came up with a few different things which didn't cover everything...
> ... Some people just sort of push it too far really and then they don't get medical information or anything to back things up. In the end you just, you have to...
> *What do you mean push things too far, what kind of things will they be doing?*
> Just missing too many times and coming up with a variety of reasons. Nothing to actually sort of verify anything...my car broke down or I forgot or I had to take my child to the hospital and no sort of proof of that and if there too many and no sort of commitment...

Thus the quote demonstrates that persistent violations would typically attract less flexible enforcement. Persistent violations occur where the probationers 'push it too far' or where there have been 'too many absences' with 'no communication'. The quotes below also illustrate this point:

> ...what's normally resulted in me breaching people is people not just bothering to turn up for their appointments ... the main reason I breach people is basically just for a lack of contact. They've not bothered to come in and see me. PO14M

... We're talking about P5F (a probationer) you said she's been breached...Can you describe what happened?
She just didn't keep her appointments so I had no contact with her at all. PO8F

What will you say that is the type of non-compliance that would normally result in breach action?
Failing to turn up obviously and not getting in touch with me and telling me why you haven't turned up. If you don't turn up twice, frequently three times, cos I go outside National Standards cos I am naughty, then you could you go back to court. And I've never actually breached somebody on bad behaviour. I've never had anybody who's come in and has been aggressive towards me or has been unpleasant or anything like that. For me, it's always been not turning up with being breached. PO17F

What form of compliance would normally result in breach action in court?
Having no contact whatsoever, that's the easiest route. ... they don't show up for induction, they don't show up for the week we don't even get phone calls to say I am sick or my grandmother's legs were off or whatever ha ha. I think those are the ones you know you ...you do kind of take them back... PO9F

Therefore, persistent absenteeism with little or no contact made with the office would usually prompt the activation of the enforcement process.

The infrequency of contested breaches may also indicate the tendency to commence breach action mainly in cases involving persistent violations. It is possible that in these cases there would be accumulated evidence to support breach action. In one office, the frequency of contested breaches was noted. This was traced to the activities of a specific team of solicitors. They tended to question the definition of acceptability in breach cases thus placing the onus on the officers to justify their decisions.

The officers based in the remaining areas reported that very few breaches are contested. This is because breach action is typically reserved for persistent violations with no notification provided by the probationer, reducing the evidentiary burden on officers whilst leaving the probationer with little option but to plead guilty, given the extent of their non-compliance.

So very few breaches are contested...
Yeah.
Why do think that is?
Because by the time you actually get to breach somebody, they wouldn't have a leg to stand on...and it's so obvious you know, with me if I'm actually going to breach somebody it's very rare that they've got a reason why they should be pleading not guilty, because, either they've come up with explanations and I've accepted them and withdrawn it you know by the time we get to that point usually they accept yeah I'm out of order and I'm gonna be breached. I mean the only one, the thing with the dog, it was withdrawn. I wanted to breach but she was going to plead not guilty and I don't know what would have happened with that. We have to get the county solicitor I think but it doesn't come to that very often.
Will the court demand a lot of evidence if it's contested breach?
I don't know it's very rare that there's been a contested breach. I don't know if that the same with other people ...most of the breach we've ever done, people have admitted the breach. PO10F

As the quotes above suggest breach action is typically reserved for cases of persistent absenteeism. Thus, as noted in chapter five, only 8 of the 17 probationers who reported several violations were breached. They reported that they were breached because they failed to attend several appointments (in one case up to 6 appointments) without due notification.

The tendency to reserve breach action for cases involving persistent violations was also observed in community service/unpaid work supervision. The unpaid work supervisor below alluded to this tendency:

> *Okay so do you think then that the threat of taking them back to court actually works as an effective deterrent to make them come in?*
> I think in my own experience that doesn't happen a lot.
> *That's being taken back to court?*
> They [those serving unpaid work orders] know that. I think they're [the officers are] too lenient ...we would have far better attendance, we would have far better behaviour if they were really serious about following it through... UWS1M

The quotes above suggest that full activation of the enforcement process is typically reserved for persistent violations. Full activation entails sending a final warning letter and initiating breach action in court.

9.4.4: Interim behaviour and breach outcomes

Breach outcomes would depend on whether the officer invokes either a prosecutorial function or a defence role. Both are strategic actions determined by several conditions. Where the client reengages in the interim, the officer invokes the defence role. Where violations persist in the interim, the officer invokes the prosecutorial function. Therefore, the probationer's response determines whether the breach will be constructive or punitive. The officers offer the probationers several appointments in the interim between initiating breach action and the breach hearing. This provides the probationers with the opportunity to reengage up to the point of the breach hearing. Where they fail to comply in the interim, the officer adopts a prosecutorial role and produces a negative breach report containing a recommendation for a revocation and resentence:

> *In writing your breach report for the court what sort of circumstances would you take into consideration?*
> ... the biggest thing in the breach report would be whether or not the person is re-engaged after the missed appointments. Because that completely changes the way you handle the breach. If they have re-engaged then you're going to be generally looking at allowing the order to continue but you would also be looking at what were the reasons behind the breach. They might not have been able to provide evidence but you may well be aware that there are significant emotional difficulties going on and you will be making that known to the court. So that they can see the difference between a deliberate flouting of the order and somebody who's just really struggling... PO3F

As mentioned above, with persistent interim violations, confrontations will be severe; officers will embark on punitive breach. This entails adopting a prosecutorial role, producing a negative breach report for the courts which will contain a recommendation of revocation or resentence. The recommendations would normally be applied by the courts as the quotes below by some officers demonstrate:

Do the courts accept your recommendations?
They do. I don't think they've rejected any of my recommendations
touch wood so far. UWO1F

So does the court normally accept your recommendations?
In the vast majority cases.PO3F

So do the courts accept your recommendations?
Almost always in breach cases... PO6M

The officers also indicated that the risk of custody for non-compliance increases in cases involving persistent violations that persist in the interim between initiating breach action and the actual hearing. A custodial sentence may also be the court's response where the probationer has failed to reengage and has had previous breach action against them. Below an officer makes this point:

> *In what sort of cases then would there be a re-sentence and*
> *custody?*
> That would be in cases where somebody's breached and then
> completely failed to re-engage. Because what will happen is,
> they'll have the warning letter and the breach letter. They'll be told
> that we're breaching them but then we would continue to send
> them appointments encouraging them to re-engage, If by the point
> we get to court they haven't re-engaged, at that point the court will
> be looking at re-sentencing exercise then they will adjourn for PSR
> (Pre Sentence Report). For it to end up in custody the person has
> then got to be saying well I'm not gonna comply because
> otherwise the court would tend to try and give them another
> chance, give them another order. PO3F

These quotes suggest that interim violations place the probationer at greater risk of a custodial sentence. It appears that the constructive breaches provided an avenue for collaboration between the practitioners and the courts to promote compliance. A reprimand as recommended by the officer in appropriate cases ensured that the probationers involved were given more chances to complete their order. Meanwhile, in the Jersey Probation Service there was evidence of active collaboration between the courts and the probation service to avert unnecessary recourse to breach action. The probation officer below highlights this

> Our courts I think on the whole are very compassionate. We have
> two stipendiary magistrates who tend to know people well, tend to
> know offenders well. And when they put people on probation,
> their hope is that people succeed. They don't want every mistake
> to be reported back to them... JPO1M

It is quite possible that the disciplinary breaches provided an avenue for this level of

collaboration with England and Wales. Disciplinary breach was viewed as a

negotiating tool useful deterring future violations. Meanwhile, the data highlighted the

pragmatism and altruism underpinning the formulation of the informal rules.

9.5: The pragmatic objectives underpinning the revised rules

As a pragmatic response to violations the informal rules reduce the extent of

unnecessary or premature breaches. The officers confirmed this. They reported that

flexible discretionary enforcement is vital because it serves the pragmatic purpose of

averting excessive breach rates. Without the discretion to define arbitrarily validated

absences as compliance, supervision will be almost impossible as most probationers

will be breached at court. To explore this further the following question was put to the

officers during theoretical sampling:

> *'What do you think will happen if you didn't have that discretion to*
> *withdraw warning letters?*

Their responses further highlight the extent of unpredictability. They also demonstrate

that the informal rules serve a pragmatic purpose. They reduce breach rates:

> Oh...we'd have people breaching all over the place, we really
> would yeah. We will have breaching all over the place without a
> doubt. PO7F

> ...I think that's what probation would like, I think they like a
> bloody system where you press a button and its generated that's it.
> But I think ..the rate of people in prison and in court would rocket
> to the ceiling. I think you have to, I think if the average person on
> probation was people who were coming here everyday at 9 o'clock
> and blah blah blah that perhaps there wouldn't be probation...
> PO9F

> Oh there would be loads more breaches; yeah there would be loads more breaches... PO10F

> It [breach rates] would probably go up wouldn't it I would imagine because if you can't withdraw something then it just stays. Yes definitely because I would imagine that a high percentage of final warnings and breach letters are withdrawn because the evidence is produced or officers feels oh well I will give them a chance. PO12F

> ... It [the courts] will be clogged up. We'll be doing nothing but breaches probably and where would that actually leave us? We'll be working like automatons and you've gotta see people as people with real lives. PO5F

> I think it's probably the best system we've had really because we do still have a little bit of leeway with it. If it was totally rigid I don't think it will be very good at all because we will breaching far more than we do. PO8F

The officers in Jersey reinforce this point. A client centred approached based on the use of discretion to ensure fair decision making was noted:

> I guess enforcement levels will change quite considerably. If somebody just didn't turn up and there was no flexibility, then enforcement will just have to kick in ...and people will go to court much quicker...if people have got genuine reasons that would damage relationships. [It] will make us became more of the enforcer rather than the worker. ... clients need to know where they stand and have clear sort of boundaries and that's kind of reinforced in the consequences of non-compliance. What I tend to do is stay on the softer end... JPO2

Although the informal rules are intended to serve a pragmatic purpose it was not initially clear from the data generated from the probation officers whether the rules are devised to fulfil this pragmatic function or whether the reverse is the case. That is, the pragmatic function of the informal rules is nothing more than an unforeseen outcome of the rules. In discussing the reluctance to enforce unpaid work requirements as strictly as required by the National Standards, an unpaid work supervisor interviewed suggested that the former is the case. The rules are proactively devised to serve a pragmatic purpose:

> We have 15 names every Saturday and we've had 15 names on our books every Saturday for at least three months and we're lucky if get 5 or 6.
> *What does (UWO1F unpaid work officer) do about it?*
> Nothing...I think the main problem is because community punishment has got to be seen to be working they want to put a tick in the box. They don't want to put down that they're absent. They don't want to put down that they're sick...I think they're terrified of doing anything...Basically I think it's because if they don't get people through the community punishment then it's gonna be seen as failure. ...If you keep putting back to court then I think it's gonna be seen as a failure and I think that is spot on. UWS1M

The unpaid work officer below is based in another office. She also reiterates this apparent reluctance to commence breach action:

> *Those cases where the offenders don't come in for two or three weeks do you contact them or try to follow up ...?*
> I don't, I email absences to Offender Managers and then it's up to them. But I am now getting to the point when I email absences to them I'm saying can you please let me know what the situation is here? As this is the third absence in a row... UW02F

It appears that the informal rules are devised for their pragmatic role in reducing breach rates. The informal rules curb excessive breach action whilst strict reliance on the formal rules would engender high breach rates. Further, it is possible that the high breach rates would be construed by the courts and by other audiences as being reflective of a failure by the service to successfully engage clients on their orders.

9.6: The altruism of the revised rules

Also underlying the informal rules is the altruism evident in the flexibility permitted by the rules. This flexibility ensures the officers are able to pursue individualised enforcement practices that accommodate the wide range of issues affecting compliance. It also ensures that the officers are able to overlook several violations thus reducing breach rates. This ensures that more probationers are able to successfully complete their orders. In addition one might argue that a potential strength of the informal rules is the possibility that it could enhance perceived

legitimacy. The responsiveness and individualisation permitted by the rules may ensure that enforcement practice is perceived to be fair by the probationers. The case of probationer P2M described in Chapter seven illustrates the link between perceived fairness during enforcement decision making and compliance.

Although the informal rules permit greater flexibility, accommodate the realities of practice and may enhance perceived legitimacy, it also poses several implications for compliance. It may undermine the perceived certainty of punishment. This according to the deterrence theorists is crucial for achieving deterrent effects. The potential loss of certainty is exacerbated by the finding that many probationers are aware of the flexibility permitted by the informal rules. At different stages of their interactions with their officers, the probationers become privy to the informal rules and the variable responses to violations these rules engender.

9.7: Communicating the informal rules

The probationers confirmed that they become aware of these rules at the start of the order:

> *When you started this order were you told what you should do if you can't come in?*
> Yeah they said you phone up and say either a day before or a couple of hours before if you can't turn up... P22F
>
> *... What were you told to do if you can't come...?*
> Phone before your appointment...as soon as even if it's a day before. P26M

The probationers also become aware of the informal rules through the officers' actions in reacting to violations. Having deviated from the formal rules, the probationers either experience enforcement action – (constructive or punitive breach), minimisation – (no warning letter sent) - or deactivation – (warning letter sent and withdrawn). Through these processes, they become aware that breach action is

typically reserved for persistent absenteeism with no contact made to the officer or to the office. PO1M below reveals the extent of violations that triggered breach action:

> I got breached at the beginning of the year cos I missed like six appointments. I was going through quite a bad stage in my life. Lots of things were going wrong and I couldn't deal with facing this you know? And I didn't come in... PO2M

Similarly the probationer below describes his experiences of flexible enforcement:

> ... they did give me a few warnings you know, they did give me a bit of leeway and then obviously...I missed a few appointments and they were like you should come in otherwise you are gonna turn up back at court and stuff
> *Oh! did you miss some appointments.*
> Yeah I missed, I missed quite a few I was supposed to come in every week and I missed like 3 weeks or something.
> *Did you phone them?*
> No that's the thing I didn't phone them. Well, I did phone them about a week or later on every incident and they were like you should phone us or you should try and get here and then I missed one appointment   and it was like fair enough he's passed that boundary now. So they had to send me back to court. P7M

Above the probationer recognises that his failure to maintain adequate contact may have triggered breach action. Other probationers confirmed this; their reports indicated that a link exists between the experience of the officer's reaction to violations and subsequent knowledge of the need to comply with the informal rules in the event of future absences. Thus, in applying the informal rules, the officers unwittingly reveal the extent of discretionary enforcement. The probationers are aware of the ease with which the officers are able to deactivate the enforcement process using their professional discretion. It has been noted earlier that many probationers are aware of the variability of the officers' reactions to violations. Below, a female probation officer acknowledges that a potential link exists between knowledge of discretionary enforcement (variability of the officers' reactions to violations) and undermined certainty.

.... How do you feel that the use of discretion affects effectiveness in enforcement?
if you've got someone who isn't attending but that order is not being enforced in the officer's discretion because they are accepting the absences all the time, then they are not gonna comply because they think that they don't have to and they get away with it. PO2F

This suggests that knowledge of discretionary enforcement may undermine the perceived certainty of punishment. According to the deterrent theorists, of the three principles of punishment namely the severity, celerity and certainty of punishment, the certainty of punishment tends to produce the strongest deterrent effects (von Hirsch et al. 1999).

The current study found that the informal rules devised by the officers ultimately affect the nature of compliance achieved. The links between the informal rules and compliance may become more evident in the exploration of the probationers' reactions to the informal rules further below. The probationers' reactions typically assume the form of adaptation to the informal rules.

9.8: Managing contradictions: variations according to officer demography

An attempt was made to explore whether there are variations in enforcement philosophy and practice across the offices visited and the officers sampled and also how the variations may be linked to compliance. Limited variations were found across gender, age or officer training styles. The study found that for most of the officers, the informal rules are crucial for ensuring a degree of compliance.

It has been suggested anecdotally that the attributes of individual officers may affect the nature and quality of supervision offered (Bottoms 2001). For instance, one may presume that the officers trained under the new style correctionalist training arrangements may enforce orders more readily than their social work trained counterparts. This was implied by one of the officers interviewed. However there was

limited evidence that the newly trained officers are more committed to a more rigid enforcement approach than their more experienced colleagues. PO4M was trained in Social Work principles and below he discusses his newly qualified colleagues:

> I know people who, if people are late they will breach them ... there's a lot of younger or newly qualified who will try and stick to the book the rules and will breach people really quickly. I mean the chap who came in this morning he was breached and he works but then he had to provide proof and it was withdrawn.

This implication that the recently qualified officers may resort to breach action more readily has been challenged empirically (Treadwell 2006). PO4 below is a newly trained officer. She acknowledged the correctionalist trend in probation practice although she also reported that she applies a more responsive and flexible response to non-compliance:

> I say to people straight on at the beginning, you know what you got to do, you got to keep your appointment but if there's a genuine reason then I'll look at it and stuff. So I try and come across as a human person not this machine. PO4M

The quote above also demonstrates the process of communicating the informal rules during proactive rule clarification. In all, no significant differences were noted in the manner in which the officers respond to violations. Most officers tended to apply the informal rules in order to secure compliance. The current study found that the probationers subsequently develop adaptation techniques to ensure that their compliance patterns conform to the informal rules.

9.9: Adaptation techniques

The probationers internalise the flexible enforcement processes incorporated in the informal rules and they adjust their behaviour accordingly by developing adaptation techniques. The techniques ensure that they remain within the limits of informal boundaries. Adaptation entails compliance with the informal rules, that is, notifying the officer of an intended absence or contacting the office after an absence. For

instance, having experienced enforcement action, P7M below demonstrated

adaptation techniques:

> *So if there's something that you need to do you wouldn't come in?*
> I'd phone and check first you know, and fair enough [PO6M-my probation officer's] someone like that he would say alright this is important I'll send you another date.
> *So if you are tired and can't be bothered to come in what would you do?*
> I'll phone now yeah I'll phone them up yeah, or get someone else to phone for me if I can't like get out of bed or if I'm really ill I'll get someone to phone for me.
> *Has that [phoning in to explain absence] happened since you were taken to court do you remember?*
> It's happened once or twice but generally I'm looking after myself a bit more and that.
> *And what did [PO6M-your probation officer] say?*
> Well PO6M basically said: why aren't you coming in? And I give him a reason why and he said that's fair enough we'll set another date sent me a letter so I come in on that date, you know?
> *And what if you forget have you ever forgotten to come in?*
> Once or twice yeah
> *What did you do then?*
> He's PO6M's asked me why haven't I come in and I said I just forgot cos sometimes cos you get given a slip for your next date and sometimes you lose it and like last week I lost my one so I phoned up last week cos its only it's like once a month now so I thought it was this week so I phone up and checked but I told he said come in at twelve so I was here at b***** twelve o'clock.
> P7M

Added to those who had experienced enforcement action, other probationers who had

experienced flexible reactions to non-compliance (their absenteeism or other

violations had been minimised or ignored) also revealed similar adaptation

techniques. Below P4M serving his order for a sex offence describes his actions when

he fails to attend his appointment:

> Well at the moment I am attending other hospital appointments but I'll tell them if I don't in advance and he said don't worry about that...we'll give you another date which is he's being very very fair.....as long as you let them know what's going on they're happy. P4M

Other probationers demonstrate similar adaptation techniques:

What did you do then...? [When you failed to attend].
I telephoned to say I didn't have any money I couldn't make it. He was alright then, he just said...I'll let it go this time but try not to miss any appointments, which is fair enough I don't mind. P26M

So what did you do (when you failed to attend) phone them?
Yeah you just phone and explain and then... if you do that then I think it's alright. But if you were miss to it and didn't phone or come in and didn't bother to do nothing then you get...
Who did you speak to?
Receptionist and then they get in touch with [PO14M - my probation officer] and then PO14M phones me... P19F

So what do you do if you can't attend probation?
I normally phone the [PO16M-my probation officer] and I explain to him... P20M

These statements reveal an internalisation that absences with no form of contact will usually attract breach liability. Given the degree of flexibility permitted by the informal rules (several absences are either ignored or minimised provided there is notification) it is not surprising that the probationers also become aware that breach action is typically reserved for persistent absenteeism without advance or subsequent notification. This is one of the possible outcomes of the informal rules, other implications are considered below.

9.10: Implications of adaptation

Several implications of the tendency to adapt to the informal rules were noted namely, undermined perceived certainty, unwitting exploitation, the failure to adhere to routine appointments, the tendency to minimise forms of non-compliance and the normalisation of deviance.

9.10.1: Undermining perceived certainty and exploitation

Whilst many probationers did not demonstrate a clear understanding of the formal rules, all were aware that there are risks associated with non-compliance. Although there was a high perception of risks, all had missed one or several appointments and most had violated the formal rules at some point of the order. Where these violations

had been ignored or minimised, the perceived certainty of punishment may be undermined. Although most of the probationers reported that they were fully aware that the officer is mandated to fulfil their enforcement role, the possible deterrent effect of this realisation may have been undermined by the variability of responses and the flexibility engendered by the informal rules.

In addition, the study found that some probationers unwittingly exploit the more flexible rules. For instance, in Chapter six, it was noted that some probationers provide false excuses for absences. The case of P24F was discussed in Chapter six but it is worth recounting here as it illustrates a possible exploitation of the flexible informal rules. Below she describes how the officers respond to her violations:

> Id just ring up and make an excuse. I've done that before. I wanted
> to go shopping with my little boy...I done that once.
> *And what did they say?*
> They just said its fine ...
> *So have you ever got a letter saying you did not come in...?*
> Yeah, loads...Well I've probably had, I know they threatened to
> send me to court twice, which I think that was on the last order
> though that was about a year ago now, they're pretty soft here...
> *What happens when you get the letter?*
> I just rip them up and then I come and see them.
> *But so far you haven't been taken to court?*
> No. P24F

The probationer P24F adopts breach avoidance techniques by ensuring that she maintains adequate contact even where the reasons for absence are unacceptable. This suggests that the probationers may be aware that in many cases any type of excuse will suffice. Maintaining contact is the determining criteria. The nature of the excuse provided is not as significant.

The officers' willingness to reschedule appointments on receipt of a notification of an absence may undermine the policy objective of ensuring that structural appointments encourage routine compliance:

> *So if there's something that you need to do you wouldn't come in?*
> I'd phone and check first and fair enough [PO6M-my probation officer's] someone like that, he would say alright this is important I'll send you another date. P7M

> *What do you do then if you can't come in...?*
> I phone up then and say can I speak to [PO16M my probation officer] and I say I can't come in because A is bad or B is bad or ..But I'm always here...If I don't come here then it's because either he's bad (her son) or she's bad, my little girl is bad ...nothing else I bring them with me...
> *What do they say when you tell them that?*
> Oh it's alright I book you neither appointment for the next week... P21F

> *So if there's something important that you want to do or you need to do and you can't come in to your appointment what will you do then?*
> I'd phone [PO13F-my probation officer] to let PO13F know to see if she could change the time and the day or to see if they can either swap my probation appointment round... P24F

Probationers are therefore aware of the flexibility with which officers re-arrange scheduled appointments. Compliance is then defined to include the failure to attend scheduled appointments. This definition of compliance may undermine the importance of scheduled appointments as a mechanism for introducing greater structure into chaotic lifestyles by encouraging routine compliance. Further, the study found that the tendency to frequently reschedule appointments may produce 'subversive non-compliance'[xl] in which the probationers manipulate situations in order to avoid attending structured appointments. Such manipulation represents a potential consequence of the more flexible processes permitted by the informal rules. Below an officer makes this point:

> ... I get people trying to sort of, its sort of subversive non-compliance... I'll turn up but I'll phone you and I'll turn up two hours late. And it's that sort of thing that I usually get. They will move appointments around and I suspect it's because they know I'm a bit of a soft touch that way...
> *In what sort of circumstances will you reschedule an appointment, for example if someone phones in is not able to make it or if someone misses an appointment what will you normally do?*
> I explain to them they have to be seen in a week. So if somebody rings in saying my dogs been run over, okay fine come in tomorrow and I'll give him a time and if he doesn't come in tomorrow then you're gonna have to get a warning letter you know? I'm aware I'm a lot more flexible than perhaps other probation officers will approve of so yeah. PO17F

It follows that frequently rescheduling appointments may encourage manipulative behaviour. The probationers alter reporting arrangements to suit their purposes thereby undermining the role of scheduled appointments in reintroducing the non-criminogenic routines that may engender longer term compliance (see also Bottoms 2001).

