Submission to the Oireachtas Joint Committee on Justice, Home Affairs and Migration

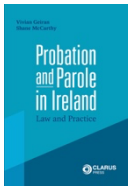
General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill, 2025

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August 2025

Introduction

According to Justice Minister O'Callaghan's statement that accompanied the publication of this Bill, its purpose is to respond "…to a range of pressing challenges for the criminal justice system." Most of the proposed Bill will achieve that goal of addressing a range of the relevant challenges, as intended. I do not have substantive observations to make in relation to most of the Bill, much of the provisions of which I welcome. The part of the proposed Bill with which I am concerned is Part 8, Head 25. That is the sole element of the Heads of Bill that I propose to submit my observations.

Observations on Heads of Bill, Part 8 – Head 25

According to the Note to Head 25:

> The main purpose of this head is to amend the Criminal Justice (Community Service) Act 1983 to facilitate and encourage the expanded use of community service orders (CSOs) as an alternative to custodial sentences in appropriate cases. At present, section 3(1) of the Act (as substituted by the Criminal Justice (Community Service) (Amendment) Act 2011) requires the courts to consider the imposition of a CSO where the appropriate custodial sentence would be 12 months or less. The head extends this threshold to 24 months and obliges the court to give reasons if opting not to impose a community service order in such cases. The head also increases from 240 to 480 hours the maximum number of community service hours that may be imposed under a community service order. These reforms align with the strategic objectives outlined in the Review of Policy Options for Prison and Penal Reform 2022–24, which advocates for the expansion of non-custodial sentencing options as part of a broader effort to reduce reliance on imprisonment and enhance rehabilitative opportunities.

The intent of the above, to increase the use of community sanctions such as community service and probation supervision, is to be welcomed. The element of Head 25 about which I am gravely concerned, is the following:

> Elsewhere, the head substitutes "relevant officer" for "probation officer" in several sections of the Act. This allows for a broader category of

> appropriately designated and trained Probation Service staff to oversee the administration of CSOs, thus allowing more senior and experienced staff to focus on providing supervision in more complex and high-risk cases.

On the face of it, there may appear to be a certain logic, a 'common sense,' to what is proposed here, in the sense that it would make more staffing resources available to Probation Service management, to undertake specific tasks that would have been, up to now, been within the remit of Probation Officers. The apparent, but flawed, logic is clearly driven by the shortage of social workers in Ireland, from whose ranks Probation Officers are traditionally recruited. Theirin lies the real problem: this attempt to relieve the pressure on the Probation Service cadre of Probation Officers, by allowing others to do their work, will lead to reduced effectiveness and poorer public protection and safeguarding.

I believe that what this proposed change represents is a significant dilution of the role of the Probation Officer in Ireland and by extension, a diminution of the level of service to those under Probation Service supervision, as well as to society at large, and specifically to victims of crime. My concerns are linked to two other recent or ongoing developments in the Probation Service: (1) the abolition of the requirement that Probation Officers be registered (with CORU) as social workers, and (2) the proposal to 'hive off' some traditional Probation Officer roles and tasks to the new grade of Probation Assistant (PA).

The introduction of the PA grade is to be welcomed. Indeed, it is something that I championed during my tenure as Probation Service Director. But, as I have written elsewhere recently (see below), the decision and momentum to expand the PA role, introduced two years ago, into some areas of the work traditionally done by Probation Officers is to be given effect by the above terms of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, which provides for the substitution of '"relevant officer" for "probation officer"' in several sections of the Community Service legislation.' This would allow '…for a broader category of appropriately designated and trained Probation Service staff to oversee the administration of Community Service Orders, thus allowing more senior and experienced staff to focus on providing supervision in more complex and high-risk cases.' The tasks thus removed from being reserved by law to probation officers would include the initial assessment of suitability for community

service and the management of non-compliance with a Court order, including the return of any matter to Court, if required on the basis of non-compliance for example. It appears to be anticipated that such assessments and management of non-compliance, in addition to general management of completion of the CSO could then be undertaken by other grades, most likely Probation Assistants.

Probation is already an under-regulated area of the Irish criminal justice system. The organisational moves regarding the Probation Officer role, currently under way, add to that lack of regulation and do little to encourage or maintain the highest standards in probation practice in Ireland. Ironically, this is at a time when probation systems in the UK are currently debating and increasing professional regulation in probation, in the interest of improved public protection and professional standards.

