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**Clinks response to the  
Ministry of Justice's Green Paper:**

**“Breaking the Cycle: Effective Punishment,  
Rehabilitation and Sentencing of Offenders”**

March 2011

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## Section 1 | Introduction

Clinks welcomes the publication of the Green Paper, *Breaking the Cycle*, and the opportunity to respond to the range of proposals contained within it. We very much support the ambition to reduce the prison population by reserving custodial sentencing to those offenders that present a risk of harm to the public.

There is quite clearly a significant role for the Voluntary and Community Sector (VCS) in supporting the Government to achieve this aim and to effect a significant reduction in reoffending.

Clinks exists to provide infrastructure support to the VCS working with offenders across England and Wales. Our mission is to support, represent and campaign for the Sector, so that VCS organisations, and all those with whom they work, are engaged and informed to transform offenders' lives and reduce reoffending. We are a membership organisation with over 300 members, including the Sector's largest providers as well as its smallest, and our wider national network reaches 3,500 VCS contacts. Overall, through our weekly e-bulletin *Light Lunch*, we are in contact with over 5,500 individuals and agencies with an interest in the Criminal Justice System (CJS) and the role of the VCS in the resettlement and rehabilitation of offenders.

Following the election of the new coalition Government in 2010, Clinks published an on-line series of five themed Discussion Papers<sup>1</sup> and invited responses by email, to encourage debate within the Sector of the Government's vision for a 'Rehabilitation Revolution':

- *Big Society: constraints and potentials;*
- *Localising justice: how can we increase local VCS involvement in service design and delivery?*

<sup>1</sup> See Clinks' Discussion Papers at: <http://www.clinks.org/publications/discussion-papers>

- *Payment by results: what does it mean for voluntary organisations working with offenders?*
- *A new focus on measuring outcomes: where do we start?*
- *Criminal justice outsourcing: what is the potential role of the VCS?*

This debate was further stimulated through the inclusion of diverse VCS organisations in round table discussions, and a Clinks seminar on Payment by Results. We were able to draw on this preliminary feedback to make a number of themed submissions to the Ministry of Justice (MoJ) in the period leading up to publication of the Green Paper.

Following its publication, Clinks circulated an early Briefing on the key issues and questions contained in the Green Paper, and invited email responses. During the consultation period we also convened seven events in various locations including London, the South West, Midlands, North West and North East regions, in order to gather the views of our members and wider VCS networks on the proposals and questions set out in the Green Paper.

Our events varied slightly in format: some included keynote speakers and question panels; others were much more participatory. Across all seven events, Clinks identified the key areas likely to have the greatest impact on the VCS and a series of thematic workshops took place that adopted a solutions based approach to the Green Paper proposals<sup>2</sup>. In total, over 400 organisations participated in these events (see event numbers at Appendix 1), and feedback from delegates was overwhelmingly positive (see summary at Appendix 2). All of these email and

<sup>2</sup> For the responses collected from our events in Birmingham, Manchester and Newcastle, see <http://www.clinks.org/assets/files/PDFs/Event%20report.pdf>

workshop responses were subsequently collated and are reflected in this overarching Clinks response.

Clinks is also a member of the Reducing Reoffending Third Sector Advisory Group (RRTSAG), which is making a separate submission based on the experience and expertise of its members, and Clinks' response has been further informed by their contributions. Additionally, a number of our VCS partners and member organisations have agreed to share their responses with us and some of their insights have enhanced our views and recommendations.

Clinks' response addresses most, but not all, of the questions identified in the Green Paper. It is structured around key themes of particular relevance to the VCS working in the CJS, informed by the issues prioritised by workshop participants at our consultation events.

## Section 2 | Economic Context

Clinks' response is also informed by the results of two recent on-line surveys that we undertook to gauge the impact of the economic downturn on the VCS working in the CJS. Over 230 organisations and individuals responded to the surveys and the results confirm that the Sector is in a fragile state.

Most organisations responding were undertaking programmes of redundancies, with many intending to significantly reduce their staff complement. An alarming number were already spending reserves to keep their services operational, and many stated that they were unlikely to survive beyond April 2011 unless they could access additional funding in the near future.

When asked about their experience of the Transition Fund, 25% of respondents stated they were eligible

for it and 44% replied that they were ineligible. Almost one third stated they were unaware of it. Although 23% of organisations had applied, 77% had not. Of those that didn't apply, the most common reasons were ineligibility or lack of time and resources.