9.10.2: The normalisation of deviance

Internalising and adapting to the informal rules that minimise violations may encourage definitions of compliance that include behaviours that would constitute non-compliance within the formal rules. This was observed in the finding that missed appointments that would normally constitute non-compliance according to the requirements of the National Standards were being classified by probationers as compliance. By ignoring these types of violations or by reacting to these forms of non-compliance by deactivating the enforcement process, the violations appeared to have been validated by the officers exercising their professional discretion. As noted in Chapter five this tendency to minimise violations was noted during interviews with the probationers. The question *'have you ever missed any appointment since you started this order?'* or *'have you attended all your appointments since this order started?'* tended to attract responses denying any missed appointments. Although the

probationers would subsequently reveal that they had indeed failed to attend their appointments sometimes on several occasions. Absences where the probationer makes contact with the officer or with the office were being defined as compliance even where -

- The rates of absenteeism exceeded the limits permitted by the standards and/or

- The absences appeared to be unsupported by evidence and/or

- The absences appeared to be for unjustifiable reasons and were indeed recognised as invalid absences by the probationers

This finding alerted me to the possibility that absences falling within the three categories above were being almost automatically normalised and redefined as compliance by both the officers and the probationers. Below is an example of how the probationers tended to respond to the initial questioning:

> *So have you attended all your appointments since the last time we met?*
> Every single one. P8F

> At a later stage of the interview the probationer states:

> I mean I missed the very very first one I ever had. Basically I just completely forgot. I was honest enough about it. I said to [PO7F-my probation officer] there was no need in lying to her because that would have got us off on the wrong foot in the first place. I said look I am sorry I just did forget completely forgot about it and I went off the day and it wasn't till I was wandering along ..I thought I'm meant to be at probation office- Oh dear! P8F

The quote above demonstrates the tendency to normalise violations. The probationer failed to attend her first appointment because she forgot but almost automatically, she responds to the initial question by declaring that she has attended 'every single one'. Other probationers displayed this tendency. Therefore, it was clear that with this line of questioning, it would become difficult to understand the nature of compliance. Redefinitions and normalisations as in the example provided above would tend to

mask the extent of non-compliance thus undermining the ability to generate an accurate picture of the nature of compliance with community penalties. Consequently, in order to generate an accurate picture of compliance patterns and the extent of absenteeism, I had to revise the interview schedules as described in Chapter five.

The interview data were reinforced by the data generated from the analysis of a cross section of case records, from some observations of interactions between the officers and the probationers and also from informal chats with the officers. In all, the data pointed to the tendency to reserve rigid enforcement (in line with the provisions of the National Standards) to cases involving the persistent failure to attend appointments with no contact made to the officer.

9.11: Conclusion

Compliance is linked to three processes namely: reacting to the formal rules; confronting unpredictability and adapting to informal rules. There are situational and structural contradictions underpinning the three processes. The probationers are confronted with the problems posed by interactional factors and the obstacles that affect how they comply. Further, the officers strive to manage several contradictions posed by policy constraints and the unpredictability of their clients in order to secure compliance. Ultimately, the officers' actions in managing these contradictions affect the nature of compliance. It appears that the actions of most of the officers' are also underpinned by the altruism and welfarism associated with probation practice in its early formations, although on a pragmatic level, the officers also recognise that a welfare oriented approach is necessary for successfully engaging the probationer. Consequently, the compliance mechanisms employed by most of the officers depart significantly from the enforcement mechanisms proposed by policy. The compliance strategies most officers adopt incorporate the use of discretion to circumvent the

restrictions posed by the contradictions that affect their efforts to secure compliance. Utilising their discretion, the officers formulate informal rules and more flexible rules. The informal rules are mutually beneficial rules. They are beneficial to the officers because they serve the pragmatic purpose of reducing breach rates. Reductions in the rates of court breach may be construed as evidence that the service is able to effectively engage the probationers. Likewise, reduced breach rates suggest that the service is able to provide credible punishments that also serve as effective mechanisms for protecting the public and managing risks. Thus, the flexible rules ensure that the service is able to demonstrate that the key objectives of supervision particularly the punitive objectives, are being achieved. These indices of effectiveness may preserve the credibility of the service with sentencers and with wider audiences. The informal rules also serve an altruistic purpose. They ensure that during enforcement, the officers adopt an individualised approach to enforcement that accommodates the wide range of factors that affect compliance, factors that are not properly accounted for by the 'prescriptive' enforcement standards. The study explored how these informal rules may be linked to compliance patterns if at all. The data revealed that the informal rules are subsequently internalised by the probationers. Thus, although many probationers had limited knowledge of the formal rules, most demonstrated an awareness of the informal rules. They would have experienced the officers' actions in activating or deactivating the enforcement process, or in ignoring and minimising violations. The probationers' experiences of the officers' reactions to violations foster a heightened awareness; internalisation and subsequent adjustment to the informal rules. Thus the probationers develop adaptation techniques. These are breach avoidance techniques that consist of ensuring that compliance patterns fall

within the parameters permitted by the formal rules (absences are supported by some form of contact).

There are several implications of adaptation. The probationers operating within the informal rules may knowingly or unwittingly exploit the new and more flexible rules they permit. Likewise, flexible reactions to violations in which the officers readily reschedule routine appointments may impinge on the ability to introduce some structure into chaotic lifestyles in order to foster routine compliance as defined by Bottoms (2001). The revised rules may also encourage the minimisation or normalisation of non-compliance. Finally, part of the adaptation process involves an internalisation that certain punishment would typically be reserved for persistent non-compliance without contact. This undermined certainty of punishment should according to the deterrence theorists; undermine the deterrent effects of the enforcement framework although from the participants' accounts, the framework appears to have limited impact on behaviour.

In sum, the third process underpinning the reality of compliance is adaptation to the less demanding compliance requirements developed by the officers and internalised by the probationers. The informal rules appear to be more significantly linked to compliance patterns than the formal rules. They permit violations and absences that exceed the legally prescribed limits. By adapting to the informal rules, the probationers are able to attain the low level of compliance required of them. This level of compliance falls short of the formal requirements.

Chapter Ten: Contextualising the findings within the extant literature

10.1: Introduction

In this chapter, an attempt is made to contextualise the findings of this study by juxtaposing the study with the extant literature. First the chapter identifies the key findings of the study in order to contextualise these within the existing literature. This facilitates an exploration of the points of convergence and divergence. A crucial divergence from the findings of the empirical literature is highlighted. This pertains to the nature of compliance as the product of symbols that define specific behaviour. These symbols emerge during interactions. Thus, in examining the perspectives of the parties involved in negotiating compliance, the symbolic nature of compliance with community penalties emerged. This insight into the nature of compliance provides the basis for resolving the research problem underpinning this study.

10.2: Revisiting Bottoms' mechanisms of compliance

The framework for understanding as devised by Bottoms (2001) provided a conceptual framework that guided this study. However, the study found that the three key processes already explored in the previous chapters appeared to be more significantly linked to compliance. These are: reacting to the formal rules; confronting unpredictability and adaptation techniques. Nevertheless, the findings also provide insights into how the mechanisms identified by Bottoms may affect compliance.

10.2.1: Routine compliance

An attempt was made to ascertain whether lifestyle and routines affect compliance in line with Bottoms' (2001) conceptualisation of routine compliance. This study found that routines may act as obstacles to compliance. The adverse impact of routines is most potent where routine substance misuse fuels chaotic lifestyles. The previous

chapters discussed the officers' efforts to secure compliance despite the challenges posed in these cases.

In addition, the tendency to readily re-schedule fixed supervision appointments was noted. This undermines the importance of establishing scheduled appointments in order to introduce some structure and encourage routine compliance. Officially it is expected that rescheduling should be reserved for 'rare' cases (National Standards 2000). It has been suggested that the observed readiness to reschedule appointments may be linked to its role in inflating compliance records in order to achieve funding linked performance targets. Hartland (2007) points out that, appointments rearranged before the scheduled appointments are recorded not as 'appointments offered' but as 'appointments re-arranged'. The latter are not counted for the purposes of performance assessment. Given that many appointments are rearranged, this practice inflates the number of appointments recorded as 'appointments kept'.

Putting this rather ingenious recording process to one side, one might argue that adhering to structured appointments may over time, engender routine compliance that may be replicated in other situations. The ability to maintain a degree of structure in one's life is a skill that can be useful as part of a comprehensive rehabilitation strategy aimed at replacing chaotic or other criminogenic lifestyles with structured pro-social routines.

10.2.2: The classical theories of compliance

We can recall that two of the mechanisms of compliance devised by Bottoms (2001) are theoretically rooted in classicism and the perceived rationality of human action. The study found limited evidence of the importance of disincentives or the use of constraint based mechanisms although as perceived by the participants, the use of incentives to encourage compliance (an instrumental mechanism) appeared to be an

important compliance mechanism. Several incentives were cited by the probationers to be more fundamentally linked to compliance than the disincentives prescribed by policy or the degree of constraint imposed.

10.2.2.1: Constraint based compliance

The degree of constraint associated with probation supervision is restricted to the enhanced reporting arrangements reserved mainly for those assessed as high risk. Revealing the limitations of this constraint-based mechanism, P1M a male probationer assessed as high risk reported that the central factor motivating him to comply is the opportunity to talk with his supervisor and 'dump' or 'talk out' his problems. He reported that the risk of custody for non-compliance was not of any significance to him. His views of custodial sentences were recounted in Chapter seven. Meanwhile, although he was subject to enhanced reporting arrangements and under MAPPA surveillance, his attendance was at best sporadic. I was able to observe this because of my frequent visits to the office.

10.2.2.2: Instrumental compliance

The rationalistic conceptualisation of the offender pervades the current government's thinking about the characteristics of offenders and hence the reliance on instrumental compliance mechanisms. At policy level, deterrence is the key disincentive whilst early revocation for good compliance is the primary incentive offered to ensure compliance.

10.2.2.3: Disincentives: the deterrent framework

As noted in Chapter one, studies show that despite the punitive enforcement framework, non-compliance rates remain high. This highlights a disparity between policy objectives and actual outcomes. I hypothesised that two explanations may be posited for this disparity between policy objectives and actual outcomes: the

possibility that actual practices may diverge from strict enforcement recommendations and also the possibility that the punitive framework may in itself be an ineffective strategy for ensuring compliance.

This study found a high rate of absenteeism despite heightened perceptions of risk. This suggests that the deterrent framework appeared to produce limited deterrent effects. Further the enforcement framework appeared to impinge on the officers' ability to retain a degree of autonomy and discretion in enforcement decision making. The processes linked to compliance were the informal rules devised by the officers and the adaptation techniques developed by the probationers to ensure that they are able to comply with the informal rules. The rules aim to resolve the contradictions posed by prescriptive policy provisions and the unpredictability of the probationers.

10.2.2.4: Incentivised compliance

The study found that the primary compliance mechanism employed by the officers is incentive-based. As was shown in Chapter One, studies exploring the probationer's perspective reveal a widespread belief that the objective of supervision is to secure rehabilitation through the provision of help to resolve socio-economic, practical, therapeutic and other problems. This study confirmed this. It found that instrumental mechanisms in the form of incentives were construed by the probationers as the benefits of supervision and cited by them as the most motivating compliance mechanisms. The study also found that the officers utilise incentives based on the clients' expressed needs and interests to encourage compliance. From the outset at the reporting writing stage before sentencing, prospective probationers are informed of the benefits of supervision. This is repeated during induction at the start of the order and one officer reported that they tend to 'sell' what they have on offer as part of their compliance strategy. Perhaps this contributes to the documented tendency among

probationers to define the objectives of supervision mainly in   terms of the accruing

benefits.

It appears that the use of incentives to encourage compliance is endorsed not only in

wider policy but also in the relevant literature. For instance, Underdown (2001.120)

recommends that 'The heavy emphasis on disincentives needs also to be enriched by

some balancing incentives - often remarkable by their absence from the community

penalties system'. He calls for 'stronger incentives' which should be 'consistent and

predictable, and established within a legislative framework'. Equally, Hedderman and

Hough advise:

> Encouraging offenders to appreciate 'what's in it for them is another
> obvious strategy. Appealing at the outset to their self interest by
> spelling out the help which can be accessed in relation to
> employment, education, accommodation, finances, childcare and
> transport may encourage attendance in a way that promising to work
> with them   on their offending behaviour may not.... making
> offenders realise that their efforts and self motivation will accrue
> significant benefits such as early termination, or that they can
> receive help with practical social problems such as employment and
> so on, may encourage compliance more than promising to enhance
> their cognitive behaviours (2004: 164-16/191)

Hedderman and Hough (2000; 2004:158; 191) go further to recommend 'a graduated

system of positive rewards which could be incorporated into the National Standards'

(see also Hearnden and Millie: 56). They also recommend disincentives such as

reinforcing the risks of non-compliance. Bottoms and Gelsthorpe (2001) advocate 'a

more imaginative, incentives-based and encouragement-based approach'. Others point

to incentives based strategies that may be devised by the individual (Underdown

2001).

10.2.2.5: Problematising incentivised compliance

There are several reasons to reject the use of incentives to encourage compliance and engagement with the order. Before I proceed with a full discussion of these reasons, I should acknowledge that the commentators cited above do offer compelling arguments for the use of incentives. Further, the importance of being responsive to needs as part of a comprehensive compliance strategy cannot be overemphasised.

Nevertheless, a reliance on instrumental mechanisms of compliance reinforces the classicist position that the social actor is essentially self –gratifying and that human behaviour is the product of calculations of self interest. This negative view of human nature reflects the belief of some social control theorists that without adequate controls which ensure that the costs of crime outweigh the benefits, most people would offend (Hirschi 1969).

Apart from the pessimistic view of human capabilities orchestrated by an instrumental view of compliance, another implication of this reliance on the use of incentives as the primary compliance mechanism is that it overrides the normative potential of supervision. From a commonsense perspective, one can argue that normative compliance is a more sustainable form of compliance given that it does not rely on the constant interplay between the often cost intensive incentives and disincentives associated with classicist oriented mechanisms (see also Tyler 2003). Furthermore it fits well with the current government's cost effectiveness drive as it requires considerably less resources to sustain it based as it is on internalised obligations. However, normative mechanisms require time intensive work that is more difficult to implement in a fast paced, time restricted and target driven practice context. In proposing the use of incentives, Hedderman and Hough (2004) acknowledge that normative mechanisms are more difficult to implement although cognitive

behavioural approaches, the influence of family members and prosocial modelling techniques may encourage normative compliance.

Perhaps indicating the extent to which incentivised compliance appears to prevail in practice, the study found that although the probationers tended to evaluate their officers positively, the evaluations were based on the perceived benefits of their engagement with the officers. Positive evaluations of an authority would usually imply that the authority is perceived to be legitimate. Such perceptions have been shown to correlate with compliance (Tyler 2003). However where the positive evaluations are based on calculations of the benefits accruing from interacting with that authority, the compliance achieved is not normative. Rather, it is instrumental and based on considerations of self interest:

> if people feel their interests are being furthered by the authorities, they will support the authorities for reasons of short term gain...evaluations of performance should therefore be distinguished from legitimacy, which is a perceived obligation to obey based on motivations other then short term self-interest' (Tyler 2005:50).

Therefore, legitimacy theorists differentiate between instrumental compliance based on anticipated benefits or incentives, and normative compliance. Incentivised compliance stems from perceived short term benefits. This can be differentiated from normative compliance based on the internalised obligation to obey irrespective of self interest.

10.2.2.6: Reinserting the normative dimension of supervision

The supervision relationship is a potential avenue for encouraging normative compliance. It was noted in Chapter Two that normative compliance can emerge from bonds with authority and the perceived obligation to obey because the authority is perceived to be legitimate. The present study found that where enforcement decision making is perceived to be unfair, it can engender non-compliance. In

addition, the study found that a crucial element central to enhancing perceived legitimacy and ensuring compliance is the nature of the relationship between both parties. Where a positive relationship has not been established, the probationer is more likely to consider that the decision making process is unfair and to thereby defy the directives of the officer.

In Chapter six, two cases were cited as evidence of this. In both cases, both probationers refused to attend their appointments because of the perceived poor quality of treatment received. They subsequently resumed their attendance having been transferred to different officers who then completed the enforcement process. They accepted the legitimacy of the punishment for breach and they reported that their defiance was triggered by the poor quality treatment received and not by the officers' decision to initiate breach action. Perhaps a striking aspect of this finding is that both probationers evaluated their new officers in positive terms although it was these officers that completed the enforcement process. They accepted the legitimacy of the officers' authority in prosecuting them for breach and were happy to comply with their directives.

Therefore, although the current focus appears to be on the use of instrumental mechanisms of compliance, the normative potential of the supervision relationship may be developed to enhance normative compliance. Prioritising the relational element of supervision and its role in shaping perceptions of legitimacy may be a more productive approach to securing compliance. During interactions between both parties the bonds or the attachments with people in authority that may foster normative compliance based on perceived legitimacy may be developed.

10.2.2.7: Effective practice skills

A second example of the normative potential of interactions between both parties is provided by the finding that the relationships between both parties were largely positive and thrived on: welfarism (caring and supportive not authoritative); reciprocity; egalitarianism (most probationers described their officers as 'a friend'), trust and honesty. This reveals a normative base that can be developed by replacing the reliance on instrumental compliance mechanisms with normative mechanisms.

Furthermore, there are several empirically verified techniques that may be employed by the officers in this respect. The effective practice literature identifies these skills and techniques (Dowden and Andrews 2004). The skills derive from the cognitive behavioural approaches and also from the prosocial modelling approaches. The skills can only be implemented during interactions with the probationers and they should form the core of the relational dimension of supervision. These techniques revolve around the effective use of authority, problem solving, motivational interviewing techniques, and prosocial modelling techniques (See generally, Trotter 1996; Miller and Rollnick 2002; Dowden and Andrews 2004; Raynor 2004.203). They aim at promoting the ability of the probationer to make the changes that they identify for themselves. Problem solving becomes a collaborative effort. In the process, the probationer develops the skills necessary for sustaining prosocial lifestyles. Therefore, the officer's role in helping to improve the probationer's self efficacy and self concept, whilst promoting pro-social behaviours are central to this approach.

Given that they encourage collaborative working relationships and good quality treatment, employing the effective practice skills should ensure that the antecedents of perceived legitimacy namely, 'responsive regulation' as defined by Murphy (2005) or 'procedural justice' as defined by Tyler are incorporated in practice. Perceived

legitimacy can also be reinforced by the projected role the officer adopts in order to transfer vicarious liability for enforcement to wider policy. It follows that the perceived legitimacy of authority based on perceived fair treatment can be reinforced where enforcement action is viewed as an institutional mandate performed almost reluctantly and prompted by the actions of the probationers themselves. The onus is on the probationer to ensure that the officer is not forced to pursue this role. In any event, enforcement would only arise where the actions of the probationers make it imperative.

In sum, it is clear that the supervision relationship provides an avenue for encouraging normative compliance. In line with other studies, this study has shown that probationers tend to report that a positive relationship with their officers in the form of 'support and encouragement' is crucial (Rex 1999; Trotter 1996) and may enhance normative compliance (Rex 1999:379). The ability of officers to exert a 'positive moral influence over probationers' as mentioned in chapter two has also been noted empirically (Rex 1999:380; Burnett and McNeill 2005). The current study found that positive relations (a good rapport) between both parties and also, the opportunity to discuss problems encourage compliance. It is possible that these may operate as compliance mechanisms even where no disincentives (or incentives) are attached to non-compliance. Moreover, the apparent reliance on instrumental mechanisms appeared to have very limited impact on compliance patterns. By reframing in normative terms the compliance strategies that are currently defined in instrumental terms, their normative potential can be realised.

10.3: Revisiting the themes from the wider literature

Broadly, this study is consistent with several themes from the relevant literature. It found that non-compliance typically assumes the form of absenteeism. It also found

that most of the probationers violated their orders by failing to attend appointments for reasons that they described as invalid despite the existence of a deterrent enforcement framework. Another area of concordance with the wider literature is the positive evaluation of supervision typically offered by many probationers and the centrality of the opportunity to discuss problems. Further, the obstacles to compliance identified in the study were broadly consistent with the wider literature. Thus the study found that socioeconomic disadvantage such as unemployment or a sporadic employment history, accommodation difficulties, and financial problems are potential obstacles to compliance. Likewise, practical problems particularly travel related difficulties and lifestyle obstacles linked to substance misuse may also affect attendance as can negative relationships during interactions. Other correlates identified by the literature are the nature of the offence – dishonesty offences such as having a burglary conviction, age, gender and the length of the order, levels of self motivation. Based on the participants' accounts the study found evidence of most of these correlates of non-compliance.

Further, in line with the existing studies, the study found a reluctance to enforce compliance as rigidly as prescribed by the formal framework. It also found that although contemporary policy changes appeared to accelerate the shift towards correctionalism, the officers retain a primarily welfare-based approach to supervision and enforcement.

10.4: Organisational ethos: the impact of contemporary policy developments

Reinforcing the observations of several commentators cited in Chapter one, in describing the factors that impinge on practice, the officers highlighted *inter alia:* the prescriptive rules and the quest for standardised and cost effective practices. According to the officers, these policy trends undermine professional autonomy. The

policy developments complement the government's managerialist agenda and the quest for cost effectiveness, accountability and standardisation. Further, the policy trends are corollaries to what commentators have described as the 'performance culture' inherent in probation policy (Gelsthorpe and Morgan 2007). The current study found additional policy constraints that affect the nature of supervision. In line with the existing literature, there was evidence of fragmented models of service delivery. Aligned to this is the increasing demand to ensure partnership collaborations with external agencies, to delegate duties to ancillary staff, and also, the specialised models of service delivery operating in some areas which replace traditional generic models.

The study was conducted as the specialist models that are particularly suited to the Offender Management framework of service delivery were being phased in. In some of the offices specialist models were operative. Further, in offices operating the generic model, important components of the officers' traditional roles were delegated to other staff mainly, trainee probation officers and probation services officers. The latter in particular, were engaged in interventions or case work with low risk clients. The probation service officers also tended to occupy the role of breach officers in some offices.

The probation officers offered mixed views about the impact of specialist service delivery models and generic models. At the practitioner level, whilst one officer welcomed the opportunities and additional resources offered by delegation, some regretted the reduced contact and perceived deprofessionalisation entailed by the shift from the Social Work oriented Casework approach to Case Management functions. There was concern about the loss of continuity in supervision. In addition, some of the probationers attested to the detrimental nature of having numerous supervisors in the

course of an order. It has been argued that specialist models fuel discontinuity and this impinges on staff morale and job satisfaction. It may also create 'status differential' whereby specialism in high risk cases is deemed to be more prestigious than other roles (Robinson 2005:311-312).

10.4.1: Discontinuity

Some of the officers identified links between the fragmented model of service delivery and increased bureaucratic functions on the one hand and discontinuity during supervision on the other hand. From the respondents' accounts, the problems posed by discontinuity include the difficulty of having to re-invest trust in different supervisors. It has also been argued that it is accompanied by the difficulties linked to implementing a sentence plan that was developed collaboratively by the client and a different officer (Raynor and Maguire 2006). Continuity enables the probationers to develop trust and to establish a rapport, both of which may encourage honest disclosure and successful engagement.

The importance of continuity during supervision and the difficulties of maintaining continuity have been noted officially. In the Home Office sponsored study by Partridge cited earlier, it was observed that:

> It was rare for one case manager to oversee an offender throughout their entire community sentence. While this is an ideal way of ensuring continuous contact, it is often impractical in reality due to resource issues, staff turnover or the way a model is structured (Partridge 2004:5).

Partridge found that specialist Case Management models were most prevalent. Robinson (2005) traces the fragmentation of service delivery to the shift away from the traditional 'relational model' of supervision. The shift emerged with the introduction of statutory partnership working, the new Case Management approach to supervision and more recently, the tiering system introduced in recent policy

(Robinson 2005:307). As mentioned in Chapter one, the current National Standards provide for the categorisation of probationers across four tiers on the basis of assessed risks. The tiers range from low to high risk with the levels of intervention and control increasing in intensity as the probationers progress up the four tiers. The tiering system is deemed to be a corollary to the risk management trend in policy representing the recasting of offenders as 'portable entities to be assessed and then 'managed into' appropriate resources' (Robinson 2005:310; emphasis in original). Although some of the officers reported that the division of labour entailed by the tiering system should alleviate the problem of heavy case loads, other officers in this study were unequivocal in their belief that a link exists between discontinuity and non-compliance. In addition, some of the probationers expressed their dissatisfaction with having to report to different officers.