As I have also described elsewhere, the challenges affecting the Irish Probation Service are those of *quantity* and *quality*, specifically regarding Probation Officers. The introduction of the PA grade of staff is a positive development and has much to offer the Probation Service and those availing of its services. Registered Social Workers have clearly defined roles and must adhere to CORU's professional values and Standards of Proficiency. Is there any other area of work more in need of regulation and the highest practice standards than probation work, given the range of issues Probation Officers deal with and the huge importance of their role, reducing reoffending and facilitating offender reintegration and community justice – working to safeguard current and future victims of crime – on all our behalf?

Supporting documentation to this submission

On foot of the specific elements of Head 25 in the proposed Bill, allied to other steps taken in recent times by the Probation Service, I have authored two papers recently in support of what I am proposing in the present submission. An opinion piece that I wrote was published in the *Irish Examiner* newspaper on 13 August and is available online here:

https://www.e-pages.dk/irishexaminer/1086/article/2332316/8/2/render/?token=d16f34ac94fdb4f4036425e7187b7cbc

For ease of reference, a screenshot copy of that article is also included in the Appendix to the current submission.

In addition, a longer piece that I submitted to the (British) *Probation Journal*, an internationally recognised peer-reviewed publication, has been accepted for publication and I expect that it will appear in that journal's online version in the coming days or weeks:

https://journals.sagepub.com/home/prb

I will send on a copy of that article separately, as soon as it is published online.

Proposal – Remedial Action

I strongly urge the Committee to recommend removal of the parts of Head 25 that would change the role of the Probation Officer in relation to Community Service assessment and management, as outlined above.

Conclusion

The proposed dilution of the Probation Officer role is a dangerous move, from a range of perspectives, not least its impact on the effective management of offenders and the resulting negative implications for community safety, and must not be allowed to proceed, specifically through the progression and enactment of the present legislative proposals. I urge strongly that the Committee remove the parts of Head 25 that would change the role of the Probation Officer in relation to Community Service assessment and management. I am more than happy to assist the Committee further in any way that might be

helpful, including meeting with the Committee to elaborate further on the present submission, if and as required.



Vivian Geiran

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Vivian GEIRAN **Summary Biography**



Vivian is a registered social worker (CORU: SW 00319), international criminal justice consultant and an Adjunct Assistant Professor (in the School of Social Work & Social Policy) at Trinity College, Dublin. He is co-author, with Dr. Shane McCarthy, of the award-winning book *Probation and Parole in Ireland: Law and Practice*, (Dublin: Clarus Press [2022]).
A former probation officer, Vivian is an Irish representative on the International Penal and Penitentiary Foundation (IPPF), Chair of the Ana Liffey Drug Project, a member of the Board of *Cuan*, the Domestic, Sexual and Gender Based Violence Agency, and a member of the Sentencing Guidelines and Information Committee of the Irish Judicial Council. He was Director of the Irish Probation Service from 2012 to 2019 and has served as President of the Council of Europe's Council for Penological Cooperation [PC-CP] and as Chair of the Irish Association of Social Workers.

Appendix – Article by Vivian Geiran in *Irish Examiner* on 13 August 2025

Quantity over quality will not benefit probation outcomes

Probation officers play a key role in our justice system and standards must not be diluted, writes **Vivian Geiran**

IN the debate regarding crime, much focus is on the prison system, with incarceration often considered the sanction of choice, the default. This is particularly the case today, where we face an ongoing and indeed worsening prison overcrowding in Ireland.

Against that backdrop, many fail to realise that in terms of management and supervision of offenders, the Probation Service supervises almost twice as many persons in the community on a daily basis as there are in custody. Another frequent misconception is that probation officers only supervise young, and "low-level" offenders.

The reality is that probation officers work with people of all ages, genders, and backgrounds, across the full spectrum of offending. These include those on probation orders and community service orders, as well as many supervised on fully or part-suspended prison sentences, on parole, and those convicted of sexual and other violent offences.

There are also probation officers working in all Irish prisons, helping prisoners to address issues that contributed to their offending and prepare them for reintegration in the community. Across all areas where probation officers are assigned, they assist those with addiction, mental health issues, and any number of complex needs, reducing risk of reoffending.