The kind of support that organisations were seeking from Clinks included information about alternative sources of funding as well as advice on forming new collaborations and mergers to achieve economies of scale and reductions of 'back office' functions.

Given these findings we are concerned that the positive and progressive proposals in the Green Paper will be fundamentally undermined unless there is swift and effective action at national and local levels to offset the impact of the economic downturn and the imminent public sector budget cuts. If action is not forthcoming soon then the Sector will not be in a position to take up the challenges and opportunities of greater engagement in delivery of public services that is one of the building blocks of the Big Society.

## Section 3 | Punishment and Payback

### 3.1 Making prisons places of hard work and industry

The Sector<sup>3</sup> broadly welcomes the ambition to transform prisons to deliver meaningful and purposeful experiences for offenders, as well as delivering the important functions of deterrence and public protection. The proposals to link work within the prison to vocational skill development are

<sup>3</sup> The views expressed in this response reflect input from 400+ VCS organisations that took part in Clinks' consultation on the Green Paper, plus other emailed responses and VCS submissions shared with us. They do not necessarily reflect or represent the views of all our members or wider VCS network.

positive but participants at our consultation events were against the entire regime being focussed on vocationally oriented activity.

There are many other important interventions provided by the VCS within prisons that help offenders to address their offending behaviour and that need to be preserved. For example, the place of education in prison needs to be maintained as many prisoners require support to attain even basic levels of skill in numeracy and literacy.

Our consultations also yielded many examples of arts based interventions and activities, for which there is considerable evidence of rehabilitative impact, especially in terms of motivating offenders to rethink how they have lived their lives.

In order for this approach to be 'scaled up' it is essential that a programme of disinvestment in much current prison industry is implemented. Where prisoners are involved in work in prisons, too often it is mundane and meaningless with no future potential or relevance in the external job market. There will also need to be changes in the standard working routine and regime of many prisons for this approach to become a reality.

Clearly there will also be a different approach to developing working prisons depending on the function and category of the prison. What is achievable in a maximum security establishment may not be possible in a busy local remand prison with a high turnover of inmates. Similarly, there are different challenges to delivering in an open prison compared with a Category C training prison.

The distinctive needs of older prisoners and those with a disability will also need to be accommodated within the new approach. The need to undertake purposeful, 'work-like' activity will have to be geared to the capacity and capability of each prisoner, and

care will be required to ensure that some categories of offender are not socially excluded because of their inability to engage in a new prison culture focused entirely on work and earning power.

### **3.2 The expertise and innovation of the private and voluntary sectors to help develop the working prison**

Notwithstanding these qualifications, the proposals to open up prisons to VCS and private organisations will help to generate a 'real life' experience of work for serving prisoners. The VCS is well positioned to provide or broker meaningful work placements that are tailored to the individual offender and that contribute to improving community facilities outside the prison. These would include social enterprises that have a strong business ethos coupled with a social purpose. The Social Enterprise Coalition, Co-operatives UK, and Social Firms UK are three umbrella organisations that have experience and expertise in this area. A strategic alliance with one or more of these could effectively support objectives in this area.

Opportunities to provide more placements for prisoners outside the prison gates were discussed with enthusiasm at our consultation events. It will be critical to ensure that investment is made in partners with experience of selecting and matching offenders to appropriate placements. Delegates also stressed that a 'real wage' is important to make working roles align more closely with life on the outside. A proper wage, advice on money management and the chance to provide resources for families of offenders would assist in building motivation to work.

### **3.3 Increased use of curfews**

Although extending the use of curfews as an alternative to short custodial sentences or as a means of supporting the delivery of community orders is

broadly welcomed, the proposal to lengthen the curfew maximum to 16 hours presents challenges in at least two respects. Firstly, it could seriously undermine efforts by supervised offenders to obtain and keep employment. Secondly, it poses particular problems for women offenders who are often primary carers for children and extended family, who can face isolation in the home and/or may be at risk of violence in the home.

If implemented the 'tougher' curfew would need to be used with care and specific guidance should be issued to sentencers regarding its use.

### 3.4 Greater use of financial reparation

The proposals to bring in measures to increase the use of fines and compensation orders are welcomed and will reverse the decline in the use of the fine as a disposal over the past 15 years. During this time fines have, overall, been replaced by community orders and these are generally made on lower risk offenders who have tended to 'silt up' probation caseloads.

One of the factors contributing to the shift from fines to community orders has been the desire of magistrates to address the social and welfare problems (housing, debt, relationship difficulties, etc.) that low level offenders often experience. Some of the evidence from the problem-solving courts pilots has demonstrated that the availability at court of services to address these difficulties has allowed magistrates to avoid imposing otherwise unnecessary community orders. Recruitment of VCS organisations that have expertise in these issues has been important to successful implementation.