Meanwhile, other commentators suggest that continuity and its positive attributes is preserved where a named case manager oversees the entire supervision process and plays a role in encouraging compliance, resolving practical and motivational obstacles, and reinforcing skills and learning derived from programs (Raynor and Maguire 2006). This was the model operating in most of the offices I visited. Most of the probationers were able to identify a named case manager as their probation officer. This is also the model operative in Jersey as confirmed by a senior manager:

> We also try wherever possible to keep the same probation officers. So the person who writes the report would be responsible for the supervision.... we think it's important to recognise the continuity principle. So wherever possible, the report writer will be the case manager. But the case manager in Jersey is much more, actually... if you ask the person who their probation officer is, they'll identify with that person. They will have the relationship with that person. They'll see lots of people during the course of their order, but they will still be seeing that person, say for example while someone's on a group work program they'll still be coming in to see their probation officer to say how the group's going, what they've learnt

what the next things are, how's the home work going? So that's
the model we use. JPO4M

There is empirical evidence that good compliance rates have been achieved during the operation of this model in the Jersey Service (Raynor and Maguire 2006; Raynor and Miles 2007).

10.4.2: Reduced contact

With the diversionary agenda of the 1980s and its intensification over the past decades, the necessary outcome has been a significant increase in probation officers' caseloads. To exacerbate matters, by 2001, sentencers were imposing community penalties for less serious offences that would normally warrant a fine or a discharge (Morgan 2003). More recent official data also reveal the sustained increase in case loads. Between 1995 and 2005 there was a 17% increase in the number of people commencing probation service supervision (NOMS 2006b). Further, the diversionary agenda underpinning the new provisions introduced by the CJA 2003 requires officers to supervise the new suspended sentence orders added to their role in post release supervision. These contribute to the increasing caseloads that may reduce the level of contact between both parties and affect the nature of supervision.

Alongside these developments, the transformation of probation practice is such that the shift away from working with clients parallels the move towards the increasing computerisation of duties. The current study found that contemporary policy changes may have engendered a transformation in the way some of the officer' define their role. They are now 'case managers' 'enforcers' 'computerised managers'.

Recognising the transformations to the role of the probation officer, Worrall and Hoy write:

> ...professional autonomy has been steadily eroded to the point where
> many probation officers see themselves as nothing more than

criminal justice operatives, concerned only with the technological aspects of a bureaucratic job' (2005:86).

There is also the fear that the policy transformations will engender the deskilling of officers, or the de-professionalisation of officers (Bailey et al. 2007). Some of the officers in this study alluded to this possibility. They pointed out that their areas of specialisation have been removed and transferred to other professionals within and external to the service. In considering this issue, Robinson (2003) argues that perceived deprofessionalisation can be reduced if a balance can be achieved between technical functions and other functions that are reliant on the professional expertise of the officers.

10.4.3: Multiple initiatives and reduced staff morale

According to some of the officers, an additional source of contradiction is the introduction of multiple initiatives or 'unparalleled organisational changes' (Robinson and McNeill 2004:278). The service underwent a major reorganisation in 2001 with the creation of a more centralised National Probation Service created by the Criminal Justice and Court Services Act 2000 and established on 1 April 2001. Reflecting the government's centralisation agenda, the new service was placed under the management of a National Probation Directorate (NPD) established within the Home Office. Further, major reorganisations were implemented with the introduction of NOMS and the tiered supervision models, on June 1st 2005 leading to even further restructuring of the organisational framework of the service.

It was noted that in 2001 alone 'over 130 probation circulars were issued in the first nine months...not far short of one every working day' (Raynor and Vanstone 2002:101). Since then, multiple initiatives and changes have been introduced. Apart from the appointment of several Home Secretaries (3 since 2005 at the start of this study), several Home Office (now Ministry of Justice) publications have introduced

wide ranging reviews of the system (For instance, see Carter 2003). Added to these, a new Criminal Justice Act was published in 2003 and two National Standards were published in 2005 and in 2007. Alongside these is the reorganisation of existing orders into a generic community order encompassing a menu of requirements.

The study found that apart from their practical implications, in some cases, the policy described above pose mental and physical health implications. There were examples of reduced morale and high staff turnover linked to work related stress. This is consistent with the findings of the study by Bailey and colleagues (2007:116) which explored the views of 157 staff in two probation areas. They found that 'quite a substantial number of respondents' reported that the multiple initiatives including the performance management ethos and resulting high caseloads, increased bureaucratic functions and the delegation of traditional roles were linked to feelings of low morale and stress. Describing the impact of these policy developments, Gelsthorpe and Morgan write:

> The result has been a Service which for more than a decade now has been characterised by declining morale, internal feuding about desirable ways forward and, as a result of major structural changes, the introduction of new personnel and new intervention programmes, great uncertainty about the future and a corresponding lack of confidence (2007:11).

The quote below made by a female officer, qualified for less than a year illustrates this:

> I think that the more they overload us the more things are gonna go wrong and you'll see, like you've seen with that little girl who got raped yeah? You'll see more and more and more of that because it will be beyond our capabilities to do the work that we need to do because it's too much. And they'll change Home Secretaries every year and they'll f*** it up more...PO17F

This study also found that the demand to implement these multiple initiatives impose time constraints that in turn impinge on the degree of contact with the probationers. This study found that despite these policy constraints and the shift towards correctionalism, core supervision practices retain much of the welfarism associated with early probation supervision.

10.4.4: Welfarism in a risk focused organisational context

Reflecting developments in wider society, probation policy emphasises risk reduction and public protection. Although the officers acknowledge that this has been inscribed by policy, the perception that the officer's role is rehabilitative and not punitive   still remains. It is clear from this study that officers were more inclined to define their roles in terms of outcomes such as effecting change. For some of the officers there is still a belief in the clients' rehabilitative potential. In addition, studies demonstrate the reluctance to enforce as rigidly as prescribed. Several explanations for this were offered namely:

- humanistic considerations of the adverse impact of a punitive approach,
- the 'rehabilitation ideal' of pre-1970s probation,
- the diversionary agenda of the 1980s,
- the prioritisation of social and practical help which persisted after the introduction of the National Standards in the 1990s,
- administrative inconvenience and the convoluted processes involved in processing breach and discretionary decision making.

The literature also reveals that breach action is most likely where there is:

- persistent absenteeism with no notification provided;
- failure to attend the first appointment;
- the absence of a positive relationship between both parties

The findings of the current study are broadly consistent with these findings recode by the relevant empirical literature. Two types of violations exist namely, minor and persistent violations. Both exceed nationally prescribed limits but with persistent absenteeism, no contact is made to the office. There is a reluctance to enforce orders as strictly as prescribed by the legal framework and breach action is typically reserved for cases involving persistent violations. Thus, of the 17 probationers that reported violations, only 8 were breached. The 8 reported that they had persistently violated their orders and had not maintained adequate contact. Their reports were broadly consistent with their case records. This study also found that the officers adopt compliance strategies that are responsive to the social and environmental needs of the probationers.

Thus, the officers adopt a welfarist approach to securing compliance by attempting to address the socio economic obstacles to compliance. According to the officers, they:

- refer the probationers to the relevant agencies equipped to assist with socio-economic, substance misuse and other lifestyle difficulties;

- reimburse travel costs, in order to resolve practical obstacles;

- offer flexible reporting practices to alleviate childcare and practical problems;

- offer reminders or make home visits to follow up absences in specific cases;

- make home visits to alleviate reporting difficulties;

- devise more responsive informal rules;

- develop a rapport to ensure honest disclosure and trust;

- employ motivational strategies;

- ensure effective collaboration in order to encourage the active participation of probationers.

The use of home visits or reminders to follow up absences is variable. For some officers, reminders and home visits are reserved for clients with chaotic lifestyles or other established difficulties. Equally, some officers rejected the use of follow up strategies to encourage compliance. They adopted a responsibilising stance which located the responsibility for compliance on the probationer. Although previous National Standards located responsibility for compliance within the client, the latest standards recognise that compliance requires a collaborative effort between both parties (NOMS 2007a).

The foregoing provides an overview of how the current study reinforces existing findings. New insights into the nature of enforcement and compliance as defined by the key parties involved also emerged from this study. We can recall that several commentators have decried the paucity of research examining the reasons for non-compliance, pointing out that this represents a gap in knowledge (Bottoms 2001; Farrall 2002a; Hedderman and Hough 2004). The commentators point out that such research should focus on the perceptions and perspectives of those mandated to comply in order to develop insights into the correlates of compliance. New insights gained from this study should contribute towards filling this gap in knowledge. These are discussed below.

10.5: Unravelling the complexities of compliance

This study broadly echoes previous findings. Added to these, it uncovered three processes central to an understanding of compliance. These are:

- Reacting to formal rules
- Confronting unpredictability
- Adaptation techniques

10.5.1: Complexity and continuity of social phenomena

The almost cyclical pattern displayed by the 3 processes central to an understanding of compliance and outlined above was observed repeatedly in the data. However, the 3 key processes are not linear processes. There are a range of variables that may affect the direction of the 3 processes. It has been shown in the previous chapters that several intervening factors may underpin the three processes. These were conceptualised as 'contradictions'. Further, not all cases fit into these three categories. For instance, although the probationers would typically adapt to the informal rules, adaptation is not always complete. Some probationers would violate the informal rules and become liable to breach action. Likewise in certain conditions, some of the officers are unwilling to activate punitive enforcement even in the event of persistent breach with no contact. These are in exceptional cases. An example is where the probationer has maintained a good compliance pattern and is approaching the end of an order; some officers reported that they would more flexible in their reactions to persistent violations in these cases. Likewise, where the officer assesses the probationer's circumstances and concludes that breach action will have a detrimental impact on progress already made, the officer is less likely to fully activate the enforcement process. These are exceptional cases and reactions to violations are again subject to the officers' discretion in each case.

The complexity underpinning the 3 key processes reflect the interactionist position on the complexity and continuity of human actions and interactions (Blummer 1969). Reinforcing this point, Downes and Rock write:

> The orderly production of deviance and deviants therefore hinges on a complicated set of interchanges. It cannot be distilled down into a series of mechanical and predictable processes....General themes do dominate analysis, but they are not held to have the character of iron laws. On the contrary, outcomes are treated as uncertain and possibly surprising' (2003: 191).

In sum, the 3 processes reveal the centrality of the officers' actions in defining the nature of compliance achieved. Below is an outline of the nature of compliance achieved.

- Compliance is restricted to attendance and this reflects the unilateral definition of compliance adopted in practice.

- Frequent absenteeism exceeding policy prescribed limits is defined as compliance provided notification is received

- The symbolic definition of compliance adopted in practice engenders the normalisation of minor violations and the redefinition of minor violations as compliance

The situational and structural contradictions linked to these processes are the interactional contexts and the obstacles to compliance affecting the probationers; the policy constraints and the unpredictability of probationers that impact on the work of the officers. The activities of the officers in resolving these contradictions were most closely linked to compliance. The officers adopt a predominantly welfare oriented and discretionary approach to securing compliance.

10.6: Industrial deviance

From the foregoing it is clear that in responding to violations the officers try to resolve the contradictions posed by policy constraints and the unpredictability of the probationers by replacing the formal rules with the more informal rules that are more responsive to the realities of practice. The informal rules permit violations that would normally constitute non-compliance within the parameters set by the National Standards. As such, the application of the informal rule constitutes a form of 'industrial deviance'. Pearson's (1975:30) concept of 'industrial deviance' conceptualises instances where practitioners who are mandated to operate under

highly regulated and restrictive conditions develop alternative and more flexible strategies. Industrial deviance is a pragmatic response to unpredictability. It entails '...the bending and breaking of rules and regulations...in order to advance work with clients' (1975:25). The informal rules are designed to overcome the contradictions posed by restrictive and unworkable policy conditions and those posed by the practicalities of dealing with the unpredictability that confronts them. Indeed, Pearson (1975:25) cites the failure to 'strictly enforce' probation orders as a typical example of industrial deviance or official rule breaking. Broadly, industrial deviance represents: 'a gap between the official aspirations...and the actuality of practice' (Pearson 1975:24). It is the point at which:

> 'rules, training, values and action intersect...that is, the bending and breaking of rules and regulations...in order to advance ...work with clients and the turning of 'blind eyes' towards clients who only seem to 'get by' by 'getting round' the ...system (Pearson 1975:25).

It is the product of opportunity and will manifest itself in various forms across different organisational settings. This echoes Vass's (1984) findings that in any situation where an individual is required to apply formal rules and regulations to a group of people, their actions would often be influenced by the practical realities of enforcing these rules in real life contexts. Rule violations are met with considerable 'flexibility, argument, persuasion, exertion of pressure (activation of sanctions if everything else fails) compromises and negotiations'. Some may resort to subterfuge in order to maintain a façade of efficiency and secure professional progress. This may assume the form of 'evading and distorting control mechanisms ...' (Vass 1984.45). This study shows that the arbitrary processes of selecting an enforcement criteria in each case, provides ample opportunities for industrial deviance to flourish. This will necessarily engender a discrepancy between officially recorded rates of compliance

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and actual compliance rates. Indeed the dark figure of non-compliance has long been noted given the many instances where officers ignore non-compliance for several reasons (Hine 1995 cited in Farrall 2002a).

Pearson advances three types of industrial deviance namely, alleviating the burden of mundane tasks, facilitating the work process and inserting a degree of autonomy into practice in order to achieve objectives. This study suggests that the industrial deviance displayed falls within the second and the third categories. There are numerous incidents in the data that highlight the belief that the ability to minimise or overlook non-compliance is crucial to the continued existence of a probation service: 'for large bureaucracies to function effectively sometimes, workers must ignore and break bureaucratic rules' (Taylor and Walton 1971 cited in Pearson 1975). Therefore, without the ability to deviate from national standard requirements, supervision will be impossible as most probationers will be breached at court. Breach rates will escalate to phenomenal proportions.

Furthermore, industrial deviance enables the practitioner to inject their personal ideologies into practice. The data reveals the altruism that pervades probation supervision. This may be linked to the humanitarian foundations of probation ideology. To secure compliance, officers replace correctionalist processes with a welfarist approach. This constitutes a: 'professional challenge to bureaucratic rules' correcting 'official standards of bureaucratic and legal social controls' (Pearson 1975:30-31).

Writing about the tendency of officials charged with enforcement compliance to focus on persistent or serious violations and to overlook minor violations, Downes and Rock observe that according to the labelling theorists:

> It is not the simple presence of deviance but its quality, scale and location which typically shape a reply. Very often, deviation can be

normalised and accommodated inside the fabric of accepted life. It is only when it is inexplicable, disordering, harmful or threatening that a gross reaction can take place' (2003.187).

Therefore, the professionals eschew strict enforcement requirements to accommodate the practicalities of working with unpredictability. Strict enforcement is then reserved for cases involving persistent violations.

10.6.1: The altruism of industrial deviance

It is worth noting that industrial deviance is not motivated solely by the need to manage the contradictions inherent in reconciling the restrictive policy aspirations with the practicalities of supervision. According to the data, it is also primarily motivated by an altruism which seeks to promote the welfare of the individual probationer by reducing unpredictability, facilitating compliance and ultimately, rehabilitation. It is an attempt to re-infuse the professional altruism that is traditionally associated with probation practice.

10.7: Labelling

The concept of industrial deviance describe activities that mirror the observations of the labelling theorists who argued that in reacting to rule violations, much will depend on the objectives and capacities of the enforcers (Becker 1963; Downes and Rock 2003). Authorities charged with securing compliance rather than with enforcement, may employ 'compliance-based strategies' in which minor violations are minimised (Downes and Rock 2003.189). Persistent and flagrant violations on the other hand are met with the conferment of a deviant label. As such, those subject to enforcement employ several mechanisms (escape clauses or other gaps and anomalies) permitted by the law in order to avoid full compliance as required by law.

This is particularly the case where agencies that are ill-equipped to effectively challenge persistent non-compliance devise alternative and more manageable means

of securing compliance. Routine unpredictability and non-compliance are minimised and normalised through processes that seek to encourage the cooperation of the deviant. The deviants are ascribed roles which will not antagonise their perceptions of self. Downes and Rock (2003) cite the example of debt collectors who overtly define payment defaulters not as dishonest, but as honest and forgetful people. Another example is the definition of unwed mothers as victims of misadventure rather than as irresponsible women. These definitions may differ from the manner in which the enforcers actually perceive the deviants. Nevertheless they are employed to facilitate compliance and cooperation with authority.

In sum, industrial deviance is the process through which authorities mandated to secure compliance with legal rules replace the formal rules with more responsive informal rules. In n doing so, the authorities redefine the nature of compliance achieved. Compliance then, is the product of this redefinition. It is a label attached to behaviours so defined by the relevant authorities.

10.7.1: Adaptation: the normalisation of deviance

Industrial deviance based though it is on pragmatism and altruism may engender the normalisation of deviance. This study shows that the probationers tend to adapt to informal rules and to internalise the revised definition of compliance inherent in these rules. The redefined term is markedly different from the definition intended by policy. It normalises actions that would properly constitute non-compliance within the formal rules. Interactionists would argue that this redefinition ensures that deviancy labels which impact adversely on the 'self' with stigmatising and deviancy perpetuating implications are not imposed. Downes and Rock write:

> When acts and states can be reassessed as worthy or innocuous,
> when they can be presented as not 'really' deviant, it is a little easier
> to accept them' (2003:184).

This may explain the ease with which the probationers who, though they had reported violations, were able reconcile their actions (providing false excuses and wilfully failing to attend) with the perception that they had been fully compliant. Here, the 'regulation of deviance contributed roles that protected the self of the rule-breaker' (Downes and Rock 2003:190).

One unintended consequence of the normalisation of deviance is that the deviants become confirmed in their ascribed roles with an increased potential for further acts of deviance. In both instances, labelling theorists will acknowledge that:

> There is...a tendency to treat rules as resources rather than as binding instructions. It is a tendency that creates considerable flexibility in the organisation of relations between deviants and agents of control. Rule-breakers may be co-opted as allies or informants, they may become part of a game-like and well-regulated exchange, they may be effectively ignored, or they may be pursued with great vigour (Downes and Rock 2003.190).

Therefore, normalisations may trigger further violations. Downes and Rock (2003) acknowledge the pragmatism of such normalisations given that they avert frequent cost intensive enforcement processes. However, they point out that, utilising rules as resources in this manner 'rather than as binding instructions' creates further acts of deviance as the normalised acts of deviance are perpetuated (p.190).

Another source of normalisation is the unilateral definition of compliance endorsed in practice. This definition is based mainly on attendance and hence, it normalises other forms of rule violations.

10.7.2: The unilateral definition of compliance

The tendency to define compliance purely in terms of attendance was noted in the literature (Ellis et al. 1996). Although it is a multi dimensional concept, non-

compliance is defined solely in terms of absenteeism. Other forms of non-compliance are ignored. This may be because absenteeism is the most visible form of non-compliance and is therefore more amenable to demonstrative enforcement. Given that it is more amenable to recording and quantification processes, it may also alleviate the evidential burden on the officers where breach action is contested. It is more onerous to adduce the evidence required to prove the more qualitative forms of non-compliance such as disruptive or unacceptable behaviour during supervision. The current study found that the nature of compliance achieved in practice is directly linked to its definition in this unilateral sense. The unilateral definition is regrettable because there are adverse implications accruing from the narrow definition.

10.7.3: Unilateral compliance and the normalisation of deviance

Compliance involves complex processes involving *inter alia*, the co-construction of meaning during interactions. As interactions evolve, both parties acquire an understanding of a revised definition of compliance. One potential outcome is that the redefined concept of compliance is a narrow version that normalises incidents of non-compliance and other violations exceeding the boundaries of the redefined concept. Thus wilful absenteeism can be redefined as compliance provided that there is notification. Maintaining adequate contact normalises this violation. This is also an unintended outcome of the informal rules.

10.7.4: Encouraging technical or subversive compliance[xli]

Another implication of the unilateral definition is that it erroneously equates frequent attendance with good compliance and reduced reconviction (Hartland 2007). This constitutes an inaccurate measure of compliance. There are several possible types of non-compliance even where the probationer meets the minimum attendance requirements. Attending appointments under the influence of substances, disruptive

behaviour or refusing to engage are some examples of the forms of non-compliance that may be overlooked in the narrow focus on attendance. Therefore, the unilateral definition of compliance may encourage forms of compliance that negate the objectives of the order even where the probationer meets the minimum requirement (attendance). As noted in Chapter Two, socio-legal theorists specialising in regulatory studies highlight the distinctions between normative compliance based on an internalised obligation to obey and forms of compliance in which compliance is restricted to fulfilling minimum requirements without any apparent commitment to the objectives of the law. The current study found that the unilateral definition may in some cases encourage what has been described by one of the officers as 'technical compliance' and by another as 'subversive compliance'. It may also encourage manipulation whereby the probationers provide legitimate evidence to support illegitimate reasons or absence. Given the loss of autonomous decision making in such cases, the officers are constrained to endorse the absence as an acceptable absence. Two cases studies were provided in the study to illustrate this.

10.8: Developing effective strategies to encourage compliance

The study found that three key processes explain compliance:

- Reacting to formal rules

- Confronting unpredictability

- Adapting to informal rules

In exploring these processes, the study also identified several strategies which, if incorporated in policy, should encourage compliance with community penalties. These require policy intervention and are described further below in the discussion about the policy implications of this study. Meanwhile, the study examined the two factors that may explain the noted disparity between policy objectives and outcome

namely, the effectiveness of the policy framework and the actual implementation of policy provisions in practice. We have seen the limited effectiveness of the objective deterrent framework. Most probationers reported that they were motivated to comply primarily by the perceived benefits of supervision. In addition, most violated the formal rules despite heightened perceptions of risks. The second factor linked to the disparity between policy and outcomes is examined in more detail below.

10.9: Revising policy requirements to ensure compliance

In line with previous findings, this study discovered there are disparities between policy provisions and actual practices. In some cases, these divergences extend to the practitioners' perspectives of the most effective modes of service delivery.

It has been suggested that correctionalist policies devised at the centre from the 1980s onwards were translated at management level into punitive practices designed to expedite enforcement rates. Provisions were introduced to ensure limited discretion, the standardisation of enforcement practices and the effective implementation of deterrent objectives (Hartland 2007). Enforcement studies conducted in the wake of the introduction of the restrictive standards implied that based on recorded breach rates, some areas were indeed implementing a rigid or 'tough' enforcement approach. Others revealed the rise in recorded enforcement rates. Further, official inspections revealed that enforcement targets were being achieved in many probation areas (see generally, Chapter one). Implying that the ideological conflict that may have underpinned the documented reluctance to pursue a breach ethos had been resolved in favour of correctionalism, it was officially noted in 2003 that: 'the cultural issues about enforcement have been addressed' (National Probation Directorate, 2003:5, quoted in Worrall and Hoy 2005:75).

One may argue that although the policy and organisational changes were real and were designed to affect the nature of service delivery, they may not have orchestrated a shift in actual practices in any straightforward manner. This study demonstrates this. The concept of industrial deviance for instance, highlights the disparities between policy recommendations and actual practices. Reinforcing this finding, recent studies reveal the prevailing welfarism coexisting with a punitive policy agenda. Drawing on their study of practitioner views, Bailey and colleagues write:

> ...the values of complex organisations cannot necessarily be changed effectively either by central diktat or by administrative reorganisation. There is evidence that some practitioners (and some managers) cling resolutely, if often covertly, to the values which initially attracted them to probation work'... (2007:120).

It is widely acknowledged that these values define actual practices despite policy changes that aim to restructure the nature of service delivery (Burnett et al. 2007). Commentators acknowledge that 'the practical tasks' (Mair 1997:1203) or 'the model of practice for working with offenders' remains almost unchanged since 1907 (Burnett et al. 2007:210). In short, it is rightly argued that: 'pressures for change do not instantly produce re-alignment of the probation officer's modus operandi...' (Fielding 1984:2). Therefore, although the 'official' position on the underlying ethos of the service may have signalled a shift away from social work or welfarism, actual practices largely appear to be rooted in welfarism. This has also been observed in other aspects of probation policy. For instance, public protection and risk management feature prominently in official and academic discourses concerning the role of the service and in the articulation of a 'new penology' of risk (Feeley and Simon 1994). Notwithstanding this, Kemshall and Wood (2007) point out that the empirical evidence suggests that the official preoccupation with managing risks have not impacted on actual practice to the degree presupposed:

...in practice 'sea changes' take longer and are significantly mediated by the practices and values of staff and the culture of the organisation within which they are working' (2007:384).