Much of the work done by probation officers in Ireland is governed by the Probation of Offenders Act, 1907, which although an enlightened piece of legislation that has by and large stood the test of time, is long overdue for an upgrade. Probation officers have pretty much always been trained social workers, as social work education, training, and skills have long been recognised as an appropriate fit with what probation officers are required to do. The social work profession is state regulated, following the establishment of Coru, the regulator for health workers and social care professionals. Since 2013, anyone calling themselves a social worker must by law be registered with Coru and adhere to their standards and values, as well committing to continuing professional development.

In 2014, then justice minister Alan Shatter published the heads of a Community Sanctions Bill, to "provide a modern statement of the law governing community sanctions and the role of the Probation Service in the criminal justice system". One of the provisions of that bill would require all probation officers to be registered with Coru as social workers. This would lead to an enhanced probation organisation and greater accountability, a stronger professional identity, and inter-professional standing for officers.

Unfortunately however, the bill has not progressed, despite repeated political commitments over the past decade or more to do so.

While the majority of probation officers were already trained social workers, in 2018 the Probation Service introduced a formal requirement that all new entrants as probation officers be registered social workers.

This was to formalise and "lock in" probation's professional link with social work and make a clear commitment to professional standards and public accountability through registration and regulation.

Since 2023, this decision has been reversed, due in part to the well-recognised recruitment and retention issues in social work generally. Recruiting adequate numbers of probation officers is nothing new and has been a chronic problem in Ireland for at least the last fifty years. Also in 2023, the Probation Service introduced a new staff grade of probation assistant, who are not required to be social work trained, to assist in "managing the supervision of offenders on community service orders, assisting in monitoring low-risk offenders and assisting in the coordination of programme delivery". This is a positive development, just as the establishment of the community service supervisor grade in 1985 enabled that cohort of service staff to introduce and develop specific skills in supervising those on community service orders.

It also allowed probation officers to focus on the key aspects of their role in assessing and supervising offenders and dealing with courts. Assistant grades are not unusual in a range of professions. In such developments however, clear practice protocols are generally put in place.

Of concern, then, is the recent development to expand the probation assistant role, into some areas of the work traditionally done by probation officers. The recently published Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 provides for the substitution of "relevant officer" for "probation officer" in several sections of the community service legislation. This would allow "for a broader category of appropriately designated and trained probation service staff to oversee the administration of community service orders, thus allowing more senior and experienced staff to focus on providing supervision in more complex and high-risk cases".



The Probation Service supervises almost twice as many persons in the community on a daily basis as there are in custody.

The tasks removed from being reserved by law to probation officers would include the initial assessment of suitability for community service and the management of non-compliance with a court order, including the return of any matter to court, if required on the basis of non-compliance for example. It is anticipated that such assessments and management of non-compliance, in addition to general management of community service orders could then be undertaken by other grades, most likely probation assistants.

Probation is already an under-regulated area of the Irish criminal justice system. Unlike the probation systems in the UK, as well as our own policing, prison, and healthcare systems, there is no probation inspectorate in Ireland, something that was to be addressed by the Community Sanctions Bill. In addition, the *Strategic Review of Penal Policy* published by Government in 2014 proposed the establishment of a consultative council on criminal justice to inform policy development on evidence-informed bases.

The organisational moves regarding the probation officer role, currently underway, add to that lack of regulation and do little to encourage or maintain the highest standards in probation practice in Ireland. Ironically, this is at a time when probation systems in the UK are increasing professional regulation, in the interest of improved public protection and professional standards.

When all is boiled down, the challenges described here to the Irish Probation Service are those of quantity and quality, specifically regarding probation officers.

The introduction of probation assistants is a positive development and has much to offer the Probation Service and those using its services. Nevertheless, the answer to the challenge of recruitment is much more than one of numbers of "bums on seats", whether that means unregistered probation officers, probation assistants, or others.

Alternative responses to the numbers issue include the recently introduced apprenticeship in social work, in which probation is a partner and which provides opportunities to greatly increase the numbers of social workers.

Quality though, must not be sacrificed for undifferentiated quantity.

That is not to say that probation assistants and community service supervisors are any less than probation officers; in fact the opposite is true.

Registered social workers have clearly defined roles and must adhere to Coru's professional values and standards of proficiency.

Is there any other area of work more in need of regulation and the highest practice standards?

Given the range of issues probation officers deal with and the huge importance of their role, reducing reoffending and facilitating offender reintegration and community justice — working to safeguard current and future victims of crime — I believe it must be protected.

■ Vivian Geiran is a social worker and adjunct assistant professor, TCD school of social work and social policy, and former Probation Service director.