Notwithstanding our support for increasing the use of fines as a sentencing option, there were a number of participants at our consultation events who identified the importance of recognising the levels of poverty

experienced by many offenders, including women and those from Black, Asian and Minority Ethnic (BAME) communities. Care will be needed to ensure that fines do not have a disproportionately negative effect on these groups. Sentencers may be more likely to impose a custodial sentence on an offender who clearly has insufficient means to pay a fine or who defaults on payment.

It is crucial that a convicted offenders' struggle to avoid further offending is not undermined by being driven even further into financial difficulty and debt.

## Section 4 | Restorative Justice

The Sector broadly supports the commitment in the Green Paper to extend Restorative Justice (RJ) approaches. Whilst it is acknowledged that Community Payback and the Victim Surcharge can be restorative, our response focuses specifically around RJ that involves some form of victim and offender engagement.

The definition of RJ offered in the Green Paper is considered very victim centred and we would argue that such a narrow definition diminishes the potential impact of RJ, which traditionally includes the victim, the offender and the community. This more holistic view of RJ is reflective of an approach that considers the wider social causes behind offending behaviour and understands that many offenders have been victims themselves.

A key strength of RJ approaches is that they can involve extended family in group conferences, which can strengthen support for both the victim and the offender. The community ethos behind RJ makes the VCS particularly well suited as a delivery partner.

It was suggested at our consultation events that the public face of RJ could be improved by better communication about positive results achieved.

There is considerable potential for RJ to feature at all stages of the criminal justice process, from arrest to sentence. Successful RJ outcomes could influence decisions regarding prosecution, sentencing decisions, and release arrangements.

Care will need to be taken that offenders are not unfairly disadvantaged should RJ not be a feasible option in certain cases, although this should be rare given the imaginative models of RJ that have been developed.

Investment will be required to ensure that there are local mediation centres throughout England and Wales. Operationally, proper training and professional delivery will be absolutely key to making RJ successful and ensuring wider community buy-in:

*Any evaluation of restorative programmes should also assess whether the community has fulfilled its part of the contract and also, of course, whether the actual meeting was facilitated in a competent and restorative way.<sup>4</sup>*

Clinks supports the idea of a National Register of Restorative Practitioners to ensure quality of delivery. Accreditation seems an appropriate way of ensuring that practitioners, whether paid or voluntary, are properly qualified for the work and, in turn, receive recognition. Although accreditation is relatively inexpensive, it is important for smaller VCS organisations that space in an assessment centre is made available for their staff and volunteers – this could be organised at local level.

<sup>4</sup> Martin Wright, 2010: <http://makejusticework.org.uk/wp-content/uploads/2010/04/Martin-Wright--Towards-a-Restorative-Society.pdf>

## Section 5 | Rehabilitation

### 5.1 Integrated Offender Management

Measures to devolve delivery and accountability to the local level received widespread approval in our consultations. The vast majority of VCS organisations are rooted in local communities and crime itself is primarily a local phenomenon.

Clinks is particularly interested in the potential for developing the Integrated Offender Management (IOM) model of service delivery to offenders and their families. We are currently working with the Home Office to co-ordinate 4 local 'development and demonstration' sites which are exploring the role of the VCS as equal partners in the delivery of IOM.

One of the early lessons from these pilots is the key role that VCS Local Infrastructure Organisations (LIOs)<sup>5</sup> can play in bringing together the VCS at the local level to support IOM and in particular to act as brokers between the VCS and the statutory partners in IOM schemes. This project has demonstrated that relatively small amounts of development funding directed to the VCS can generate innovative new services and allow the VCS to take on a leadership role in both strategic and operational delivery of IOM. It has also highlighted the need to address the cultural barriers that exist between the two sectors and the importance of making time and effort to build trusting relationships.

<sup>5</sup> LIO: Local Infrastructure Organisation – a charitable body such as a Council for Voluntary Service that typically provides a range of support services for all the VCS organisations within its area. These might include help with organisational development, funding advice, training, and co-ordinating the sector's engagement with and representation on local strategic groupings such as the Local Strategic Partnership. Many LIOs have Volunteer Centres attached to their organisations or work very closely with them.