Likewise, there is evidence that in practice, some resistance to the fragmented service delivery models engendered by statutory partnership working exists, with officers reluctant to refer clients to other service providers in order to avoid discontinuity of supervision (Burnett 1996). Gelsthorpe (2007:509) sums up the inevitable disparities between policy and practice with the observation that 'the image of puppet-like adherence to managerial control is certainly not appropriate'. Likewise, describing the problems posed to frontline staff by the offender management model, Robinson (2005:311) highlights the disparities that exist between policies set at managerial level and practitioner perspectives, with the argument that: 'arrangements that make sense at the level of *offender management* do not necessarily offer the same benefits for those working on the ground' (Emphasis in original). Highlighting that the correctionalist agenda inherent in contemporary probation policy have not fully filtered through to practice, McNeill (2000) found in his study of practitioners' perceptions that rejecting the apparent orthodoxy of constructing effectiveness in terms of reoffending and reconviction rates, effectiveness was defined in terms of achieving the rehabilitation of the probationer by reducing reoffending and reducing social difficulties. In their view, effective practice did not include quantitative outputs that may be derived from measuring rates of: enforcement; diversion from custody, compliance with national standard requirements or meeting the expectations of external audiences including sentencers. McNeill (2000) found that the traditional altruistic practice of addressing needs and developing relationships still persists. Consequently, although organisational and national policies have been designed to change the nature of service delivery, studies find that ideological changes are more

difficult to achieve. Many practitioners retain the welfarist ideological associated with the service. The current study found this to be the case. As noted in chapter one and also above, other studies of probation practice have recorded similar findings. Further, a recent study that explored enforcement practices within probation areas in Wales recorded findings similar to the current study (Deering 2008). Reinforcing the findings of the current study, the study by Deering also found that many of the officers sampled tend to prioritise the objective of ensuring compliance over enforcement. As such, there appears to be no significant commitment to a rigid application of the deterrent enforcement framework rather, most of the officers adopt a flexible and discretionary enforcement approach irrespective of individual officer biography, training style or theoretical/philosophical basis for practice.

The current study found that the welfarism and flexibility observed may be based on pragmatic and altruistic considerations. The recognition that a caring approach is more productive than a controlling approach underpins most of the officers' approach to enforcement and to supervision in general. Perhaps one testament to the altruism of probation practice is the concept of industrial deviance. It provides the means of replacing the authoritarianism intended by policy with humanitarianism.

Thus, the literature reveals that policies and discourses emerging from the centre and at organisational level reflect the shift from neo-conservative populism and penological pragmatism to correctionalism and the effort to enhance the credibility of the service through 'tough' enforcement policies. It appears that this shift at the level of policy making has not orchestrated a corresponding change in actual practices. The strategies devised by the officers in this study to secure positive outcomes are typically discretionary and welfare based. The concept of industrial deviance represents these processes.

10.10: Policy implications

The findings of this study pose several possible policy implications. Industrial deviance even where underpinned by altruism and welfarism is 'unofficial rule-breaking'. As such, it is necessarily a covert activity that might engender discrimination. By relying on arbitrary decision making, it places some probationers at risk of differential treatment or at worst, at risk of unfair treatment. Furthermore, the concept permits the normalisation of deviance; it is inconsistent with the standardisation of practice intended by policy. Indeed, enforcement practice clearly demonstrates the disparities between policy and practice. Likewise, the objective existence of the deterrent framework appears to have limited impact on compliance patters. Most probationers violate the formal rules even where they have heightened perceptions of the risks of non-compliance.

The policy implications posed is the need to revise the existing enforcement framework. There is a need for policy intervention to ensure that policy definitions may become aligned with actual practices, reducing the extent of industrial deviance and covert decision making and hence, ensuring transparency and reducing the disparities between policy and practice. This study reveals the strategies that if incorporated in policy, should encourage compliance. The effective strategies may be outlined as below.

- Greater flexibility in enforcement and an individualised approach in order to ensure that decision making is responsive to the needs and circumstances of each probationer. Greater flexibility should ensure that the officers are able to operate within the formal policy framework. This should in turn reduce the possibility that in applying the informal rules, the officers inadvertently model rule breaking to the probationers.

- Greater flexibility in enforcement may also enhance the perceived legitimacy and consistency of outcomes. Further, the currently applied risk assessment tools facilitate the assessment of dynamic risk factors encompassing a wider range of obstacles to compliance than would be possible if the focus was solely on criminogenic needs or static risk factors (see also Raynor and Vanstone 2002; Raynor 2003). Therefore, the assessment tools should ensure that the probationers' needs are addressed as part of a comprehensive compliance strategy.

- Facilitating continuity in supervision in order to enhance its relational dimension

- Encouraging practitioners to employ the core correctional skills empirically linked to effective engagement. If incorporated in practice, studies show that these skills should enhance self motivation and should generally; produce cognitive and behavioural change (Dowden and Andrews 2004; Raynor and Maguire 2006; McGuire 2007; Poporino and Fabiano 2007). Further, it has been shown to effectively address the problems of lack of motivation identified by some officers as the most fundamental obstacle to compliance. Importantly, the motivational interviewing process enables the officer to fulfil a crucial aspect of supervision that most probationers identify as the central factor that encourages them to comply namely, reflective listening and empathy. This ensures that the probationers are able to 'talk out' their problems as part of the problem solving process vital for effective outcomes.

- Reframing incentives in normative terms to encourage compliance based not on self interest, but on the perceived obligation to comply and perceived

fairness. The 'effective practice skills' described above can also encourage normative compliance.

- Ensuring that the enforcement process is based on dialogue and respect and is responsive to the client's concerns. This approach is likely to enhance perceived fair treatment an antecedent of the perceived legitimacy of authority (see also Tyler 1990). The study found that an approach that is didactic and devoid of empathy is perceived to be unfair. It can produce non-compliance.

- Replacing the unilateral definition of compliance with a more qualitative definition of compliance that incorporates progress made during the order, or other indices of compliance such as higher levels of motivation and engagement.

- Replacing the discourse of enforcement, with an approach that emphasises compliance strategies such as those currently employed by the practitioners: fixed appointments to reduce forgetfulness, appointment cards, follow-up reminders and home visits.

- Also, replacing the potentially self defeating discourse of risk and similar correctionalist terminology with discourses that enhance the probationers' self identity and self belief in their ability to comply (see also McNeill 2000).

10.11: Conclusions

The study identified the three key processes that are central to an understanding of the nature of compliance. In doing so, the study highlighted how the ineffectiveness of the formal enforcement framework contributes to an understanding of the disparities between policy objectives and actual outcomes. Limited links were found between the rigid policy provisions and the compliance patterns of the probationers sampled. Furthermore, in the effort to secure compliance, the officers devise informal rules that are more responsive to the realities of practice than the formal rules. The nature of compliance achieved is typically below the standards prescribed by the formal rules. However, according to the officers, a rigid application of the formal rules would significantly increase the rates of breach action in court.

The effort to recast the image of the service in more correctionalist terms was intended to filter through to the level of practice. Whilst this trend towards correctionalism may have impacted upon national and organisational level objectives, it appears that at the level of actual practice, most of the officers sampled in this study adopt a welfarist approach to securing compliance. One acknowledges that there are several disparities between the area sampled in this study and other probation areas. These have been noted in Chapter three. However, as noted earlier, the finding that many officers prioritise a welfarist enforcement approach over a more authoritarian approach is consistent with the findings of several studies cited in Chapter one. In the current study, the probationers attested to the supportive and caring approach to supervision and enforcement. They tended to view their supervisors as their advisor, and 'friend' with a brief that focuses mainly on problem solving.

To be sure, the shift towards correctionalism placed the officers under intense pressure that may have affected several aspects of service delivery including

enforcement, but studies examining how official policies translate in practice contribute to our understanding of the observed disparities between the policies and objectives set at national or managerial level and actual practices. This is particularly the case where such policies ignore 'the fit (or otherwise) between 'official' statements of purpose and the views of those who are actually engaged in the supervision of offenders' (Robinson and McNeill 2004:277). Thus, although some of the officers in this study acknowledged that practice has become aligned with the discourses of risk management, public protection and enforcement, many officers described their role in welfarist terms differentiating it from other criminal justice agencies that have been traditionally associated with an enforcement ethos. Similarly, enforcement decision making was found to be individualised and cognisant of the extenuating influence of several difficulties that act as obstacles to compliance. This is in line with the existing studies that show that the creative use of discretion prevails over the 'mechanistic' interpretation of the National Standards (Gelsthorpe 2007:509). Unlike the rigid formal rules, the informal rules represent an altruistic and individualised approach to enforcement.

One must not overlook the possibility that the individualised approach may engender unequal treatment and feelings of unfair treatment. But this should be balanced against the consideration that a rigid implementation of the formal rules may ultimately impinge on relationships between officers and their clients. It may engender non-compliance because it is likely to be viewed as unfair treatment thus undermining perceived legitimacy. This study found this to be the case confirming the findings of legitimacy theorists. In addition, the study supports existing studies in its findings that a strict application of the deterrent framework will render supervision

virtually impossible in practical terms given that it would be unresponsive to the range of factors that have been shown to affect compliance.

Gelsthorpe (2007: 489) points out that policy objectives must not override autonomy, creativity and discretion although there is a need for a balance between 'uniformity and individualisation of treatment' (Gelsthorpe 2007:509). She differentiates between 'negative discrimination' characterised by unjustifiable decisions marked by inconsistent and disparate treatment and positive discrimination which represents a more individualised and humanistic approach. The latter conceptualises the approach noted in this study. The informal rules are more responsive and they ensure that the probationer is given adequate opportunity to complete their orders successfully without undue recourse to court breach action.

However, apart from the possibility of discriminatory practices, the informal rules may also engender the normalisation of deviance. The definition of compliance as a unilateral concept encourages the normalisation of other forms of non-compliance. Perhaps exacerbating matters, the study found that compliance is the product of the definition that officers apply to specific conduct namely, persistent absenteeism with no contact made to the officer or to the office. This redefinition of compliance also engenders the normalisation of violations that would normally be defined as non-compliance within the formal rules.

In sum, the study found that apart from the mechanisms of compliance developed by Bottoms, compliance is best understood as the product of three processes that emerge as both parties manage several situational and structural contradictions. The processes begin with the violation of the formal rules by the probationers. The activities of the officers in confronting the unpredictability of their clients represent the second stage

of the process. By adapting to the informal rules developed by the officers, the

probationers complete the process.

Chapter Eleven: Evaluating the methodology

11.1: Introduction

A critical reflection on the methodology employed by this study is provided in this chapter. To this end, the chapter begins with an examination of the practical and theoretical limitations posed by Straussian Grounded Theory methodology and its interactionist basis. The chapter proceeds with an evaluation of the study's design and the range of tools that can be used to assess the quality of research employing qualitative methods in general, and more specifically, Grounded Theory methodology. In doing so, particular attention is paid to the epistemological and ontological positions underpinning the study. Evaluations of a study should not be isolated from its philosophical stance. To be classified as good research a study should be able to demonstrate to its audiences that it has accurately utilised the research methods, skills and techniques consistent with the tenets of their chosen philosophical framework. Therefore this chapter assesses the technical and operational quality of the study with reference to its philosophical framework. Finally, drawing on the findings of this study, the chapter concludes with a discussion of possible areas for future research.

11.2: The methodology and its philosophical basis

A common critique of approaches rooted in interactionism is that the degree of flexibility permitted by the design and implementation of the study introduces unwarranted subjectivity into the research process (Plummer 2000). This critique may be levelled against all studies employing a qualitative design (see also Bryman 2001). It is an epistemological critique that pertains to the question of what constitutes valid scientific knowledge.

Perhaps linked to the issue of subjectivity, some have questioned the degree of value neutrality presumed by the rejection of *a priori* conceptualisation and theorising.

Perhaps this reflects another misunderstanding of the methodology in its totality or a 'caricature' of the methodology linked to the 'misleading impression' that the methodology is based on 'crude inductivism' (Atkinson and Housley 2003:123). Rejecting the presumed empiricism associated with this approach (see also Downes and Rock 2003), it has been noted on a philosophical level that the epistemological basis of the Straussian methodology is not: 'a recipe for a purely inductive view of scientific or lay knowledge'. It is not an: 'attempt to celebrate pure 'experience' as the only basis for knowledge acquisition (Atkinson and Housley 2003:123).

One acknowledges the inductivism prioritised by the methodology given the emphasis on the embeddedness of findings in the data. Indeed one might argue that such inductivism minimises the risk of imposing pre-determined constructs on the data. Downes and Rock (2003) point out that:

> Indeed, interactionists would say that an explorer can never know what he or she is exploring until it has been explored. It is all too easy to impose an alien explanatory scheme that obscures vision, ignores problems and pre-empts solutions...Above all it is held that analysis must grasp the meaning that animates and shapes social activity. Consequently, meaning is that employed by the social actors themselves, not by the sociologist; interactionism is designed to take the observer and audience as far as is practicable into the actors' own perspectives on selves acts and environments' (2003: 179-180).

Straussian Grounded Theory methodology as all approaches rooted in interactionism, rejects *a priori* theorising as this encourages the imposition of constructs generated by the researcher (Strauss and Corbin 1998). Theoretical constructs are embedded in the data and the task confronting the researcher is to identify and conceptualise them. Nevertheless, on a practical level, Strauss and Corbin (1998) acknowledge the importance of the extant literature in providing an initial framework from which researcher may approach the research problem. They write:

...most of us are familiar with the literature in the field. Literature can be used as an analytic tool if we are careful to think about it in theoretical terms. Used in this way the literature can provide a rich source to stimulate thinking...it can furnish initial ideas to be used for theoretical sampling...The researcher brings to the inquiry a considerable background in professional and disciplinary literature...of course the discipline, school, and perspective of the researcher will greatly influence how much literature he or she comes with and how it is used...Before beginning a project, a researcher can turn to the literature to stimulate questions that act as stepping off point during the analysis process...Bringing the literature into the writing not only demonstrates scholarliness but also allows for extending, validating, and refining knowledge in the field (1998:47-52).

Further, Strauss and Corbin recognise the importance of external influences such as professional knowledge and experience as sensitising tools that aid the comparative process during analysis provided these do not replace the meanings embedded in the data. Therefore at any stage, the researcher may make incursions into the extant literature in order to generate insights required to further develop the emergent concepts. The proviso stated is that the insights should not replace data, rather, they may sensitise the researcher to what a puzzling piece of data actually means (Strauss and Corbin 1998:47).

Another critique offered against the philosophical position adapted by the study is that it is astructural focusing mainly on the sites of social interaction or the situational aspects of social phenomena. It is argued that in doing so, interactionism excludes a proper account of the macro structural factors that also influence social phenomena (Plummer 2000; Downes and Rock 2003). This critique overlooks the range of analytic devices that ensure that wider structural factors are incorporated in analysis. We have seen how the analytic tools – the paradigm' and 'the matrix' - employed during analysis permitted the effective contextualisation of the emergent concepts within their structural bases. They were useful tools for ensuring that the study

accounts for the wider structural processes and conditions relevant to a holistic understanding of the research problem.

11.2.1: The Straussian methodology

With Grounded Theory methodology, other critiques centre on the time consuming iterative process associated with the methodology and the confusing terminology for instance, the conflation of the terms 'concepts and categories' (Bryman 2001). Implementing an iterative strategy involves a great deal of time and effort. I found that extending the analytic process by moving from the data to the field and back to the data are indeed time consuming and strenuous activities. These are even more difficult to implement where the time and resources available are limited and where the study is conducted by a sole researcher. Exacerbating these problems were the widespread geographic locations of the offices requiring long distance journeys to secure interviews, the unpredictability of the probationers and the access difficulties discussed earlier.

Furthermore, in terms of the second critique, the terms 'concepts and categories' and even 'sub-categories' are indeed often imprecisely delineated in the Grounded Theory literature. Ascertaining their different roles in the analytic process requires a thorough reading of the Grounded Theory literature accompanied by the actual implementation of the methodology. Eventually, it becomes apparent that although in some instances the terminologies are employed interchangeably, there are important differences in the way they are applied in specific stages of analysis (see Chapter four).

Another challenge posed to prospective users of the methodology is the variants that have evolved from its original format as developed by Glaser and Strauss (1967). The specific genre of Grounded Theory employed in this study was developed by Strauss to provide a more systematic approach to the generation of Grounded Theory. This

genre has since been criticised for being too prescriptive, conceptual and atheoretical (Glaser 1992; Bryman 2001). I chose to employ Straussian Grounded Theory precisely for its systematic approach. Perhaps, crucial to the novice researcher is the systematic and rigorous approach permitted by the Straussian variant. In addition, as Creswell (1998:5) points out, its detailed verification techniques enhance the quality of findings. Further, it incorporates additional tools for ensuring that the intellectual rigor central to Social Science research is maintained.

Yet, whilst the Straussian variant provides a systematic and creative approach to the application of the methodology, Glaser describes it as a rigid approach that defeats the inductivism of analysis and risks the forcible categorisation of incidents in the data into predetermined constructs. My experience of utilising the methodology is that it retains the embeddedness of concepts, categories and theoretical constructs in the data. There is a close link between the data and the emergent constructs at all times although the theoretical constructs would necessarily represent the researcher's abstractions from the level of the data.

Yet another variant of the methodology exists to compound these difficulties. In developing her 'constructivist' version of Grounded Theory, Charmaz (2000) rejects the objectivism that is in her view, implicit in the other variants. Her relativist approach which defines all knowledge of the social world (derived from the accounts of both the researched and the researcher) as social constructions, contrasts with the formalism of the Straussian methodology. Bryman (2001) rightly points out that much of the work endorsed within Straussian methodology has been interpretive and cognisant of the role of social actors in defining their reality. Indeed, one might add that the interactionist basis of this methodology emphasises this point. With its roots

in Simmelian formalism, the methodology averts the relativism of extreme social constructionism.

11.3: Examining the quality of research

There are mutually reinforcing technical and operational limitations that affect the quality of research.

11.3.1: Technical quality

'Rigour in carrying through the theoretical project' is of crucial importance (Hughes 1990:144). An examination of the technical processes – methods of data collection and analysis - should underpin the attempt to establish that the expected standards of intellectual rigour have been attained. Further, these should be situated within the context of the study's philosophical stance. This is because the design of a study would necessarily derive from its theoretical standpoint (Denzin 1972), which should be clearly articulated in order to ensure that research audiences are able to understand the processes of interpretation and analysis (Hughes 1990). That is, the audiences should be able to assess the reliability and validity of the study.

It has been argued that the established tools for evaluating research - reliability and validity - are more suited to quantitative research studies (Kirk and Miller 1986; Bryman 2001). Therefore although qualitative studies should ensure that data collection and analysis proceed in a systematic form, the methods utilised in such studies are not as standardised as those employed in quantitative research.

Clearly one can see how the application of the same evaluative criteria to studies adopting different philosophical standpoints would be inappropriate. The important point is that each philosophical position prescribes different research methods: 'Evidence is not free standing, immutable and universal. It is bound into the model that produced it and gave it meaning' (Shipman 1988:162). Ultimately, the criteria for

judging the quality of research must account for its epistemological and ontological bases. Consequently, commentators advocate the use of different evaluative tools for interpretivist research (Shipman 1988; Bryman 2001). In all, the commentators emphasise the importance of reflexivity in qualitative research whereby researchers remain alert to their impact on the research process (see also Davies 1999).

Strauss and Corbin (1998) have devised several tools for specifically evaluating studies utilising Grounded Theory methodology. These different criteria take account of the fundamental difference between positivist studies and interpretivist positions. These may be traced to their ontological positions on what constitutes social reality. The study bases its evaluation of the methodology employed on these criteria.

11.3.2: Reliability

Reliability or reproducibility (Strauss and Corbin 1998:266), replicability (Bryman 2001) or 'transferability' (Henwood and Pidgeon 1988) all focus on the degree to which the study findings can be repeated using the same methods. Where this is possible, it enhances the quality of the study. One way of achieving this in qualitative studies in which measures and other tools are not usually documented in any standard format is through the broader process of ensuring reflexivity during the research process. Inherent in this is the need to maintain accurate records of how theoretical constructs are devised. These records should chart the processes of elucidating analytical definitions. To this end, Chapters five and six provided a detailed description of the analytic processes. In addition, a detailed description of my efforts to remain reflective is provided below.

It is often argued that the ability to replicate research findings is fraught with problems linked to the difficulty of incorporating the exact variables present in the original study (Strauss and Corbin 1998). Further, replication is less viable with

qualitative studies given the contextual and relational variability of the methods of data collection. The processes of analysis are also difficult to replicate because of the flexibility and interpretive processes that are almost unique to the qualitative researcher during the complex analysis of textual data (see Shipman 1988; Bryman 2001). There is also the difficulty of ensuring that the evaluative study captures the social contexts and circumstances of the original study. However, theoretical replicability can be examined by a restudy utilising a similar theoretical and methodological approach and also conducted within similar conditions. Reliability is achieved where the restudy yields broadly similar findings even where they are conceptualised using different terms. By uncovering the meaning of compliance as articulated by the key parties involved in defining its form, this study filled a gap in knowledge. However, some of its findings are also broadly consistent with the findings of other studies that have explored a broadly similar theme as described in the previous chapter. This enhances the reliability of my findings (See also, Strauss and Corbin 1998).

11.3.3: Validity

Another key criterion for ascertaining the quality of research is validity. This concerns the accuracy of the study's findings. Validity assesses three issues namely, the interrelatedness of the data and the eventual theory, the generalisability of the findings and the issue of establishing causality and correlations. With qualitative research, the fit between the data and the findings is closely linked to the propriety of the researcher's interpretations or abstractions from the data. This affects the entire research process from the nature of the data generated to the quality of the processes of analysis. From a Grounded Theory perspective, the latter concerns the degree to which the findings are embedded in the data. To evaluate the validity of this study on

these bases, I relied on the 7 criteria proposed by Strauss and Corbin (1998) as listed below.

1. The sampling methods

2. The major categories

3. The incidents (or indicators) that highlighted the categories

4. The categories that directed theoretical sampling, the impact of theoretical sampling on the emergent categories (were they still reflective of the data or were they revised)

5. The formulation of the provisional hypotheses devised during axial coding

6. How these hypotheses were validated or discarded (where appropriate), and finally,

7. The selection of the core category.

I ensured that these processes were detailed in Chapters three to six of this Thesis as part of my effort to ensure that the information required for evaluating my findings are comprehensive and explicit.

11.3.4: Causality

Where the aim is to ascertain the validity of claims about causality, this dimension of the validity criteria may be more suited to measuring the validity of quantitative studies given that the concern of qualitative studies such as the current study is to understand social phenomena rather than to establish correlations or causality.

11.3.5: Generalisability

Validity is also concerned with the generalisability of findings. Qualitative studies are by the nature of their sampling and other procedures, and by their theoretical concerns, not able to and not concerned to, make statistical generalisations (Strauss and Corbin 1998). As Bryman (2001:282) puts it: '...it is the quality of the theoretical

inferences that are made out of qualitative data that is crucial to the assessment of generalisation'. Therefore, the focus is on producing contextualised understandings of phenomena that may be theoretically generalisable to other sites of human interaction or to existing theories.

As described in Chapter three some consistencies exist between the achieved sample and the national population of probation officers, probationers and probation areas. Equally, there are several aspects in which the achieved sample differs from the national average. This is not surprising given that the probation area sampled was selected on the basis of pragmatic considerations pertaining to accessibility. Further, the study sample was selected on the basis of theoretical sampling and not random sampling processes.

Broadly, an unrepresentative sample such as that used in this study provides no basis for the statistical generalisability of findings (Bryman 2001). Nevertheless, the sampling procedure employed in this study accords with the tenets of interactionism. The aim is to explore specific incidents in the data (or substantive aspects of human behaviour) in order to generate formal understandings of human behaviour. The latter transcends the immediate spatial and temporal contexts from which it emerges. In other words, it is theoretically or analytically generalisable to other contexts. Consequently, Yin (1994:10) rightly highlights the difference between 'statistical generalisation'[xlii] and 'analytical generalisation'. Qualitative studies rooted in interactionism would necessarily aim for the latter given its roots in formailsim. For instance, Whyte's (1943) widely cited study of youth subcultures in an inner city setting, generated formal theory which has since been generalised to other situations or conditions in other neighbours and within different time periods. Likewise Becker's (1963) study of a group of marijuana users in Chicago contributed to the

development of labelling theory. The current study specifies the range of conditions that create the strategies (actions, /interactions) that parties involved in negotiating compliance devise and also the resulting conditions/consequences (Strauss and Corbin 1998). These help explain the nature of short term compliance and these may be applicable to other sites of interaction involving the regulation of   short term compliance.

