

Discussion questions

At the end of Chapter 10 we posed several questions (reproduced below) which raise important issues. We give our comments after each question.

1. Is what is known about the practice of assessment and supervision of offenders in the community evidence that it operates within a post-modern penalty?

You might find it helpful to re-read Section 10.5.2. in Chapter 10, where we discuss the differences in practice between rehabilitation and risk control. By post-modern penalty we refer to the focus on actuarially-based management of risk rather than 'modern' rehabilitative and 'normalising' probation practice. The National Offender Management Service, by its very title, stresses a new focus on management but, government policy nevertheless, promotes the greater use of rehabilitative projects through the new post-release supervision requirements and the new 'flexible' community sentence. The answers can only be found in detailed research on probation practice, and on pages 293-4 of the book we refer to some of the findings. The jury is clearly still out on this issue and conclusions are made more difficult by apparent differences between rhetoric and reality. You might find helpful the texts by Beamont (1999) and Kemshall (2003) - see the further reading section of the companion web site.

2. In what ways will the sentencing framework - for imposing penalties between fines and prison – established by the Criminal Justice Act 2003 be a 'better' framework than the one it replaces?

The new generic community sentence is intended to give the courts greater flexibility in tailoring punishments to the individual offender with the aim of reducing the likelihood of re-offending. To answer this question you need to assess the extent to which the new system does give more flexibility than did the range of community penalties and added requirements available in previous legislation. You should also consider whether it will

enhance the opportunities for effective rehabilitation. You might also wish to consider how far the available requirements will increase the amount of punitive control that can be exerted under a community sentence and whether that is acceptable and likely to be effective.

3. How does the New Rehabilitation differ from earlier forms of rehabilitation?

In answering this question you need to consider how the two forms of rehabilitationism would address the issue of sentencing. What would they see as the appropriate criteria for sentence length? Would they favour determinate or indeterminate sentencing? In addition you could consider the implications of each approach for respect for the rights of the person being punished. You may also address their diverging views on the aims of imprisonment. What would be the implications for the type of regime provided within prison and for the obligation on the state to provide suitable offending behaviour programmes? Would either of these approaches allow for coercive treatment and training?