Effective local delivery also requires greater co-ordination of public sector agencies and tackling the obstacles created by so-called 'silo' approaches to funding and delivery. The emerging lessons from Total Place and the more recent proposals for 'Community Budgets' will be important for creating the holistic services necessary for vulnerable people, including offenders and their families, to turn their lives around.

The VCS traditionally works across a range of health and social care agendas and is well-placed to support more integrated and localised services.

The proposal to run pilot local incentive schemes in Manchester and in some London boroughs, including Lewisham and Croydon, to test the effectiveness of a partnership approach to reducing reoffending in an area, is viewed as having considerable potential. Linking the effort to reduce reoffending at a local level with a re-investment of savings to the CJS could strengthen local strategic and operational arrangements including those with the VCS. This could provide a concrete role for the proposed Police and Crime Commissioners that will come into being in 2012.

To be successful there will need to be continued commitment to reduce barriers to VCS contribution and to address cultural issues between the public and voluntary sectors.

## 5.2 Supporting offenders to get off drugs

The Green Paper's approach to tackling drug using offenders is generally welcomed, especially the proposed arrangements for a 3-tiered system based in the community with graduated levels of intensity of treatment. Although abstinence based routes to recovery can be effective they should not however be the only forms of treatment recognised within a Payment by Results model of delivery. We would

support the nuanced analysis and recommendations outlined in the recent published report by the United Kingdom Drug Policy Commission<sup>6</sup>. One of its key recommendations relates to the importance of reductions in HIV infection that have been achieved through a harm reduction (maintenance) strategy.

A serious gap in the Green Paper is the absence of any stated recognition of the prevalence of dual diagnosis in the offender population and the importance of ensuring that assessment and treatment services are joined up with more holistic approaches to deal with offenders' underlying needs and issues.

## 5.3 Getting offenders into work

The commitment to review the provisions of the Rehabilitation of Offenders Act 1974 is welcomed as is the intention to further 'open up' the Work Programme to offenders.

There are, however, many offenders who are a long way from the labour market as a result of low skills, poor work histories, and the struggles they experience with substance misuse and mental health issues.

Providers in the VCS that have a track record in addressing these needs will need to operate in a more flexible funding environment and services commissioned on a Payment by Results basis will need especially to recognise 'distance travelled' measures in order to effectively rehabilitate this group.

## 5.4 Reducing barriers to settled accommodation

Participants at our consultation events were supportive of the Green Paper's emphasis on the

<sup>6</sup> Available at:  
[http://www.ukdpc.org.uk/resources/UKDPC\\_PbR.pdf](http://www.ukdpc.org.uk/resources/UKDPC_PbR.pdf)

importance of stable accommodation and access to employment and training opportunities in delivering reductions in reoffending, and the related outcomes for drug-using offenders and those with mental health issues. Although measures to increase access by offenders to the private rented sector including the Crisis schemes are broadly welcomed, there are concerns that up to 25% of important housing related support services required for offenders with complex needs could be cut over the next 12 months, as a result of reductions in local authority funding and the removal of the 'ring fence' for Supporting People services. Many of these services are delivered by small supported housing providers and there are fears that they will not survive in a future Payment by Results funding model.

### 5.5 Managing offenders with mental health problems

The continued commitment to the Bradley reforms in relation to mentally disordered offenders is welcomed as is the recognition of the effectiveness of properly structured and resourced mental health liaison and diversion schemes. Getting offenders with mental health needs into appropriate treatment is critical to successful rehabilitation. But just as with drug offenders, it is important that other issues related to accommodation, debt, education, etc. are also addressed and VCS organisations are well positioned to deliver 'wrap-around' support services in these areas to assist in rehabilitation. The success of locally based 'link worker' schemes<sup>7</sup>, where a single individual works with an offender from arrest (or release) through to successful resettlement, has already demonstrated the effectiveness of such innovative VCS service delivery.

<sup>7</sup> See: <http://www.revolving-doors.org.uk/partnerships--development/projects/link-worker/>

## Section 6 | Payment by Results

The Sector welcomes a system that places the focus on outcomes rather than micro-management of processes and creates opportunities for creativity, innovation and flexibility. Opening up the market to independent providers, often better placed to provide holistic and personalised services to offenders, will enhance and increase the role of the VCS as an equal and independent partner.

We are broadly supportive of the principles informing Payment by Results (PBR) but there is a great deal of concern in the Sector about the reality of PBR for small and medium sized VCS organisations. Risk appetite will be very low at the local level where organisations have little or no reserves. Furthermore, a cross-Governmental approach is needed to support the PBR agenda, particularly with diminishing resources available across the board in terms of the opportunities for employment, training, housing etc. that provide the acknowledged pathways out of offending.