11.3.6: Avoiding selectivity: devising sampling scenarios

The probationers sampled in the study were selected by their officers and were interviewed in probation offices. It is quite possible that the probationers sampled were those who were most likely to comply with the directives of their officers by adapting to the informal rules. This may have created a selective sample of typically compliant probationers thus reducing the opportunity for a broader exploration of the concept from the perspective of the non-compliant (persistently absent or absconded) probationers.

To alleviate this problem, the tracking methods I employed were designed to reduce the extent of selectivity. All the interviews were scheduled to coincide with the probationers' routine appointments with their officers. It was envisaged that this would ensure that probationers who failed to keep their supervision appointments could be tracked and interviewed whenever they attended their appointment at a later date. This would cause minimal disruption to all probationers and their officers. Further, it should ensure that even the non-compliant probationers could be included in the study. Thus, I made repeated trips to probation offices to secure scheduled interviews with named probationers who had been scheduled for interviews but who, by failing to attend their probation appointments, had at the same time, failed to attend the interview (given that both were scheduled for the same day). This provided the

added advantage of observing patterns of attendance and absenteeism. All but one of the probationers sampled were tracked in this manner.

Added to this, the methodology employed provided several opportunities for reducing the selectivity of the sample. Through theoretical sampling, I was able to include in the study some of the probationers categorised by the officers as being either typically compliant or typically non-compliant. In all, theoretical sampling ensured that in line with the interactionist position I was able to focus on the areas that were defined by the research participants as central to generating an understanding of their social reality of securing compliance or complying with community penalties.

11.3.7: Reimbursements

Another factor that may affect the nature of data is the use of financial incentives to encourage participation (Noakes and Wincup 2003). Part of the effort to recruit participants into the study involved the payment of £5 to the participating probationers on the recommendation of one of the Divisional Managers. I considered that this would act not as an incentive but as a fair reimbursement for their time and effort. To avoid the potential misconstruction of the payments as representing an incentive to participate in the study, one condition was that the officers would not inform the prospective participants of this payment before the interview. My position was that the payment would be made after the interview. To a degree I believe that this avoids the criticism that offering financial incentives is tantamount to 'buying people's stories' (Noakes and Wincup 2003:151). The participating probation officers were not reimbursed.

11.3.8: Taped interviews

Yet another potentially undermining factor is the use of tape recorded interview data. The benefits of tape recorded interviews are obvious. They are more reliable than memory and also hand written notes which in themselves may be distracting. Further, in this study, the transcripts were downloaded to the NVIVO software which aided the detailed analysis and re-analysis of the data.

However, the limitations associated with transcripts of data may be analytical and practical. The analytical problems reside in the difficulty of accurately depicting the contextualised nature of such data and the co-production of meaning inherent in semi-structured or unstructured interviews (Bryman 2001). However, the notes and diaries I maintained throughout the data collection process served as useful reminders during analysis. Other analytical limitations are the possibility that the interviewee's reports and disclosure may be undermined by their apprehension at the prospect that their views are being captured on tape (Bryman 2001). To encourage honest disclosure, informed consent and reassurances of anonymity were offered before and during the interviews.

The practical problems associated with tape-recorded data pertain to the considerable amount of time expended on transcribing the tapes in as much detail as possible. Fortunately, the sophisticated recorder I borrowed from my department produced good quality recordings that were digitally transferred to the computer and transcribed without the need to obtain a transcription machine. The difficulties of transcribing and organising the data were quite significant and time consuming although they were somewhat alleviated by the use of these sophisticated tools.

11.3.9: The data sources: observations, case records and self reports

Some of the analysis was based on observational data. Data triangulation in this manner is encouraged because it broadens the range of data obtained thus enhancing the quality of analysis. Nevertheless, one must acknowledge that a potential limitation of overt observational methods is the possibility of 'reactive effects'. This also affects the data generated during interviews and it occurs where the impact of observation is such that the observed engage in atypical behaviours (Bryman 2001; Webb 1966:13). Recognising this potential problem at the start of the study, other methods of enquiry were employed including an analysis of a cross section of case records. This also poses the limitation linked to Farrall's (2002b) observation that case files typically reveal only the perspective of the officer which may be designed to gain managerial approval.

In terms of the key source of data namely, self reports, a potential threat to the quality of data based on self reported behaviour is the possibility of exaggerated or untrue reports. Nevertheless, self reports supplemented by official records may help overcome this problem (Farrall 2002b). More importantly, qualitative interviewing method ensures that research participants are able to express at depth the definitions and meanings with which they make sense of their experiences and adapt their behaviour accordingly. The ontological basis for this study hold that these meanings as central to understanding social phenomena.

> 'The emphasis is on how the interviewee frames and understands issues
> and events – that is, what the interviewee views as important in
> explaining and understanding events' (Bryman 2001).

Thus, unlike positivist methodologies, the focus is not on the search for objective 'truths' but for the definitions and meanings with which the participants make sense of their experiences. These are the definitions that affect behaviour.

11.4: Operational limitations

Added to these technical limitations there are operational limitations linked to the contexts of the interactions between the researcher and the research participants. These may also affect the quality of research findings.

11.4.1: The researcher's characteristics

There are several demographic attributes that may affect the nature of interactions during interviews and possibly, the nature of the data obtained. Age, gender, and ethnicity are a few (Wolf 1996; Davies 1999). As an ethnic minority researcher I was very interested in the potential impact of my ethnicity on the research subjects and the nature of the data they could provide. The literature provided some insights into this. There are mixed views about the possible impact of ethnicity or other socio-cultural differences. Some argue that these differences may equip the researcher positioned on the outside, with a degree of neutrality and objectivity that may indeed ensure access to more accurate and intimate information (Wolf 1996). Interestingly, Tixier Y Vigil and Elasser (1976 cited in Wolf Ibid.) found that racial differences between them and the participants affected the nature of responses, but in not the manner anticipated. Participants were less likely to disclose intimate secrets to the researcher with whom they shared a similar ethnicity. Furthermore, with 'outsiders', there is a reduced chance of 'going native' and losing sight of research objectives (Wolf 1996).

Reflecting on my experience, it is impossible to posit the exact impact of my ethnicity on my interactions with the research subjects. I can only surmise that my status as a student and the guarantee of anonymity may have been propitious in a research site dominated by official inspections and auditing processes. The opportunity to discuss one's perceptions and beliefs at some depth without fear of reprisals may have enhanced the accuracy of the data obtained. Moreover, I tried to overcome potential

barriers to effective communication by obtaining informed consent before and during each interview (see Appendix 2; Noakes and Wincup 2004), by reminding the participants of the confidentiality of data and the promise of anonymity.

As the study progressed, it became apparent to me that some of the processes central an understanding of compliance with community penalties were covert processes that contravened policy requirements. As such, to enhance disclosure, it was vital for me to reassure the officers that my intention was not to spy on their activities in order to produce a negative report. In addition, midway through data collection the probation service came under sustained media attacks over the issue of public protection and risk management. This brought probation practices including compliance under critical scrutiny. Thus the study was conducted at a time when the service was being vilified in the press because of two high profile murders committed by probationers.

Therefore, the subject matter of the research became topical because compliance relates directly to how probationers are managed in the community to reduce risks and protect the public. Consequently, there was a possibility that the research participants particularly the officers would be unwilling to divulge information about actual practices including the covert enforcement practices that fall sort of the requirements contained in the National Standards. I had to reformulate the interview schedules so that most of the questions did not appear to be intrusive, implicating or critical of their activities. I believe that they would have become suspicious of my motives if I had asked them direct questions about covert activities. The questions used to explore the extent of professional discretion and covert practices are detailed in Appendix 9.

In all, to enhance accurate disclosure, I reassured the participants of my status as a student researcher and I informed them that I was not conducting an official enquiry into enforcement practice. As such, I informed the officers that my primary concern

was not with the extent to which they comply with the requirements of the National Standards. I simply wanted to understand the factors that affect how probationers comply with their orders. I made every effort to socialise with the officers wherever possible, whilst retaining a degree of distance necessary to maintain the integrity of the study. I would go on coffee breaks with some of the officers and invariably they would begin to discuss the research problem. These breaks produced insightful data but also enabled me to examine the organisational culture to a degree. Issues like the differing ideologies of frontline and management staff were discussed. Also discussed were views about specific probationers and the nature of their offending.

To gain cultural access, the interview schedules were designed to ensure effective communication. Drawing on Arksey and Knight (1999) and Rubin and Rubin (2005), the first few questions were designed to help put the participants at ease. It gave them the opportunity to give their opinion about non-contentious, unchallenging and mundane issues. I envisaged that these questions should encourage them to reflect on their experiences in very broad terms.

Table 11.1: Interview Strategies

Strategy	Implementation
knowledge of objectives of interview	Pilot study
Purpose and structure of interview set	Informed consent
Clear questions and gentle approach	Questions designed to ensure coherence
Reflective listening	Attentiveness and empathy
Open and steering questions	Semi-structured qualitative questioning
Remembering	Referring to previous exchanges
Interpreting	Repeating statements for clarification

As far as possible I tried to adapt my interviewing style to specific strategies that have been linked to productive outcomes. Several commentators provide insights into these strategies (Kvale 1996; Arksey and Knight 1999; Bryman 2001; Rubin and Rubin (2005). Table 11.1 above describes the strategies and how they were implemented during the study (see also Bryman 2001).

My personal judgement is that I was received positively by the participants. I think my status as a student and the methodology I employed helped me to overcome potential barriers. The probationers appeared to be happy to discuss their experiences including private issues about their life. Most declined my offer of £5 for their time.

11.5: Enhancing technical quality: triangulation, validation and reflexivity

Other strategies used to enhance the quality of the study include data triangulation, and adducing contradictory evidence and reflexivity. With data triangulation, the aim was to broaden the scope of the data and the interpretive process (Noakes and Wincup 2004.91). In addition, exploring evidence or data that appear to contradict emergent findings may enrich data and the eventual analysis. In discussing 'a contrastive approach' to policy analysis whereby the researcher should welcome emerging data irrespective of whether such data contradicts the researcher's hypothesis (in quantitative studies) or original albeit tentative ideas (in qualitative studies) , Mukherjee and Wuyts observe that the during data analysis, it is prudent:

> 'to check the firmness of the idea you hold and to be able to correct for
> errors, it is best to confront it with rival ideas and see how well it stands
> up to the insight they bring to bear on the problem...evidence allows you
> to judge how to chose between rival notions' (.239).

The Grounded Theory methodology facilitated this process. Analytic tools and devices such as constant comparisons, interrogating the data to validate theoretical constructs or conceptualisations against the existing or incoming data are useful for

this purpose. This comparison method is inherent in all variants of the methodology (see also Glaser 1992; Charmaz 2000). It is a verification process that ensures that emergent constructs are explored for their full range of possibilities, that is, for all possible alternative explanations (Strauss and Corbin 1998). Data triangulation methods may also aid this process.

Interactionists advocate a reflective approach during the entire research process. A reflective approach in which the researcher carefully documents the processes of interpretation and analysis provides an avenue for assessing the validity and reliability of qualitative studies (Davies 1999; Noakes and Wincup 2003). Demonstrating 'what was actually done' (Henwood and Pidgeon 1993:44) or 'what is done, and why it is done, at all phases of the research process' (Shipman 1988:25) enhances accountability. It is even more pertinent for interpretivist researchers to provide an account of methods and the justifications for such methods given that unlike quantitative studies, there is no established framework for structuring and analysing data (Shipman 1988). It is such records that make qualitative research amenable to evaluation. Thus, added to the detailed documentation of the analytic processes in Chapters four to six, by maintaining detailed memos and diaries of my experiences, I also reminded alert to the influence of my role and my philosophical and theoretical positions on the processes of data collection and analysis.

This degree of reflexivity is useful for accountability irrespective of precision of the data collection and analysis methods employed. This is because, the outcome of all studies are dependent on the decisions which inform the choice of problem to be addressed and also on the assumptions made in reaching the research outcome (Murherjee and Wuyts 1988). Further, theoretical positions inform the 'preconceptions' with which the researcher approaches a study (Shipman 1988:21).

These theoretical positions arm the researcher with preconceptions which are far from absent during analysis and interpretation:

> ...the chronically elusive idea of a theory neutral observation language failed to provide the bedrock upon which positivism's intellectual edifice depended, with the reluctant admission that the investigation of the world is inevitably theory-laden. There was no theory independent way of observing the world. Accordingly, far from being a passive reporter, the researcher is an active agent in the construction of accounts of the world through the ideas and themes incorporated in the forms of knowledge (Hughes 149).

Rejecting the claims of value neutrality inherent in the nominalism of positivist approaches (Kolakowski 1993), this study was conducted whilst maintaining a detached but reflective approach (Noaks and Wincup 2004). Strategies for ensuring reflexivity were *inter alia:* acknowledging the theoretical or other influences that shaped my thinking ahead of data gathering, paying particular attention to, and adapting theoretical concerns to new developments in the field. Fundamentally, I remained alert to how the roles and identities ascribed to me by the research participants, may affect the research process (Junker 1960). The last strategy was described more fully in the section above on operational limitations. Meanwhile, it is noted that the research diary aids the process of reflexivity. In it, one documents internal conversation with oneself as one tries to make sense of one's perceived role, and of the experiences and insights gained in the field (Junker 1960). In all, the researcher maintained a reflective dialogue with the 'self' which is also a tool or instrument that may affect the quality of research. The 'self' can potentially contaminate the research process and should be accounted for much like the apparatuses the natural scientists employ in their study of the natural world (Junker 1960; Strauss and Corbin 1998). Memos, research diaries and other conceptual notes also central to Grounded Theory methodology, facilitate the process of capturing and reflecting on the thought processes and other experiences that may affect the research

process. I believe that by remaining reflective throughout the research process I may have reduced the bias that may stem from researcher subjectivity, interactions with the research participants and other experiences in the filed that may impinge on the quality of the data achieved (Henwood and Pidgeon 1988).

11.6: Reflections: the research experience

Before undertaking the study, preliminary enquiries revealed the importance of selecting an area of research that would sustain my interest over (what now seems to me to be) a considerable length of time. This piece of advice proved to be very useful. Conducting this study was a positive and fulfilling experience and I attribute this to my personal interest in the subject matter of the research and the support I received from my supervisor. There are however several aspects of my experiences that I wish to describe here because they were unforeseen and quite challenging.

The first concerns the issue of access to study participants. In Chapter three, I described the five levels of negotiations involved in the effort to recruit participants. Briefly I may recount them as negotiations with:

- Level one: the gatekeepers

- Level two: the divisional managers

- Level three: the officers and probationers

- Level four: the follow up interviews

- Level five: gaining cultural access to the social worlds of the research participants

I did not envisage the difficulties I encountered in levels two to four. Reflecting on my experiences now, if I had anticipated these difficulties from the outset, I would have proactively initiated the drive to recruit the participants during the different phases of analysis. I presumed wrongly that having gained access at the gatekeeper

level; I would have no difficulty in gaining access across levels two to four. A considerable amount of time was expended on progressing from level two to three (in one office up to 6 months).

The second challenge was more anticipated than the first. It pertains to the unpredictability of the probationers although I was forewarned of this inevitability. Linked to this is the third challenge which was a geographic one. The offices were located in sparsely populated areas spread across a large land mass. The travelling distances were sometimes up to 120 miles across narrow country roads. This difficulty was exacerbated by the unpredictability of the probationers. By failing to attend scheduled probation supervision appointments they automatically failed to attend my interviews with them. This became a quite a problem where I needed to conduct a follow up interview or where the theoretical sampling required interviews with specific probationers. In these cases, I had to make repeated journeys until I was able to secure interviews with the specific probationers. I chose this sampling method because of the benefits of being able to examine how the probationers comply with attendance requirements. Perhaps an alternative sampling approach may have been to interview the specific probationers in their homes or at other locations convenient for them. This may have avoided considerable time and financial expense although I would have been unable to observe the extent of unpredictability.

11.7: Answering the research questions

This study aimed to fill the gap in knowledge created by the paucity of research on the nature of compliance. Several commentators have acknowledged that an account of compliance based on the perceptions of those subject to deterrent policies or to restrictive enforcement polices is required to fill this gap in knowledge. I believe that the contribution of this study to knowledge rests on its effort to fill this gap. It

illuminates the nature of compliance with community penalties. Understanding the nature of compliance is crucial as it affects the service, the practitioners, the probationers they supervise and the wider society.

This study successfully answered its central research questions. We can recall that the study set out to examine the mechanisms that affect compliance with community penalties based on the accounts of the key actors involved namely, the probation officers and their clients. The aim was to develop an effective compliance strategy. This entailed an exploration of the how the mechanisms of compliance developed by Bottoms (2001) may affect compliance.

Chapter nine summarised the answers to these questions. Meanwhile, the study identified areas for further study. These are discussed below.

11.8 Maintaining ethical standards

Several steps have been taken to ensure that the study maintains adequate ethical standards. During the study, I made efforts to safeguard the wellbeing of the research participants and I took steps to address several ethical issues that arose as the study progressed.

11.8.1: Confidentiality

Given the potentially contentious nature of the issues explored by the study particularly the insights into the covert enforcement practices that emerged during the study (the informal rules), efforts were made to ensure confidentiality and to ensure that any reports arising from the study would not stigmatise any of the participants. Thus, all the participants were granted anonymity and efforts were made to ensure that no participant may be identifiable from any reports arising from the study. Further, the probation officers were informed that no information provided by their probationers during interviews would be relayed to them and the probationers were

reassured of this during the processes of obtaining their informed consent to participate in the study. Likewise, the probation officers were also reassured that none of the information they provided would be relayed to their managers. All the participants were informed that the objective of the study was not to incriminate them. These assurances of confidentiality were upheld throughout the research in order to ensure that there was no possibility that any participant would suffer any reprisals.

At all times, I was mindful of the requirements of the Data Protection Act 1998 and the Human Rights Act 1998 which protect the rights of research participants. Efforts to ensure confidentiality and to limit the possibility of reprisals included the use of codes rather than the participants' names and the decision not to name the probation area in Wales in which the study was conducted. Permission was obtained from the Jersey Service to name the service in this study.

In addition, in disseminating the insights that have emerged from the study, efforts have been made to ensure that research participants are represented accurately and steps are taken to ensure that no negative stereotypes can be developed or reinforced.

11.8.2: Informed consent

It has been noted that the principle of informed consent underlies the attempt to ensure that the social researcher balances the interest of research participants against the interests of his or her research (Noaks and Wincup 2004). To secure the interests of the participants, I obtained their informed consent before the start of the study and also intermittently during the interview. This involved introducing the study and my role, informing the participants of the objectives of the study and the content of the interviews. The processes of informed consent were conducted verbally and also in written form. The contents of the letters of consent given to the probationers were also read out to them. The aim was to ensure a clear understanding of the informed consent

processes particularly where literacy deficiencies may affect the ability to read and understand formal letters. The consent forms utilised for this purpose have been appended (see Appendix Two).

During the process of obtaining informed consent, I clearly informed the participants that their participation is voluntary and that they may decline to answer any questions they do not wish to answer. This form of informed consent helps to empower the interviewee and to reassure them that they have control over the degree of disclosure.

11.8.3: Redressing typical power differentials in the research context

Research methods which utilise the participants solely as tools for generating data objectify the research participants. The conversation style interviews I conducted may have ensured that the participants were able to discuss their perspectives on a research problem that also impacts on their lives. Further, to avoid objectification, I responded honestly to the participants' enquires into the objectives of the research. The aim was to foster a *reciprocal research relationship* in which the participants were able to give and receive useful information. Unlike the conventional detached interviewer stance, this approach facilitates *bilateral information* sharing (Noaks and Wincup 2004; Oakley 1981).

Gelsthorpe rightly observes:

> The researched have a perfect right to ask questions and they have a
> right to reasonable answers which signify respect for them as people.
> In this way feminist researchers do at least approach some of the
> issues of power and control (1990.93).

Closely related to the issue of reinforcing power differentials, is the one-sided nature of much social research. I recognise that social research may have longer term benefits for the participants particularly where it contributes to knowledge that can help improve the lives or social conditions of the participants. However one must also recognise that, research often works to the researcher's advantage. The researcher

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defines the research agenda and extracts vital information from the participants (Oakley 1981; Wolf 1996). Such information often works to the researcher's academic or professional advantage with no immediate practical value accruing to the participants. As such, I did not hesitate when one of the 'gate keepers' (a senior probation manager) requested that a £5 payment be made to reimburse the costs accruing to the participating probationers. Importantly, although a key aim of this study was to contribute to knowledge, another important aim was to improve service delivery in ways that can positively alter the conditions in which the probationers and their officers interact and also in ways that enable both parties achieve a central objective of supervision – compliance.

11.9: Possible areas for further enquiry

This study was conducted during the operation of two restrictive National Standards. This provided an almost unique opportunity to examine from a deterrence point of view, the possible impact of variations in punitiveness on compliance. Although they retain the punitive provisions of the previous standards by permitting individualised enforcement, the current National Standards to some extent, recognise the need for more responsive enforcement strategies. This policy development appears to be linked to a growing policy interest in devising compliance strategies to parallel the enforcement strategies (Ministry of Justice 2007c). Furthermore, there appears to be a growing recognition of the need to balance the focus on enforcement targets against compliance targets (Hartland 2007). This represents a positive step away from the unproductive focus on enforcement. Further research may examine how the new standards have impacted on practice if at all. A recent study by Hartland (2007) examined these issues and found that the areas sampled could be categorised across three levels depending on the extent of the shift towards a more compliance driven

approach. There were areas promoting a primarily enforcement approach to securing compliance, some were in flux between compliance and enforcement strategies whilst the remainder relied on compliance strategies.

With the shift from enforcement-driven strategies to compliance-driven strategies, the courts may be recruited into the drive for enhanced compliance. The finding that the courts would typically accept the leniency plea contained in the breach reports prepared during disciplinary breaches suggests a mutual effort between the courts and the officers to ensure that punitive response is reserved for persistent and wilful breaches. Further research on this subject may explore the degree of collaboration between the courts and the probation services, the underlying objectives and the outcome of these practices for compliance levels. This is particularly pertinent in the light of the recent decision to repeal disciplinary breaches.

During this study, new legislation requiring the courts to re-sentence the probationer found guilty of breach was introduced. This effectively removed the opportunity to simply reprimand the probationer or to impose a fine. The officers in this study predicted that more onerous requirements will escalate breach rates. Further research may explore the implications of the new legislation.

Changes to supervision practice may accompany the new Offender Management model given the fragmentation of duties. Much of the current study was undertaken during the gradual phasing in of the continuity principle and 'case management team approach' proposed in the study by Partridge (2004). With the latter model, a probationer is allocated to a team of workers including the probation officer who oversees or case manages the entire order from beginning to end. One member of the team retains continued contact with the probationer and provides feedback to the rest

of the team. Further research is required to examine how the extent of discontinuity in supervision engendered by these changes may affect compliance.

It is possible that the impact of the typologies devised by the officers is such that it encourages selectivity during report writing. Officers may be reluctant to recommend supervision for groups of probationers labelled as typically non-compliant or lacking in the requisite levels of motivation as defined by the officers. Future research may examine this possibility. Aligned to this, further research may examine how the actuarial trend in policy and practice exacerbates the imposition of spurious labels that may affect the nature of supervision and indeed, outcomes.

A final area for further enquiry identified is the noted disparities between management level and practitioner level perspectives. On my visit to one of the offices, I was privy to a discussion in which the practitioners decried the apparent tendency of senior management to ignore the realities of practice in formulating organisational policies. Studies have explored the views of management and 'front-line staff'[xliii] in order to examine how the punitive trend in probation policy translates in actual practice. Some find that the service's reaction to the correctionalist trend in probation policy has been the 'jettisoning' of its inclusionary and welfarist approach and the prioritisation of the exclusionary discourse of public protection (Bailey et al. 2007:116). According to Bailey and colleagues, the latter best describes the role of probation senior managers in formulating organisational policy. It is argued that senior managers tend to promote correctionalist and other polices enacted at the centre even where they question the viability of these polices. They are motivated by the quest to preserve the 'public credibility and legitimacy' of the service to a greater degree than the practitioners (Bailey et al. 2007:117). This tendency to approach national polices with covert scepticism mixed with overt optimism where the

objective is to preserve the credibility of the service was also noted in a study that explored the perspectives of Chief Probation Officers regarding the 'What Works' initiative (Mair 2004).

According to Bailey and colleagues, the pragmatic acceptance of national policies explains the zeal with which probation senior managers appeared to embrace the punitive enforcement practice that emerged with the introduction of the National Standards. Further research might explore whether these disparities exist in the realm of enforcement and compliance. The disparities between management level and practitioner views were not replicated in the Jersey area. Endorsed at both levels were:

- A client-centred approach

- Discretion in enforcement

- Emphasis on securing compliance rather than enforcing orders

- Motivational rather than enforcement processes

11.10: Conclusion

The originality of this study stems from its contribution to an understanding of the processes through which compliance may be achieved. With existing studies there is: 'typically little indication of how the offender perceives their supervision, what they might have learnt and how they may have applied these in their lives to effect behavioural change' (Farrall 2002a). Studies of probation enforcement typically rely on official records and this poses limitations to the degree to which the findings may be contextualised within the processes and conditions that affect the social actors involved. The current study explored the contexts of supervision and one to one interactions between both parties and was able to uncover effective strategies for encouraging compliance based on the accounts of both parties. According to Hedderman (1998.10) the supervision context represents the core of probation

supervision and would therefore have a significant bearing on outcomes. Hedderman writes:

> In order to get a rounded picture of what is happening and what works, we need to have studies which investigate both process and outcome (1998 5).

This study has cited several case studies to illustrate the links between process and outcome. It highlights the correlates of compliance as perceived by the key actors. Importantly it draws attention to the interrelatedness of control and compliance.

The mechanisms of compliance devised by Bottoms (2001) provided the conceptual framework underpinning the current study. However, the study found that compliance is best understood if one contemplates the manner in which people in authority, utilising their discretion, define and construct compliance. This finding is congruent with the position of the labelling theorists (see Becker 1963; Downes and Rock 2003). Nevertheless, the framework directs attention to aspects of current policy and practice that contribute to an understanding of compliance. For instance, routine mechanisms aim to encourage compliance with prosocial routines. The study found that the officers are able to reschedule appointments with ease and this may undermine the importance of employing routine appointments as a mechanism for encouraging routine compliance particularly where the probationer's lifestyle is chaotic or characterised by an adherence to criminogenic routines. In terms of constraint based compliance, the study found limited evidence that strict surveillance practices were linked to compliance patterns. Like their low risk counterparts, the high and medium risk probationers sampled appeared to conform to the informal rules.

Furthermore, if one may revisit the instrumental mechanisms as defined by Bottoms which underpin the current enforcement framework, it is not difficult to contemplate that the existence of objective indices of certainty and severity of punishment would

deter crime. This presumption lacks empirical basis and hence the assertion that although deterrence theory is a 'logically compelling' theory, it suffers from an 'apparent contradiction between logic and evidence' (Achen and Snidal 1989:144). Studies ignoring its perceptual dimension encounter problems in the attempt to observe its 'transmission from doctrinal formulation to behavioural influence' (Robinson and Darley 2004: 174). One might argue that the presumed rationality underlying the deterrence doctrine constitutes a flawed perception of human behaviour. It decontextualises it from the range of extraneous variables that also affect behaviour. This study found limited evidence of deterrent effects although a reliance on the use of incentives to encourage compliance was observed. Thus, in practice, the compliance achieved is typically incentivised. This raises a difficult question: How can one ensure longer term compliance where there are no incentives on offer? I have noted earlier that incentives are not typically offered by the criminal law (von Hirsch et al 1999). Incentivised compliance is therefore unlikely to be sustainable in the long term. The inherent difficulty lies in securing compliance once the rewards for compliance are removed.

This study advocates a normative approach to securing compliance given its finding that people are more responsive to decision making processes that they perceive to be fair than to deterrent measures emphasizing the threat of severe punishment. This finding is consistent with previous findings that point to the links between the perceived legitimacy of the law (of which perceived fairness is an antecedent) and compliance. There are several avenues for ensuing that these interactions can foster normative compliance. The effective practice skills cited in Chapter nine provide potential avenues for reframing the problem solving role of the officer in normative terms. The effective practice skills emphasise the quality of treatment. According to

legitimacy theorists, perceived fair treatment is an antecedent of the perceived legitimacy of authority. The latter has been linked to normative compliance.

Normative mechanisms are more sustainable given that they can produce compliance even against considerations of self interest. Voluntary compliance is the best form of compliance from a policy perspective because compared with a coercive model of compliance (the rigid application of punitive rules); it entails the investment of fewer resources in sometimes convoluted and protracted enforcement processes. A coercive model may also undermine the perceived legitimacy of authority and engender non-compliance. A case study illustrating the negative impact of a coercive model on compliance was provided in Chapter seven. In all, normative mechanisms incorporating the core correctional skills may provide an avenue for improving both social and human capital. Desistance theorists recognise these as necessary for ensuring longer term desistance (McNeill 2004). Furthermore, in pursuing these aims, practitioners are able remain responsive to needs by providing advocacy and practical help whilst remaining alert to the need to ensure normative development.

APPENDICES

Appendix One: The Research Questions and the Empirical Questions

Research questions

The central research question the study set out to answer is:
As perceived by the key actors involved namely, the probation officers and the probationers they supervise, what are the mechanisms that affect how people comply with community penalties?
The mechanisms of compliance developed by Bottoms (2001) formed the study's conceptual framework.

The Empirical Questions

1. Do probationers' perceptions of severity *and* certainty of punishment for non-compliance influence their decision to comply?
2. As perceived by probationers, how and why do the other mechanisms of compliance influence compliance?[xliv]
3. Are they motivated to comply by any specific methods of supervision?
4. What methods do probation officers employ to encourage compliance?
5. How far do they consider such methods to be effective? Can they cite examples of specific cases where such methods have proved to be effective?
6. Why do they perceive such methods to be appropriate within specific contexts?
7. Are they concerned to help probationers address social and situational problems that may affect compliance? (several studies show that probation officers are more concerned with helping probationers overcome social difficulties such a s unemployment, than enforcing community penalties (see Willis 1983).
8. Or, do they rely on the regulatory framework and its focus on instrumental mechanisms such as letter writing and threats of punitive sanctions?
9. Have they found the use of threats particularly effective in ensuring compliance?
10. Or is an approach which facilitates the use of discretion more effective?

Appendix Two: Consent forms sent to probation officers and probationers.

Probation Officers

I am a research student at Swansea University and my research aims to find out the type of issues that affect how people comply with community penalties. Therefore, in this interview I will explore your views and experiences of enforcement. This will ensure that any theory of compliance arising from the study properly accounts for actual experiences of enforcement as articulated by the professionals who work daily with probationers.

This interview is voluntary and you will not be required to answer any questions you indicate you do not wish to answer. Whatever you say to me will be held in confidence and the research report will be stored in accordance with Swansea University's strict guidelines for storing confidential information. I will make every effort to ensure that you will not be identifiable in any reports arising from this interview or in the final report itself.

To demonstrate your willingness to participate in this interview, please sign below.

I have read the above statement and I am willing to participate in this interview.

Signed...Date..
......

Thank you
Pamela Ugwudike

Probationers

I am a research student at Swansea University and my research aims to find out the type of issues that affect how people comply with community penalties. Therefore, in this interview I will ask you questions about how you carry out the requirements of your order. I will also ask you how your order has affected you or other people who may be important to you. There will be some general questions about your daily activities and your background. These will help me understand your experiences of complying with your order.

This interview is voluntary and you will not be required to answer any questions you do not want to answer. I will hold what you say to me in confidence and the research report will be stored according to Swansea University's requirements for storing confidential information. I will make every effort to ensure that you will not be identifiable in any reports arising from this interview or in the final report itself.

To confirm that you are willing to participate in this interview, please sign below.

I have read the above statement/been informed of the purpose of the research project and that my participation is entirely voluntary. I have also been informed that complete anonymity will be provided and I am willing to participate in this interview.

Signed...Date..
......

Thank you

Probationers: consent form for access to confidential records

I have been interviewed by Pamela Ugwudike about the issues that affect how I comply with my community order.

She has explained to me that her research aims to find out the type of issues that affect how people comply with community order.

She now requests access to confidential information held in my name by the Probation Service.

I give her my permission to examine my case records including pre-sentence reports and OASYs assessment records, as part of her research project.

Name...

Signed...Date..

Appendix Three: Request for interviews sent to divisional managers and potential participants

This research outline explains the key points underpinning an ongoing research project in your Probation Area. It is hoped that all offices in the area will participate. So far, probation officers and probationers have been interviewed at several offices.

The Research Topic

Developing an effective strategy for encouraging compliance with community penalties.

Objectives

I am a Doctoral student at Swansea University, working on a research project which aims to develop a theory of compliance with the law. The study seeks to ascertain how different mechanisms may be interactively or independently linked to compliance. The central research question is:

As perceived by the key actors involved in enforcement namely, the probation officers and the probationers they supervise, what are the mechanisms that affect compliance with community penalties?

Interviews

A conversational style of interviewing will be employed. This enables the participants to express their views at some depth. The aim is to generate insights into how participants perceive, define or understand the issues surrounding compliance.

Participants

Participation is voluntary and it is hoped that each participating officer will refer three of their clients to the researcher. The officer may inform the probationer that the study aims to understand their experiences of compliance and that the researcher will explain the objectives of the study in more detail before the interview commences. It may be expeditious to conduct the interviews in the probation office and also on the days that the participating probationers are expected to attend their regular appointments with their probation officer. The exact timing of interviews will of course depend upon accessibility and other organizational requirements. This ensures that interviewing does not significantly disrupt organizational schedules. Finally, it is hoped that where possible, a follow up interview will be conducted with some of the participating probationers.

Content of Interviews

1. Interviews with probation officers will explore their views about current enforcement policies and compliance related issues.
2. Interviews with probationers will examine their experiences of complying with their orders.

Confidentiality

Subject to the consent of each participant, interviews will be tape recorded purely for the purpose of analysis. All participants will be granted anonymity. As such, no one will be identifiable in any documents arising from the research or in the final report. Furthermore, it is envisaged that interviews will last a period of forty five minutes to one hour.

Access to confidential material

1. Access to specific probationer records will be required, subject to the consent of the specific probationers involved in the study.
2. A final source of data will be observations of interactions between participating probation officers and probationers, particularly where the issue of compliance is the subject of such interactions.

Finally

My sincere appreciation goes to all who agree to participate in this study.

Thank you in advance.
Pamela Ugwudike, Department of Applied Social Sciences, University of Wales, Swansea.
Email: pugwudike@msn.com.

Appendix Four: Request for interviews sent to the Jersey Probation and Aftercare Service.

Request for interviews with Probation Officers.

I am a Doctoral student at Swansea University, working on a research project which aims to develop a theory of compliance with the law. The study will explore how several mechanisms of compliance identified in the literature may be interactively or independently linked to compliance. This research outline explains the key points underpinning the study.

So far, several Probation Officers and the Probationers they supervise have been interviewed in a Probation area in Wales. I have decided to interview Probation Officers because I believe that they are the key professionals directly involved in motivating compliance on a daily basis. Insights into their experiences of encouraging and securing compliance with community penalties should illuminate the many factors that affect compliance.

Furthermore, I am aware that the Jersey Probation and Aftercare Service operates a different enforcement policy to what obtains in England and Wales. There are several *prima facie* positive points of departure from practices in England and Wales. This study seeks to explore what impact these have, if any, on compliance.

The Research Topic

Developing an effective strategy for encouraging compliance with community penalties.

The central research question is:

As perceived by the key actors involved in enforcement namely, the Probation Officers and the Probationers they supervise, what are the mechanisms that affect compliance with community penalties?

Interviews

A conversational style of interviewing will be employed. This enables the participants to express their views at some depth. The aim is to generate insights into how the research participants perceive, define or understand the issues surrounding compliance.

Participants

Participation is voluntary and the exact timing of interviews will of course depend upon accessibility and other organizational requirements. This ensures that interviewing does not significantly disrupt organizational schedules.

Content of Interviews

Interviews with Probation Officers will explore their views about current enforcement policies and other relevant compliance related issues.

Confidentiality

Subject to the consent of each participant, interviews will be tape recorded purely for the purpose of analysis. All participants will be granted anonymity. As such, no one will be identifiable in any documents arising from the research or in the final report. Furthermore, it is envisaged that interviews will last a period of forty five minutes to one hour.

Finally

My sincere appreciation goes to all who agree to participate in this study.

Thank you in advance.
Pamela Ugwudike, Department of Applied Social Sciences, University of Wales, Swansea.
Email: pugwudike@msn.com.

Appendix Five: The Interview Schedules

1. The Pilot Study-- Probation Officers

The schedule incorporated 10 'benchmark questions' (Arksey and Knight 1999:85). It was envisaged that these will open up the lines of enquiry. The first few questions were designed to explore the participants' biographical details. These should generate 'fact sheet information ...useful for contextualizing people's answers' Bryman (2001:317). Further, the initial set of questions in all the schedules were designed to put the participants at ease before the build up to slightly more challenging questions (Rubin and Rubin 2005).

The interview

Thank you for agreeing to participate in this study. Before we start, it might be helpful to briefly highlight the main purpose of this research again and also inform you of the purpose of this interview.

I am a research student at Swansea University and the project aims to explore:

How and why probationers comply with their orders

To gain a comprehensive view of compliance, I hope to interview three probationers you are supervising who agree to participate. As such, some of the interview questions will refer directly to your experiences of supervising these specific probationers.

This interview will cover several aspects of enforcement.

- Enforcement practice in general.
- Your experiences of enforcement.
- Your understanding of the obstacles that may affect compliance.
- Your views about enforcement policy and practice.
- Your philosophical approach to supervision.

This initial introduction was followed by the process of obtaining informed consent. Each participant was given a consent form to sign (see Appendix Two).

Biography

- Do you have any questions before we commence?
- Are you a main grade probation officer?
- How long have you been a probation officer/community punishment officer?
- What was your previous occupation?
- Why have you decided to work with probationers? (Altruism, punishment, rehabilitation, neutral).

Question 3 was used to explore the finding that the officers' professional background may affect approaches to supervision (Bottoms 2001, Trotter 1996).

Translating enforcement policy in practice

- What are the procedures for enforcing breach?
- Is there a specialist breach/enforcement officer?
- Have you received any training in enforcement practice?
- Are there any arrangements between this area and the courts for handling breach cases?

- Are there delays in breach hearings? How do you feel about this?
- There may be cases where you know that warning or breach letters would not encourage compliance how do you react?

Officers trained in social work practice have been found to be very reluctant to enforce compliance strictly as it is inconsistent with their philosophical approach to dealing with clients in need to social work interventions (Ditton and Ford 1994). Some however, felt that breach was a way of maintaining the credibility of the service with sentencers particularly where a further offence has been committed. Much however depended on the 'worker's general view of probation, as with the circumstances of the actual offence' (Ditton and Ford 1994:56). Studies also suggest that the breach process is sometimes considered to be too convoluted and that the difficulty of proving breach may explain the reluctance of many officers to initiate breach proceedings (Vass 1980).

- How do you respond to probationers who breach requirements towards the end of their order?

Studies suggest that officers may be less willing to enforce in such cases (Ellis et al. 1996).

- What criteria do you use in deciding on unacceptable absence?
- In what sorts of cases have you used your discretion in deciding whether or not to enforce compliance?

The lack of a precise definition of what may constitute an 'unacceptable absence' leaves some room for professional judgement in these cases. There is however a possibility that this may contribute to inconsistencies in enforcement practices (Ellis et al. 1996). This in turn may engender feelings of unequal treatment and unfairness which may ultimately undermine legitimacy (Tyler 2003). However, it has been argued that where officers are able to apply their professional judgements appropriately it also enables them to build an informal code of conduct with probationers, which is based on mutual trust and encouragement to complete the order (Vass 1980).

- How do you monitor attendance at rehabilitation programmes? (Good communication with program providers?

The study by Ditton and Ford (1994) found little or no coordination between the probation officers and the specialist agency to which 20 probationers had been referred as part of the additional requirements of their order. There was inadequate role clarification concerning the responsibilities of the probation officer whilst the probationer was participating in these programmes. Furthermore, conflicting philosophies between staff in these external agencies and probation officers may affect responses to the behaviour of the probationer. There may also be difficulties in overcoming confidentiality issues for instance where a drug abusing probationer is unable to confide in staff at a drug treatment centre for fear that what they say may be communicated to their supervising officer with adverse consequences. There may be cases where the order is progressing satisfactorily although the probationer has failed to meet the requirements of an external rehabilitation program. Many officers were reluctant to breach in these cases (Ditton and Ford 1994).

Incentives
- Where a probationer fails to attend or comply do you do a home visit to find out why?
- Do you phone them to find out why? Why/why not?
- Do you offer reminders? Why/why not?
- Apart from warning letters and breach action what other methods of encouraging compliance do you use?
- Have you ever considered using incentives to encourage a probationer to comply?
- If no? Why not?

Practicalities of securing compliance
- What are the possible obstacles that may affect compliance?
- How do you respond to probationers who breach requirements because of these obstacles?
- How far are you able to alleviate these obstacles to ensure compliance?
- How do you encourage compliance where these obstacles exist?
- Which specific method/s of enforcement work best?
- How adequate is the current enforcement framework for addressing these issues?

Typologies
- What type of probationer is typically non-compliant?
- What type of probationer is typically non-compliant?

Exploring perceptions of policy changes
- What are your thoughts concerning the decision to merge both services/possibility of privatization and contestability?

The significant changes to probation policy and practice in the past three decades have had a profound impact on the care/control dualism that underpins probation supervision. There is therefore a need to explore how probation officers perceive their role in the context of the reformulated ethos of the service and how such perceptions are manifested in enforcement practice. The questions below should provide further insights into how probation officers see their role in the context of contemporary change.

Philosophical approach to supervision
- Can you briefly describe your philosophical approach to supervision (care, control, help, enforcement)
- Should standard enforcement practice apply to all? Why?
- Should the probationer contribute to the supervision plan?
- What makes you feel this way?

Ditton and Ford (1994) rightly point out that any attempt to assess the effectiveness of probation supervision should be underpinned by an understanding of how probation officers perceive their role in the context of the reformulated ethos of the service.
In addition, studies highlight the link between the perceived legitimacy of authority, and collaborative decision making (Trotter 1996; Tyler 2003; Bottoms 1999). It is also argued that collaborative decision making processes may foster a sense of commitment to the aims of supervision on the part of the probationer (Rex 1993).

2. The Pilot Study- Probationers

Before we start, it might be helpful to tell you briefly highlight what this interview is about. I am a research student at Swansea University and I want to understand how and why people comply with orders. Therefore, this interview will look at your experiences of complying with your orders.

The interview will cover:
- What you feel the purpose of the order is;
- Any difficulties you may have that may affect how you attend;
- Your daily activities;
- Your experiences of supervision;
- What motivates you to comply;
- Your understanding of what is required of you in terms of attendance and complying with the order;
- Any previous experience of community orders you may have; and
- Some questions about your current circumstances.

As before, this initial introduction was followed by the process of obtaining informed consent. Each participant was given a consent form to sign (see Appendix Two).

The order
- Do you have any questions before we commence?
- What order are you on?
- Additional/Programme requirement or just appointments?
- Some people say probation/cpo/cpro/cpo/ is not punishment and that it is easy, what do you think?
- Can you tell me what do you think the purpose of the order is?
- Can you tell me what (or who) motivates you to attend your appointments?

Obstacles to compliance
- Is there anything that makes it difficult for you to attend your appointments? -travel, lifestyle, routines, employment, childcare, substance use, financial, memory etc.
- What did your PO say/do?
- Has this made you miss appointments?

Routine compliance
- How do you pass your time during the day? (Hang out with friends? job centre, drink, drugs, stay at home).
- Can you describe a typical day for you before you started probation?
- Many people drink when they are out with friends at the pub or on other occasions, do you drink at all? (Based on Arksey and Knight 1999.111).
- How often and how much will you say?
- Some combine drinking and smoking, do you smoke? Do you use other drugs?
- Has it [alcohol/drugs] ever affected your attendance in any way at all?
- Have you ever come in under the influence of drugs/alcohol?
- What does your officer do? Say?

Farrall (2002b) found that the major 'obstacles' to desistance were drugs and alcohol.

Normative: Bonds with significant others
- How does your family/partner feel about you being on this order?

Normative: Legitimacy (Tyler 2003)

- What do you think of your sentence? (Fair or unfair) Why? –

Ditton and Ford (1994) found varied experiences of court hearings ranging from 'humiliation and fear, through anxiety, to comparative confidence (from experienced probationers who knew the system and felt they had a good case).' Tyler's (2003) comprehensive review of the literature on procedural justice points to the significance of the criminal process in determining perceived legitimacy.

- Can you describe how you felt the police handled your case?
- How do you feel the probation officer's report was?

Normative: Bonds with authority

- Can you describe your relationship with your officer?

Constraint: rigid attendance requirements/surveillance

- How often are you supposed to attend?
- What do you do when you come in?
- Is it fair to come in for this reason?
- What makes you feel this way?
- How far do you have to travel?
- Is it fair to travel this distance for appointment?

Instrumental: Perceived certainty/severity

The deterrence literature highlights the importance of ascertaining how potential probationers come to acquire knowledge of penal sanctions (Cook 1980). Hearnden and Millie (2003:10) suggest that one reason for the failure of 'strict' enforcement (breach rates) is that 'Offenders may simply lack the necessary information to assess the strictness of the regime to which they are exposed....'

Likewise, Bottoms (2001) suggests that probationers may not believe that their officers will implement breach. Thus, inadequate rule clarification is one of the factors that may undermine the perceived certainty of punishment.

- Have you ever missed an appointment?
- What happened?
- What did your PO do?
- What do you think your PO will do if you fail to attend?
- How many times can you be absent before your PO takes you to court?
- Do you think she will take you to court?
- What makes you think so?
- Who told you what will happen if you fail to attend?
- When were you told?
- What will the courts do?
- Have you been breached for non-compliance?
- What happened?
- Do you feel it was fair that the officer took you to court?
- What makes you feel this way?
- How fair do you think the court's response was?

- Do you know anyone whose order was terminated for non-compliance/what happened to them? /fair/unfair?

General questions about your circumstances
- Rented/own accommodation. Any accommodation difficulties? Affects attendance? /supervisor's response
- Highest level of education/any training since school/age when left school/memories of school/jobs since left school/periods of unemployment? currently employed?/source of income/age/partner

Before we end the interview, do you have any questions? Anything to add?

Thank participant and debrief-reassure of confidentiality, ask for questions, and give payment.

3. Second interviews - Probation Officers

Following open sampling, the guides below were designed to aid the theoretical sampling process.

The interview schedule

Thank you for agreeing to participate in this study. Before we start, it might be helpful to briefly highlight the main purpose of this research again and also inform you of the purpose of this interview.

I am a research student at Swansea University and the project aims to explore:

How and why probationers comply with their orders

To gain a comprehensive view of compliance, I hope to interview three probationers you are supervising who agree to participate. As such, some of the interview questions will refer directly to your experiences of supervising these specific probationers.

This interview will cover several aspects of enforcement:

- Enforcement practice in general.
- Your experiences of enforcement with specific reference to the probationers you are supervising who will also participate in this project.
- Your understanding of the obstacles that may affect compliance.
- Your views about enforcement policy and practice.
- Your philosophical approach to supervision.

(As before, this initial introduction was followed by the process of obtaining informed consent. Each participant was given a consent form to sign (see Appendix Two).

Biographical information

- Do you have any questions before we commence?
- Are you a main grade officer?
- Which orders do you supervise?

Enforcement

- How do the probationers you supervise get to know what is expected of them in terms of compliance?
- What are the things that make it difficult for probationers to understand what is expected of them?
- In cases where probationers are required to attend externally provided programmes, how do you monitor their attendance?

Typologies

- What type of probationer is typically difficult to engage?
- How do you engage reluctant/uncommitted probationers?

Obstacles to compliance

- Talking about the probationers you are currently supervising or that you have supervised in the past, can you cite some examples of the possible obstacles that have affected their compliance?
- (think about accommodation problems/employment or unemployment/literacy levels/substance misuse/hostility/
- How do you respond to non-compliance in these cases?
- Are there any provisions for addressing these issues?

- What encourages compliance better- addressing these obstacles or enforcement? Why?

Incentives
- Where a probationer fails to attend or comply do you do a home visit to find out why?
- Do you phone them to find out why? Why/why not?
- Do you offer reminders? Why/why not?
- Apart from warning letters and breach action what other methods of encouraging compliance do you use?
- Have you ever considered using incentives to encourage a probationer to comply?
- If no? Why not?

Warning letters and breach proceedings
- Have you ever sent a warning letter
- In what circumstances will you demand certified evidence of absence?
- Where the probationer is unable to provide evidence for failure but you know the absence is genuine, how do you respond?
- Do you decide what is an unacceptable or an acceptable reason for absence yourself or do you have to refer it to someone else?
- Are you monitored on enforcement practice?
- How have you dealt with probationers who have shown good progress but subsequently fail to comply, why?
- How do you respond to probationers who breach requirements towards the end of their order?

The breach process
- What do you define as non-compliance that warrants enforcement?
- What form of non-compliance is the most common?
- What form commonly results in breach?
- Why do you think this form of non-compliance is the one that usually results in breach action?
- What do you do when probationers attend intoxicated or under the influence of illegal substances?
- What do you do if the probationer is aggressive, abusive, and uncooperative/uncommunicative?

- Is there a specialist breach/enforcement officer in this office?
- Are there any arrangements between this area and the courts for handling breach cases?
- How would you describe the breach process (is it straight forward or convoluted?
- Are there delays in breach hearings? Do you think it affects probationers in any way? How do you feel about this?
- What do you think about new regulations revoking disciplinary?
- In what sort of cases of non-compliance did you use disciplinary breach?
- What happened if the probationer reengaged in the interim?
- Were they told that if the re-engage, they may get a more favourable outcome in court?
- How has the new requirement affected your decision making when it comes to initiating breach action?

- Have you ever initiated breach action for one unacceptable absence? Why?
  - Have you ever initiated breach action where custody is the likely outcome? Example? Why?
  - Have you ever recommended a revocation and resentence? Describe circumstances?
  - How far do the courts accept the recommendations in the breach report?
  - Has (probationer to be interviewed) been prosecuted for breach?
  - What happened immediately leading up to non-compliance?

Deskilling and continuity
  - Are there probationers in your case load that you don't supervise on a regular basis?
  - Are you responsible for enforcing compliance in these cases?
  - How will you describe your relationship with them?
  - Have you supervised (the probationer to be interviewed) since he/she started this order?
  - If not, has the change affected supervision in any way? How?
  - Where probationers have different case mangers in the course of supervision, does it affect supervision? How? Why?
  - How will you describe your level of contact with the probationers you supervise?
  - How far are probation service officers involved in supervision and enforcement?
  - How do you feel about this?
  - How do you monitor attendance at external programmes run by partnership agencies?

Philosophical approach to supervision
  - What is the most effective means of securing compliance?
  - What philosophical approach to supervision guides your work with probationers?
  - How will you describe your relationship with the probationers you supervise?
  - Should standard enforcement practice apply to all? Why?
  - Should the probationer contribute to the supervision plan?
  - What makes you feel this way?
  - With probationers who are not attending accredited programmes or any other voluntary programme but are required to attend on specific dates, what do they gain from reporting?
  - What do you think motivates them to attend?

Finally

Before we end the interview, do you have anything to add? Any questions? Debrief and thank participant.

4. Second interviews - Probationers

Before we start, it might be helpful to tell you briefly highlight what this interview is about. I am a research student at Swansea University and I want to understand how and why people comply with orders. Therefore, this interview will look at your experiences of complying with the order.

The interview will cover:
- What you feel the purpose of the order is;
- Any difficulties you may have that may affect how you attend;
- Your daily activities;
- Your experiences of supervision;
- What motivates you to comply;
- Your understanding of what is required of you in terms of attendance and complying with the order;
- Any previous experience of community orders you may have; and
- Some questions about your current circumstances.

As before, this initial introduction was followed by the process of obtaining informed consent. Each participant was given a consent form to sign (see Appendix Two).

The order
- Do you have any questions before we start?
- What order are you on?
- Did the courts say you have to attend a program? Have you started/completed\?
- Some people say probation/cpo/cpro/cpo/ is not punishment and that it is easy, what do you think?
- Can you tell me what do you think the purpose of the order is?

Constraint/Motivation to comply
- Can you think of anything that motivates you to attend appointments/programme:
- Can you think of anyone in particular that motivates you to attend appointments/programme:
- If you are tired and can't be bothered to come in what do you/will you do?
- If there is something really important you have to do and you cannot attend your appointment, what will you do? What do you think your officer will do/say?
- Has this happened before? What did your officer say/do? Did he/she want to see something in writing explaining why you did not attend?
- What do you do/will you do if you forget to come in?
- Have you ever forgotten to attend?
- What happened?
- What did you PO do/say?
- How often are you supposed to attend?
- What do you do when you come in?
- Is it fair that you have to come in even if you have nothing you wish to discuss with the PO?
- How often is it fair for you to come in?
- Does/will coming in create any problems? Travel, employment, child care, other problems?

- How do you feel about this?
- PO's response? Fair?
- If you are in two minds about going to meet a probation appointment for example if your friends are going to the pub for a drink and you want to join them , or if there are other things you want to do which are important to you, which will you choose?
- Why?
- The government thinks that taking people back to court will make them attend? What do you think? Why?

Routine compliance
- How do you pass your time during the day? (hang out with friends? job centre, drink, drugs, stay at home).
- Can you describe a typical day for you before you started probation?
- Many people drink when they are out with friends at the pub or on other occasions, do you drink at all? (Based on Arksey and Knight 1999.111).
- How often and how much will you say?
- Some combine drinking and smoking, do you smoke? Do you use other drugs?
- Has it [alcohol/drugs] ever affected your attendance in any way at all?
- Have you ever come in under the influence of drugs/alcohol?
- What does your officer do? Say?

Instrumental: perceived certainty/severity

- Were you given any information about the order and what is expected of you?
- Who gave you this information? Was it written or verbal?
- Is there anything that makes it difficult for you to understand what written in these leaflets?
- How clear is this information? Should it be made clearer? How?
- What were you told to do if you cannot attend? Ring? Attend next appointment? Certification.
- How do they say you should contact them if you cannot come in?
- If ring, did they say before or after appointment is due? How soon?
- What did they say will happen if you do not attend?
- Did they say there will be a letter? What type of letter?
- What will the court do if your officer takes you to court for not complying with your order?
- How do you know this?
- Did you know this before starting this probation/cpo/cpro?
- Do you have family or friends that have been on probation/cpo/cpro before?
- What do they say about probation? What happens if they miss appointments?
- Do you know anyone whose probation/cpo/cpro or CPO was terminated for non-compliance/what happened to them?
-
- Since this order started have you missed appointments for any reason? What happened?
- Did you contact PO?
- What did PO say?
- What did PO do? Fair?
- Since this order started have you been breached? Can you tell me what happened?

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- What do you feel about the court's decision?
- Have you attended all your appointments since you were breached? What happened
- Have you had a previous order?
- How did it end?

Instrumental- perceived certainty
- In doing the incident that brought you to probation, how likely did you think it was that you will be caught?
- Certainty- What did you think the police will do?
- Severity- What did you think the court will do?
- Have you done something like this before? What did the police/court do?

- How often are you supposed to attend to see your probation officer?
- How many times can you be absent before your probation officer does something because of it?
- What will your probation officer do? Will he/she really?

Obstacles to compliance
- Is there anything that makes it difficult for you to attend your appointments? -travel, lifestyle, routines, employment, childcare, substance use, financial, memory etc.
- What did your PO say/do?
- Has this made you miss appointments?

Normative: Bonds with authority
- Do you see anyone else regularly when you come here? Who? Describe relationship.
- Have you had the same PO since you started CS/Probation/CPRO? Feelings?
- If no: Has change affected how you attend?
- How will you compare your relationship with previous PO and current PO?
- Can you describe your relationship with your officer?

Perceived legitimacy-obligation
- Should you do what your officer says, even if you feel it's wrong?
- If you are sure you will not be taken back to court for failing to attend appointments, will you still attend? What makes you say so?
- Is it right to say that the police/probation officer/judges/magistrates are generally honest?
- What makes you feel this way?
- Is it right to say that the police/probation officer/judges/magistrates are always fair? What do you consider to be fair treatment?
- How much respect do you have for the police/the courts/ probation officers?
- What makes you feel this way?
- Some people say that the police/probation officer/judges/magistrates treat all citizens equally. What do you think?
- In dealing with people authority how will you want them to treat you?-fair/protect rights/equal treatment.
- What is the best thing about being on probation?
- What is the worst thing about being on probation

The first 9 questions were borrowed from Tyler (1990).

Normative: bonds with society/significant others
- Rented/own accommodation. Any accommodation difficulties? Affects attendance? /supervisor's response

- Currently employed? Has probation affected getting employment?
- Close contact with family/parents, feelings of the order and extension /feelings if order is revoked? Any help from them?
- Highest level of education/any training since school/age when left school/memories of school/jobs since left school/periods of unemployment? /source of income/age/partner

Questions, additions, follow-up in a few months/ payment/ thanks

4. Third stage interviews - Probation Officers - selective coding

After open and axial coding further theoretical sampling was conducted to saturate or fully develop the emergent categories. Below are the schedules for the third stage of interviewing.

The interview
Thank you for agreeing to participate in this study. Before we start, it might be helpful to briefly highlight the main purpose of this research again and also inform you of the purpose of this interview.
I am a research student at Swansea University and the project aims to explore:
How and why probationers comply with their orders
To gain a comprehensive view of compliance, I hope to interview three probationers you are supervising who agree to participate. As such, some of the interview questions will refer directly to your experiences of supervising these specific probationers.
This interview will cover several aspects of enforcement.
- Enforcement practice in general:
- Your experiences of enforcement with specific reference to the probationers you supervise who will also participate in this project.
- Your understanding of the obstacles that may affect compliance.
- Your views about enforcement policy and practice.
- Your philosophical approach to supervision.

As before, this initial introduction was followed by the process of obtaining informed consent. Each participant was given a consent form to sign (see Appendix Two).

Biographical information
- Do you have any questions before we commence?
- Are you a main grade officer?
- Which orders do you supervise?

The breach process
- How do the probationers you supervise get to know what is expected of them in terms of compliance?
- When do you inform the probationer of consequences of breach?
- How far do they understand it?
- What would you define as failure requiring breach action?
- How would you describe the breach process (is it straight forward or convoluted?).
- Is there a specialist breach officer?
- What happens where the probationer enters a not guilty plea?
- What type of evidence will the courts require during breach action? Is it difficult to obtain?
- What factors do you take into account in writing a breach report?
- What do you think about new regulations revoking disciplinary?
- In what sort of cases of non-compliance did you use disciplinary breach?
- What happened if the probationer reengaged in the interim?
- Were they told that if the re-engage, they may get a more favourable outcome in court?
- How has the new requirement affected your decision making when it comes to initiating breach action?
- Have you ever initiated breach action for one unacceptable absence? Why?

- Have you ever initiated breach action where custody is the likely outcome? Example? Why?
- Have you ever recommended a revocation and resentence? Describe circumstances?
- How far do the courts accept the recommendations in the breach report?
- Has (probationer to be interviewed) been prosecuted for breach?
- What happened immediately leading up to non-compliance?

Securing compliance
- Where a probationer fails to attend or comply do you do a home visit to find out why?
- Do you phone them to find out why? Why/why not?
- Do you offer reminders? Why/why not?
- Apart from warning letters and breach action what other methods of encouraging compliance do you use?
- Have you ever considered using incentives to encourage a probationer to comply?
- If no? Why not?

Typologies
- What type of probationer is typically difficult to engage?
- How do you engage reluctant/uncommitted probationers?

Obstacles to compliance
- Talking about the probationers you are currently supervising or that you have supervised in the past, can you cite some examples of the possible obstacles that have affected their compliance?
- (think about accommodation problems/employment or unemployment/literacy levels/substance misuse/hostility/
- How do you respond to non-compliance in these cases?
- How effective are warning letters and threat of breach effective in addressing non-compliance where these obstacles exist?
- What makes you feel this way?
- In a case where you believed that the use of threats of punishment would not work for a particular probationer who failed to comply with requirements, how did you respond?
- Are there any provisions for addressing these issues?
- What encourages complacence better- addressing these obstacles or enforcement? Why?

Discretionary enforcement
- Have you ever sent a warning letter?
- How do you respond to probationers who breach requirements towards the end of their order?
- In deciding whether an absence is acceptable or not do you have to refer it to someone else or do you make the decision yourself?
- What if the probationer forgets?
- Do you always require evidence to prove an excuse for absence? What kind?
- Where the probationer fails to provide evidence for failure but you know the absence is genuine, how do you respond?
- How would you record physical evidence? Do you file it? Where?
- How do you withdraw warning letters?
- How do you make a record of each warning letter you send?

- Are you monitored on enforcement practice?

Deskilling and continuity
- Are there probationers in your case load that you don't supervise on a regular basis?
- Are you responsible for enforcing compliance in these cases?
- How will you describe your relationship with them?
- Have you supervised (the probationer to be interviewed) since he/she started this order? If not, has the change affected supervision in any way? How?
- Where probationers have different case mangers in the course of supervision, does it affect supervision?
- How will you describe your level of contact with the probationers you supervise?
- How far are probation service officers involved in supervision and enforcement?
- How do you feel about this?
- How do you monitor attendance at external programmes run by partnership agencies?

Philosophy
- What is the most effective means of securing compliance?
- What philosophical approach to supervision guides your work with probationers?
- How will you describe your relationship with the probationers you supervise?
- Should standard enforcement practice apply to all? Why?
- Should the probationer contribute to the supervision plan?
- What makes you feel this way?
- With probationers who are not attending accredited programmes or any other voluntary programme but are required to attend on specific dates, what do they gain from reporting?
- What do you think motivates them to attend?

Debriefing and thank you.

5. Third stage interviews -Probationers - selective coding

Before we start, it might be helpful to tell you briefly highlight what this interview is about. I am a research student at Swansea University and I want to understand how and why people comply with probation/cpo/cpro/cpo/cpro. Therefore, this interview will look at your experiences of complying with the probation/cpo/cpro/cpo/cpro.
The interview will cover:
- What you feel the purpose of probation/cpo/cpro is;
- Any difficulties you may have that may affect how you attend;
- Your daily activities;
- Your experiences of supervision;
- What motivates you to comply;
- Your understanding of what is required of you in terms of attendance and complying with the probation/cpo/cpro/cpo/cpro
- Any previous experience of probation/cpo/cpro you may have; and
- Some questions about your current circumstances.

I will also need to interview you again some time in the future in order to fully understand your experiences of complying with probation/cpo/cpro/cpo/cpro.

The order
- Do you have any questions before we start?
- What order are you on?
- Did the courts say you have to attend a program? Have you started/completed\?
- Some people say probation/cpo/cpro/cpo/ is not punishment and that it is easy, what do you think?
- Can you tell me how, if at all, this order has affected you?
- Can you describe what you feel is the most important thing that you have learned from this supervision/program?
- Can you tell me what do you think the purpose of the order is?

Constraint: rigid attendance requirements/surveillance
- Can you think of anything that motivates you to attend appointments/programme:
- Can you think of anyone in particular that motivates you to attend appointments/programme?
- If you are tired and just can't be bothered to come in what do you/will you do?
- If there is something really important you have to do and you cannot attend your appointment, what will you do? What do you think your officer will do/say?
- Has this happened before? What did your officer say/do? Did he/she want to see something in writing explaining why you did not attend?
- What do you do/will you do if you forget to come in?
- Have you ever forgotten to attend?
- What happened?
- What did you PO do/say?
- Is it fair that you have to come in even if you have nothing you wish to discuss with the PO?
- How often is it fair for you to come in?

- Does/will coming in create any problems? Travel, employment, child care, other problems?
- How do you feel about this?
- PO's response? Fair?
- The government thinks that taking people back to court will make them attend? What do you think? Why?

Routine compliance
- How do you pass your time during the day? (Hang out with friends? job centre, drink, drugs, stay at home).
- Can you describe a typical day for you before you started probation?
- Many people drink when they are out with friends at the pub or on other occasions, do you drink at all? (Based on Arksey and Knight 1999.111).
- How often and how much will you say?
- Some combine drinking and smoking, do you smoke? Do you use other drugs?
- Has it [alcohol/drugs] ever affected your attendance in any way at all?
- Have you ever come in under the influence of drugs/alcohol?
- What does your officer do? Say?

Proactive rule clarification
- Were you given any information about the order and what is expected of you?
- Who gave you this information? Was it written or verbal?
- Is there anything that made it difficult for you to understand what written in these leaflets?
- How clear is this information? Should it be made clearer? How?

- Were you given the order to sign? Who gave it to you? What was written on it?

Informal protocols
- What were you told to do if you cannot attend? Ring? Attend next appointment? Certification.
- How do they say you should contact them if you cannot come in?
- If ring, did they say before or after appointment is due? How soon?
- What did they say will happen if you do not attend?
- Did they say there will be a letter? What type of letter?

Instrumental-perceived severity
- Were you given any information about the order and what is expected of you?
- Who gave you this information? Was it written or verbal?
- Is there anything that makes it difficult for you to understand what written in these leaflets?
- How clear is this information? Should it be made clearer? How?
- What will the court do if your officer takes you to court for not complying with your order?
- How do you know this?
- Did you know this before starting this probation/cpo/cpro?
- Do you have family or friends that have been on probation/cpo/cpro before?

- What do they say about probation? What happens if they miss appointments?
- Do you know anyone whose probation/cpo/cpro or CPO was terminated for non-compliance/what happened to them?

Instrumental- perceived certainty
- In doing the incident that brought you to probation, how likely did you think it was that you will be caught?
- Certainty- What did you think the police will do?
- Severity- What did you think the court will do?
- Have you done something like this before? What did the police/court do?

- How often are you supposed to attend to see your probation officer?
- How many times can you be absent before your probation officer does something because of it?
- What will your probation officer do? Will he/she really?

Implementing terms/adaptation techniques
- If there is something really important you have to do and you cannot attend your appointment, what will you do? What do you think your officer will do/say?
- Has this happened before? What did your officer say/do? Did he/she want to see something in writing explaining why you did not attend?
- If you are in two minds about going to meet a probation appointment for example if your friends are going to the pub for a drink and you want to join them , or if there are other things you want to do which are important to you, which will you choose?
- Why?
- What do you think your officer will do/say?
- Has this happened before? What did your officer say/do? Did he/she want to see something in writing explaining why you did not attend?

- Since this order started have you not attended appointments for any reason? What happened? What did your officer do? Was it fair? How do you feel about that?
- Did he/she want to see something in writing explaining why you did not attend?
- Have you been ill before and unable to attend? And what happened? Did he/she want to see something in writing explaining why you did not attend?

- Since this order started have you been breached? Can you tell me what happened? Did you contact PO?
- How did you feel about the officer's decision? How do you feel now?
- What did you think will happen?
- Did you believe that your officer will take you to court?
- Looking back, how did that affect your decision to miss appointments?
- What did you think the courts would do?
- How did that affect your decision to miss your appointments?
- Did the officer show you a breach/written report before you went to court?

- What did the report say? How do you feel about that?

- So what happened in court then when you were breached? Can you tell me what happened?
- What do you feel about the court's decision?
- Have you attended all your appointments since you were breached? What happened?

- Since this order started have you received a letter saying that you must explain why you did not attend?
- How many? Why did you receive the letter? Did you expect it?
- What did you do when you received the letter? Attend, phone, wait for next appointment.
- What reason/s did you provide?
- How valid was the reason?

- Have you had a previous order?
- How did it end?

Obstacles
- What are the main things that are connected with/caused the incident that brought you to probation?
- Are they being looked at? How well?
- Is there anything that makes it difficult for you to attend your appointments? - travel, lifestyle, routines, employment, childcare, substance use, financial, memory etc.
- What did your PO say/do?
- Has this made you miss appointments?
- What motivates you to attend despite these problems, you have mentioned?

Normative: Bonds with authority
- Do you see anyone else regularly when you come here? Who? Describe relationship.
- Have you had the same probation officer since you started/
- If no: Has change affected how you attend or how you behave when you attend?
- How will you compare your relationship with previous PO and current PO?
- Can you describe your relationship with your officer?

Perceived legitimacy-obligation
- Should you do what your officer says, even if you feel it's wrong?
- If you are sure you will not be taken back to court for failing to attend appointments, will you still attend? What makes you say so?
- Is it right to say that the police/probation officer/judges/magistrates are generally honest?
- What makes you feel this way?

- Is it right to say that the police/probation officer/judges/magistrates are always fair? What do you consider to be fair treatment?
- How much respect do you have for the police/the courts/ probation officers?
- What makes you feel this way?
- Some people say that the police/probation officer/judges/magistrates treat all citizens equally. What do you think?
- In dealing with people authority how will you want them to treat you?- fair/protect rights/equal treatment.
- What is the best thing about being on probation?
- What is the worst thing about being on probation

The first 9 questions were borrowed from Tyler (1990).

Normative: Bonds with society/significant others
- Rented/own accommodation. Any accommodation difficulties? Affects attendance? /supervisor's response
- Currently employed? Has probation affected getting employment?
- Close contact with family/parents, feelings of the order and extension /feelings if order is revoked? Any help from them?
- Highest level of education/any training since school/age when left school/memories of school/jobs since left school/periods of unemployment? /source of income/age/partner

Is there anything else you think I should know to understand your experiences of complying with your order?

Questions, additions, follow-up in a few months/ payment/ thanks

6. Third stage interviews with Probation Officers – Further selective coding

Thank you for agreeing to participate in this study. Before we start, it might be helpful to briefly highlight the main purpose of this research again and also inform you of the purpose of this interview.

I am a research student at Swansea University and the project aims to explore:

How and why probationers comply with their orders

To gain a comprehensive view of compliance, I hope to interview three probationers you are supervising who agree to participate. As such, some of the interview questions will refer directly to your experiences of supervising these specific probationers.

This interview will cover several aspects of enforcement.

- Enforcement practice in general.
- Your experiences of enforcement with specific reference to the probationers you are supervising who will also participate in this project.
- Your understanding of the obstacles that may affect compliance.
- Your views about enforcement policy and practice.
- Your philosophical approach to supervision.

As before, this initial introduction was followed by the process of obtaining informed consent. Each participant was given a consent form to sign (see Appendix Two).

Biographical information
- Do you have any questions before we commence?
- Are you a main grade officer?
- Which orders do you supervise?

Proactive rule clarification
- How do the probationers you supervise get to know what is expected of them in terms of compliance?
- Who conducts the induction?
- Who draws up the sentence plan?
- What is your role in drawing up the sentence plan?
- What is the probationer's role?
- How do you feel about the probationer's role?
- What other aspects of decision making permit the collaboration of the probationer?
- What do you tell them to do if they cannot attend?
- What do you tell them to do if they cannot produce a certified excuse?
- How do the probationers you supervise get to know the consequences of non-compliance?
- Under what circumstances are you able to renegotiate with the probationer the terms of any additional requirements imposed by the courts?

Rule clarity
- What are the things that make it difficult for probationers to understand what is expected of them?
- What role does their literacy level play?

- How accessible is the wording of induction material?
- What do you do to overcome this?
- Do you think??? Knows about what would be an acceptable explanation for absence?

Efficient enforcement machinery
- Is there a specialist breach officer who handles all breach cases?
- Can you describe the processes involved in breaching a probationer?
- Have there been any delays between filing for a summons and the actual hearing?
- What protocols are in place for avoiding breach hearing delays?

Officers: minimizing non-compliance
- What do you define as non-compliance that warrants enforcement?
- What form of non-compliance is the most common?
- What form commonly results in breach?
- Why do you think this form of non-compliance is the one that usually results in breach action?
- What do you do when probationers attend intoxicated or under the influence of illegal substances?
- What do you do if the probationer is aggressive, abusive, and uncooperative/uncommunicative?

Professional discretion
- Have you ever sent a warning letter?
- How accessible is the wording of warning letters?
- Can I see a copy?
- In deciding whether an absence is acceptable or not do you have to refer it to someone else or do you make the decision yourself?
- When a probationer fails to comply is the WL automatically generated or is it generated manually by you?
- Under what circumstances will you withdraw a warning letter?
- How do you withdraw a warning letter?
- What would happen if you didn't have the discretion to withdraw warning letters? (Breach rates?).
- What would happen if you didn't have the discretion to define whether an absence is acceptable? (Breach rates?).

Deactivating NS: Warning letters
- What do you do where the probationer notifies you in advance of an intended absence?-send warning letter?
- What if they notify you on the appointment day?
- What if they notify you after the appointment day?
- How soon after the appointment will be acceptable?
- What sort of notification will be acceptable to you?

- In what sort of circumstances will you reschedule the appointment?

- Do you always require evidence to prove an excuse for absence? What kind?
- Where the probationer fails to provide evidence for failure but you know the absence is genuine, how do you respond?
- What influences your decision in such cases?-type of probationer, stage of order etc.
- What do you do where you have prior knowledge of an obstacle to compliance, will you request more evidence when this obstacle causes non-compliance?
- In what circumstances will you demand certified evidence of absence?
- With what type of probationer will you demand certified evidence of absence?

- Where the probationer cites work as an excuse for absences will you request proof? What kind?
- What impact does this have on employment? (Labelling?)

Demonstrating enforcement
- Is there a standard way of recording your decisions where probationer fails to attend?
- How would you record physical evidence? DO YOU file it? WHERE

Deactivating enforcement: evolving relationships
- In what sort of cases will you be more flexible in terms of demanding evidence or sending warning letters?
- How far does your personal knowledge of the probationer's characteristics and circumstances affect your decisions concerning whether or not to demand physical evidence explaining an absence?
- How do ascertain whether a probationer can be trusted to provide an honest reason for absence?
- What do you do where a probationer you trust fails to comply but is unable to provide certified excuse?
- If a probationer has a good compliance record and is approaching the end of the order what do you do where they subsequently fail to comply?

Internalising unpredictability-labelling
- What type of probationer would usually be compliant?
- What would be the signs that someone is genuinely struggling to comply?
- What do you do to engage them?
- What should be done to facilitate compliance in these cases?
- How have you learned to handle this group?
- What do you do where a probationer misses appointments although you feel that the probationer is genuinely struggling to comply?
- What impact will their behaviour have on how you decide on acceptability where they fail to comply?

- What type of probationer would usually be non-complaint?
- What would be the signs that someone is blatantly violating requirements?

- What do you do to engage them?
- What should be done to facilitate compliance in these cases?
- How have you learned to handle this group? What do you do where the probationer is blatantly violating rules?

- What impact will their behaviour have on your definitions of acceptability where they fail to comply?
- Over time do you get to know who is being honest about reasons for absences? How?
- How does this affect your decision making in terms of accepting excuses for absence?

Impact of constructive enforcement-positive breach report
- Is there a specialist breach officer who handles all breach cases?

Actual severity
- In what sort of cases would the court impose custody for breach?
- Would breach normally result in custody?
- What is the typical sentence for breach?
- How appropriate do you feel this is?

Courts: minimising non-compliance
- What type of evidence will the courts require during breach action? Is it difficult to obtain?

Prosecutor/defence dualism
- In writing your breach report what circumstances will you take into account?
- After initiating breach and before the case is heard, will you try to encourage them to attend?
- What if it's the first breach? Will it affect your recommendations?
- How do the courts respond to your recommendations?

- What do you think about new regulations revoking disciplinary?
- In what sort of cases of non-compliance did you use disciplinary breach?
- What happened if the probationer reengaged in the interim?
- Were they told that if the re-engage, they may get a more favourable outcome in court?
- How has the new requirement affected your decision making when it comes to initiating breach action?

- Has??? missed an appointment since you started supervising him/her
- Can you briefly describe the circumstances? What was your response? Home visit?
- Did you send WL to???

Projected role
- Has ??? been prosecuted for breach? /Can you describe the circumstances?
- How do probationers respond to you after breach action?

- What do you do in response?
- What makes you respond in this way?

Addressing obstacles
- Talking about the probationers you are currently supervising or that you have supervised in the past, can you cite some examples of the possible obstacles that have affected their compliance?
- (think about accommodation problems/employment or unemployment/literacy levels/substance misuse/hostility/
- How do you respond to non-compliance in these cases?
- Are there any provisions for addressing these issues?
- What encourages complacence better- addressing these obstacles or enforcement? Why?

Policy constraints: deskilling
- Are their probationers in your case load that you case manage but don't supervise on a regular basis?
- Are you responsible for enforcing compliance in these cases?
- How will you describe your relationship with them?
- Where probationers have different case mangers in the course of supervision, how does it affect supervision?
- Have you supervised ??? Since he/she started this order? If not, how has the change affected supervision if at all?

- How will you describe your level of contact with the probationers you supervise?
- How far are probation service officers involved in supervision and enforcement?
- How do you feel about this?
- How do you monitor attendance at external programmes run by partnership agencies?
- How do you feel about their level of involvement in the roles traditionally reserved for probation officers?
- How do you feel about having to delegate the functions traditionally reserved for probation officers, to external agencies?

Policy constraints: case loads
- What is your case load like?
- How does it affect the quality of supervision you are able to provide?
- Is there a system of low grade reporting/reporting centre? For what category of probationers?

Practitioner philosophy
- What is the most effective means of securing compliance?
- What philosophical approach to supervision guides your work with probationers?
- How will you describe your relationship with the probationers you supervise?
- Should standard enforcement practice apply to all? Why?

- Should the probationer contribute to the supervision plan?
- What makes you feel this way?
- With probationers who are not attending accredited programmes or any other voluntary programme but are required to attend on specific dates, what do they gain from reporting?
- What do you think motivates them to attend?

Age/questions? Thank you.

7. The Follow-up Interviews-Probation Officers.

Thank you for agreeing to participate in this study. Before we start, it might be helpful to briefly remind you of the main purpose of the research and this interview.
I am a research student at Swansea University and the project aims to explore:
How and why probationers comply with their orders
During our interview … months ago we discussed your experiences of enforcing and encouraging compliance. Today we will discuss your experiences and the experiences of the participating probationers since the last interviews. This interview will also cover several aspects of enforcement practice.

As before, this initial introduction was followed by the process of obtaining informed consent.

Reacquainting
- How have things been for ??? since the last interview?
- Are you still his/her supervisor?
- Has his/her order changed in any way? What happened?
- Has??? missed an appointment since then? Can you briefly describe the circumstances? What was your response?
- Has ??? been prosecuted for breach? /Can you describe the circumstances?
- What type of relationship do you have with ??? now?

Proactive rule clarification
- Under what circumstances are you able to renegotiate with the probationer the terms of any additional requirements imposed by the courts?

Deactivating NS: Warning letters
- What do you do where the probationer notifies you in advance of an intended absence?-send warning letter?
- What if they notify you on the appointment day?
- What if they notify you after the appointment day?
- How soon after the appointment will be acceptable?
- What sort of notification will be acceptable to you?
- In what sort of circumstances will you reschedule the appointment?
- What do you do where the probationer is unable to officially certify their absence but you know the reason for the absence is established, genuine or obvious?
- What influences your decision in such cases?-type of probationer, stage of order etc.
- What do you do where you have prior knowledge of an obstacle to compliance, will you request more evidence when this obstacle causes non-compliance?
- In what circumstances will you demand certified evidence of absence?
- With what type of probationer will you demand certified evidence of absence?

- Where the probationer cites work as an excuse for absences will you request proof? What kind? What impact does this have on employment? (Labelling?)

Professional discretion
- Under what circumstances will you withdraw a warning letter?
- How do you withdraw a warning letter?
- What would happen if you didn't have the discretion to withdraw warning letters? (Breach rates?).
- What would happen if you didn't have the discretion to define whether an absence is acceptable? (Breach rates?).
- How do you feel about your ability to decide what is acceptable or what is unacceptable?

Deactivating enforcement: evolving relationships
- In what sort of cases will you be more flexible in terms of demanding evidence or sending warning letters?
- How do ascertain whether a probationer can be trusted to provide an honest reason for absence?
- What do you do where a probationer you trust fails to comply but is unable to provide certified excuse?

Policy constraints: deskilling
- Where probationers have different case mangers in the course of supervision, how does it affect supervision?
- Have you supervised ??? Since he/she started this order? If not, how has the change affected supervision if at all?
- How do you feel about the level of contact you have with the probationers you supervise?
- How will you compare the level of contact you have now with what obtained the past?
- How do you feel about this?
- How do you feel about the level of bureaucratic functions involved in your work?
- What aspects of probation practice are psos involved in? Induction, sentence plan, regular supervision and enforcement?
- How do you feel about their level of involvement in the roles traditionally reserved for probation officers?
- How do you feel about having to delegate the functions traditionally reserved for probation officers, to external agencies?
- How do you liaise with staff responsible for other components of an order to ensure enforcement?

Policy constraints: case loads
- What is your case load like?
- How does it affect the quality of supervision you are able to provide?
- Is there a system of low grade reporting/reporting centre? For what category of probationers?

8. The Follow-up Interviews-Probationers.

Before we start, it might be helpful to remind you of what this interview is about. I am a research student at Swansea University and I want to understand how and why people comply with orders. I interviewed you...months ago about your experiences of complying with your orders. Today we will discuss your experiences since the last interview.

As before, this initial introduction was followed by the process of obtaining informed consent.

The interview
- Do you have any questions before we start?
- How, if at all, has probation affected you?
- Can you describe what you feel is the most important thing that you have learned from this supervision/program?
- Can you tell me what (or who) motivates you to attend your appointments?

Implementing terms/adaptation techniques
- Since the last time I spoke to you in ....have you attended all your appointments?
- **If no** What happened? What did your officer do? How do you feel about that?
- Have you missed appointments for any reason? What happened? What did your officer do? Was it fair? How do you feel about that?
- Did he/she want to see something in writing explaining why you did not attend?
- Have you been ill before and unable to attend? And what happened? Did he/she want to see something in writing explaining why you did not attend?

- Since the last time I spoke to you in ....have you been breached? Can you tell me what happened? What was going on in your life then?
- How did you feel about the officer's decision? How do you feel now?
- What did you think will happen?
- Did you believe that your officer will take you to court?
- Looking back, how did that affect your decision to miss appointments?
- What did you think the courts would do?
- How did that affect your decision to miss your appointments?
- Did the officer show you a breach/written report before you went to court?
- What did the report say? How do you feel about that?

- So what happened in court then when you were breached?
- What do you feel about the court's decision?
- Have you attended all your appointments since you were breached? What happened?

- Since the last time I spoke to you in... have you received a letter saying that you must explain why you did not attend?

- How many? Why did you receive the letter? Did you expect it?
- What did you do when you received the letter? Attend, phone, wait for next appointment.
- What reason/s did you provide?
- How valid was the reason?
- How do you feel about receiving a warning letter/s?
- How, if at all, has receiving the letter/s affected how you comply?

Routine compliance
- Can you describe a typical day for you before you started probation?
- Can you describe a typical day for you now that you have started probation?

Obstacles
- Is there anything that makes it difficult for you to attend your appointments? - travel, lifestyle, routines, employment, childcare, substance use, financial, memory etc.
- What did your PO say/do?
- Has this made you miss appointments?
- What happened? What did officer do? Did he ask for certified evidence?
- How do you feel about that?
- What motivates you to attend despite these problems, you have mentioned?

Perceived legitimacy-obligation
- What is the best thing about being on probation?
- What is the worst thing about being on probation?

Perceived legitimacy-evaluations of the service
- Have you had the same probation officer since you started/since the last time we met?
- How do you feel about this?
- Can you describe your relationship with your officer?

Is there anything else you think I should know to understand your experiences of complying with your order?

Questions, payment/ thanks.

Appendix Six: Initial concepts

1. Addressing obstacles
2. Brokerage- accommodation
3. Brokerage- substance misuse
4. Caring role
5. Certified notification
6. Complete absconsion
7. Compliance obstacles
8. Constructive enforcement
9. Defence role
10. Defining formal rules
11. Defining formal rules
12. Demonstrate enforcement
13. Deskilling
14. Discretionary enforcement
15. Early revocation
16. Efficient enforcement machinery
17. Evolving relationship
18. False excuses
19. Flexible appointments
20. Full activation
21. High caseloads
22. Ignoring perceived risks
23. Ignoring the formal rules
24. Increasing bureaucracy
25. Instrumental mechanisms (incentives)
26. Interim compliance
27. Internalise unpredictability
28. Limited enforcement options
29. Limited facilities
30. Literacy deficiencies
31. Negative breach report
32. Notification after absence
33. Overestimating risks
34. Partial activation
35. Perceived obligation
36. Persistent violations
37. Poor quality supervision
38. Positive breach report
39. Prescriptive rules
40. Problem solving role
41. Projected role
42. Prosecutorial role
43. Punitive enforcement
44. Quality of treatment
45. Responsibilising the probationer
46. Risk management role
47. Rule ambiguity
48. Rule clarity

Appendix Seven: Integrating the emergent concepts

OFFICER DEFINED MECHANISMS
Addressing childcare problems
Addressing employment related obstacles
Addressing travel related problems
Brokerage- substance misuse
Brokerage- accommodation
Flexible appointments
Motivating compliance
Unofficial discretion
Support
Problem solving
Maintaining positive relationships
Client-centred approach

PROBATIONER DEFINED MECHANISMS
Instrumental mechanisms
Perceived obligation
Officer empathy

POLICY DEFINED MECHANISMS
Enforcement machinery
Proactive rule clarification
Early revocation
New sentencing for breach

REACTING TO THE FORMAL RULES
Overestimate risks
Rule violations
Undermined risk perceptions
Personal experiences
Peer influence
Individualised sentencing for breach
Variable sentencing for breach
Flexible enforcement

OBSTACLES TO COMPLIANCE
Emotional problems
Practical problems
Situational problems
Literacy deficiencies

CONFRONTING UNPREDICTABILITY
Internalise unpredictability
Punishing blatant violations
Evolving relationship
Unofficial professional discretion
Prosecutorial role

Defence role
Projected role
Uncertified excuse
Constructive enforcement
Defence role
Evolving relationship
Inflexible enforcement
Projected role
Prosecutorial role
Discretionary enforcement
Persistent violations
Typologies
Notification after absence
Informal rules
Minor violations
Notification before absence
Full deactivation
Constructive negotiations
Reprimands
Communicating informal rules
Pragmatic discretion
Altruistic discretion
Ease of discretionary enforcement

POLICY CONSTRAINTS
Undermined quality of supervision,
Demonstrating enforcement
High case loads
Limited facilities
Increasing bureaucracy
Prescriptive rules
Limited enforcement options
Demonstrate enforcement
Deskilling

INFORMAL RULES
Ignored violations
Minimised violations
Normalised violations

ADAPTAION TECHNIQUES
Breach avoidance techniques
Notification before or after absence
Normalising violations

Appendix Eight: The three key categories

REACTING TO THE FORMAL RULES
Probationer mechanisms of compliance
Obstacles to compliance

CONFRONTING UNPREDICTABILITY
Officer defined mechanisms
Policy constraints
Informal rules

ADAPTATION TECHNIQUES
Probationer mechanisms of compliance
Obstacles to compliance

Appendix Nine: Sample Questions

To ascertain the extent of professional discretion and covert practices I asked the following questions:

- When a probationer fails to comply is the warning letter automatically generated or is it generated manually by you?

- Under what circumstances will you withdraw a warning letter?
- What would happen if you didn't have the discretion to withdraw warning letters?
- What would happen if you didn't have the discretion to define whether an absence is acceptable?
- In deciding whether an absence is acceptable or not do you have to refer it to someone else or do you make the decision yourself?
- What do you do where the probationer notifies you in advance of an intended absence/after a failure to attend?
  Exploring accountability
  - Are your enforcement decisions monitored?

- How do you withdraw a warning letter?
- Is there a standard way of recording your decisions where probationer fails to attend?
- How would you record physical evidence? DO YOU file it? WHERE
  These revealed that although there are provisions for recording decisions in order to facilitate accountability, the officers were able to amend the records retrospectively and to make unverifiable entries. This reduces accountability and standardisation of practices. Further, the questions generated considerable insights into the extent of covertness. They helped to uncover the extent of and the motives for industrial deviance.
  Questions to explore how probationers implement the requirements of their orders.
  - Have you ever missed your appointment for any reason? What did your supervisor do?

- Have you ever attended under the influence of any substances? What did your supervisor do?
  These revealed the extent of non-compliance with impunity.
  Questions used to explore adaptation techniques
  - What do you do/*will you do* if you forget to come in?

- What does/will your supervisor say or do if you do not attend your appointment?
  These revealed the extent to which probationers adapt to the revised and more flexible enforcement processes.

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[i] Most of the probationers sampled were serving Probation Orders (now the Community Order with Supervision Requirement). The study also sampled a smaller

number of those serving Combination Orders (now Community Order with Supervision and Unpaid Work Requirements) and those serving Community Service Orders (now Community Order with Unpaid Work Requirements).

[ii] Now Community Order with Unpaid Work Requirement.

[iii] The period between the mid 1700s and the late 1910s is defined as the era of Penal modernism. It was characterized by the rise of imprisonment as the primary penal sanction and optimism in the rehabilitative potential of the criminal system.

[iv] According to several commentators, Late Modernity represents the period in the mid twentieth century from the 1950s onwards during which economic developments precipitated rapid socio-cultural and political change in western societies (see Garland 2001).

v This study was conducted during the operation of the 2002 and later the 2005 National Standards (National Probation Service 2002; NOMs 2005). Both standards extend the restrictive and prescriptive requirements of previous standards although the latest standards (NOMS 2007) recognise the need to apply compliance strategies alongside enforcement strategies. For instance, the 2007 Standards encourage the officers to make a home visit or to issue a reminder in cases of non-compliance 'where circumstances permit' (NOMS 2007).

vi The disciplinary breaches may have been counterproductive. Most probationers received fines and non-payment may have placed them at risk of infiltrating the system further.

vii To enhance the celerity of punishment, the National Standards typically incorporate provisions for expediting breach proceedings particularly where the incident of non-compliance poses a risk to the public or is defined as wilful or persistent. Further, both the probation and court services are required to establish protocols for expediting breach action.

[viii]Hirschi (1969) traced young offending to a weakening of the bonds between the young offender and society. The components of social bonds were conceptualized as: attachment (to significant persons), commitment (stakes in conformity), and involvement. Revising this theory, he later de-emphasized the importance of social bonds and normative beliefs. He argued instead that crime is the product of inadequate self control, opportunity and rational decision making based on considerations of self interest (Gottfredson and Hirschi 1990).

[ix] Specific deterrence is concerned with the possibility that the actual experience of punishment would deter an offender from re-offending in the future. General deterrence on the other hand, focuses upon the likelihood that the existence of punitive sanctions would deter the general public from engaging in prohibited behaviour. Both are not different mechanisms rather; they are 'the same mechanism applied to different populations' (Beyleveld 1979.211).

[x] Official records reveal that many crimes are undetected, unrecorded and occur with impunity (Home Office 1995). It is noted that: 'for every 100 offences committed only two criminal convictions are obtained' (see Goldblatt and Lewis 1998.89).

[xi] Some studies do show that experiential effects may produce deterrent outcomes. Apospori and Alpert (1993) surveyed 178 respondents with previous antecedents and found that the perceived severity of punishment was a more effective deterrent among those respondents who had received more severe sanctions. The study by Piquero and Pogarsky (2002) recorded different findings. By contrast, it has been found that those with higher criminal antecedents are more likely to re-offend and more likely to underestimate the risks of certain punishment compared with those with lower

antecedents, thus contradicting the presumptions of specific deterrence (Piquero and Paternoster 1998). This is traced to the likelihood that those who have been punished tend to underestimate the certainty of punishment for future offending compared with those who have been punished less.

[xii] See previous chapter.

[xiii] Several commentators have discarded the contentious notion of rationality and settled for a more moderate variant of the concept namely, 'bounded rationality' (von Hirsch et al. 1999.6). This entails a contextualised consideration of the utility or disutilities associated with offending. Such considerations are specific to the particular circumstances of the potential offender, and also to the limits of their appraisal of probable risks even where these tend not to correspond with actual risks. Bounded rationality therefore accommodates subjective conjecture and speculation. In doing so it accords with the writings of classical theorists – Bentham and Beccaria both of whom highlighted the perceptual nature of deterrence and the specificity of rationalisations underpinning human behaviour (Erickson, Gibbs and Jensen 1977). Similarly, bounded theory also recognises that it is misleading to assume that there is an 'objective' rationality that underlies all human behaviour. It recognises that individuals differ in the extent to which they are willing to accept risks or the extent to which they assess risks. Others commentators adopt the concept of 'limited rationality'. This alterative concept also accommodates the limited ability of people to 'acquire and process information' (Cook 1980.220; Simon1957). With limited rationality, offenders utilise experiential factors to regulate behaviour.

[xiv] Blummer (1998) coined the term 'symbolic interactionism' and extended Mead's theoretical position (Denzin 1992; Plummer 2000:196). Like Mead, he emphasises the ability of the individual to converse with the self in order to ensure that behaviour conforms to the expectations of others, this he terms 'self interaction' (1966:535). Blummer presents his version of symbolic interactionism in a more dogmatic or 'canonical' form Denzin (1992: xiv) For Blummer, human behaviour is the product of three processes namely, the meaning ascribed to things, these meanings arise in the context of social interactions and the meanings are subsequently modified by the individuals during symbolic introspective dialogue with the self and during symbolic interactions with others.

[xv] Strauss and Corbin (1998:1) define of the term 'methodology' as 'a way of thinking about and studying social reality.' This definition suggests that the term encompasses the notions of epistemology and ontology which pertain to philosophical questions about the nature of knowledge. 'Methods' are the techniques for data collection and analysis (Strauss and Corbin 1998).

[xvi] See chapter one

[xvii] The Office of National Statistics (2006) estimates that the average household income in Wales is more than £100 below the UK average.

[xviii] It is worth noting that this relates specifically to the rates of recorded crime and not actual crime rates. This is because, although recorded crime rates are lower than in England, 'the percentage of detected crime for which no action is taken by the police' is higher in Wales than in England (Welsh Assembly Government 2007:111).

[xx] The new style community order (CO) was introduced by the Criminal Justice Act 2003 and came into force for all offences committed on or after the 4[th] of April 2005.

[xxi] Concepts were the abstract interpretations of segments of data. They were the first level of abstraction from the data. Conceptualising incidents in data facilitated the labelling incidents in data sharing similar characteristics. Concepts were also derived from the words of the participants themselves in which case they were classed as 'in vivo codes' (Strauss 1998.105). In all, efforts were made to ensure that the labels or codes were directly relevant to the context, condition or background of the labelled incident in data (Strauss and Corbin 1998.106). Further, at all times, attempts were made to conceptualise incidents from the perspective of the participants bearing in mind that they act according to their perceptions (Strauss and Corbin 1998:158).

[xxii] Categories represented a higher level of abstraction from the point of data (Strauss and Corbin 1998). They explained what a group of concepts denote. As such, groups of concepts pointing to the same phenomena were grouped into categories for ease of analysis (Strauss and Corbin 1998).

[xxiii] The subcategories comprised the conditions and the actions and interactions that pertain to the category. The concepts integrated into each category represented these.
[xxiv] Process is defined as 'a series of evolving sequences of action/interaction that occur over time and space...in response to the situation or context' (Strauss and Corbin 1998: 165).
[xxv] 'Structure creates the context for action/interaction' (p. 166)
[xxvi] Invivo code
[xxvii] Invivo code
[xxviii] Invivo code
[xxix] This concept is borrowed from Hearnden and Millie (2004)

[xxx] To ascertain the meaning of a concept, each concept was explored for it properties and possible dimensions. Strauss and Corbin (1998:101) define properties as the: 'characteristics of a category, the delineation of which defines and gives it meaning' (p.101). As such, exploring the properties and dimensions of a concept aided the process of defining that concept in its different manifestations.

[xxxi] A property incorporates several dimensions. These are the criteria that qualify the property. The dimensions of a property sensitise the researcher to further indications or instances of the properties in the data. They enable the researcher to explore categories from several possible angles in order to develop them fully. Every concept has many properties and dimensions and the data was explored fully to discover these.
[xxxii] A category is saturated where no new incidents in the data that expand on the properties and dimensions of an existing category can be identified (Strauss and Corbin 1998:136).
[xxxiii] 'An analytic device to stimulate analysts' thinking about the relationship between macro and micro conditions/consequences both to each other and to process' 181.
[xxxiv] Invivo code
[xxxv] Invivo code
[xxxvi] Invivo code
[xxxvii] In vivo code
[xxxviii] Invivo code
[xxxix] The most recent standards are more flexible. They do not contain the requirement to activate enforcement where no excuse is provided in advance (see NOMS 2007).
[xl] In vivo code

xli In vivo code

xlii It is worth noting that limited generalisability affects all other forms of social research irrespective of sampling method. As such, Bryman puts it that with *all* studies:

..even where a sample has been selected using probability sampling, any findings can be generalised only to the population from which the sample is taken (2001:101). Therefore a study involving a random sample of participants in a probation area can only be generalised to that probation area.

xliii The term 'frontline' refers to main grade probation officers working closely with probationers. It is borrowed from McNeill (2000)

xliv Numbers one and two above are the factors identified by penologists as central to understanding whether a deterrent strategy has an effect on behaviour (see von Hirsch and colleagues 1999). If it can be shown that perceptions of seriousness and severity have no effect on the decision to comply, or that other factors apart from the existence of deterrent measures influence probationers' decision to comply, then one can accurately conclude that the coercive sanctions for non-compliance do not produce any discernible deterrent effect.