PBR has the potential to be genuinely transformative but the transition will be lengthy and Clinks welcomes the acknowledgement in the Green Paper that the system will need extremely careful design. What emerged with greatest clarity from our consultation events was the very limited availability of, and necessity for, transitional funding to support VCS organisations until they can begin to realise the benefits of a greater market share of public services.

### 6.1 Designing the Payment by Results model

Responses to our consultation emphasised that it is absolutely critical to VCS involvement that there is both an up-front service fee and a payment for results. Clinks would support the recommendation of

the recent Centre Forum report<sup>8</sup> that PBR should be phased in – initially with a payment attached to an activity, followed by an intermediate outcome payment and finally a purely outcome based payment. This would supply the space for organisations to adapt their working to the new environment.

For the community sentencing strand, Clinks welcomes the proposal for two separate payments – one for outputs (compliance with sentence) and a further payment for reducing reoffending. However, this split between the first payment for statutory compliance and a second payment for a result is concerning. Many VCS providers believe that involvement in compliance and the punitive element of sentencing could undermine their work. Feedback from our consultations confirmed that, for some VCS organisations, any involvement in relation to compliance or punishment of offenders is problematic. The effectiveness of many VCS services relies on voluntary uptake, a sense of trust from the offender and freedom to disclose. The PBR system should be designed in such a way that VCS providers are able to cover their delivery costs and payment should be made for voluntary as well as compulsory uptake.

Consortium-based bidding - bringing together combinations of statutory partners and the VCS - could help to mitigate some of these problems by shielding the VCS from the punitive aspects of service provision. Training and brokerage will be required to ensure that the necessary partnerships operate effectively. Where prisons are commissioning on a PBR basis for offenders sentenced to 12 months or

less, it is imperative that prison management is given guidance on contracting with VCS partners.

The Green Paper's commitment to involving a diverse range of providers is welcomed, as is the recognition that VCS organisations are often best placed to make a real difference with those offenders who are the hardest to reach. The aim to develop the market holds great potential for innovative models of service provision. However, there is a danger that with the squeeze on all sectors, many smaller and more locally based initiatives will lack the competitive edge to win PBR contracts. The design of the payment mechanism will be pivotal to the structure of the supplier market, as Centre Forum registers:

*Government needs to think actively about provider market developments so that it does not develop a small oligopoly of providers.*

Centre Forum indicates that the number of potential prime providers is very limited. Evidence from the welfare to work market shows that primes defer as much risk as possible to subcontractors and that VCS contractors need substantial amounts of working capital. Delegates in our event workshops on PBR felt that a clear and detailed code of conduct, resembling the Department for Work and Pensions (DWP) Merlin Standards, is required to regulate prime and subcontractor relations within the CJS.

A truly mixed market should not be limited to a prime and sub model but will also include consortia and Social Impact Bonds (SIBs), where the VCS can play a much greater role in service design. SIBs are welcomed as a means of protecting the VCS from financial risk and present one model for funding transformative work. From our consultations with charitable trusts interested in funding CJS missions, it seems clear that trusts will be keen to await the results of the Peterborough Pilot before committing further capital. This model will not provide a

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<sup>8</sup> See:

[http://www.centreforum.org/index.php?option=com\\_content&view=category&layout=blog&id=38&Itemid=61](http://www.centreforum.org/index.php?option=com_content&view=category&layout=blog&id=38&Itemid=61)

universal alternative for the VCS to replace grant and contract income from the MoJ/NOMS and other public sector commissioners on a national scale.

Developing a mixed market requires a diverse range of PBR pilots, both in terms of offenders worked with and providers tested. It is important that the pilots include work with different groups of offenders, including women. There is a danger that investors will be reluctant to invest in services for offenders with more complex needs where results are less predictable and harder to achieve. PBR could in fact encourage greater conservatism in service provision and incentivise quick fix solutions within the payment period. A premium payment for work with harder to reach offenders could help to mitigate this problem.

It is vital that the pilots explore different models of local delivery, including collaborations between statutory sector and VCS partners and local consortia. Delegates at our consultation events were cognisant of the tension between the size of the cohort needed for PBR to function and the direction of travel towards localism, and called for a range of micro pilots of PBR at a more local level.

## 6.2 Paying providers by results

There is uncertainty within the Sector about what it would mean to tailor the approach of PBR for specific groups of offenders. Many of those responding to our consultation emphasised that the critical question is whether a holistic and flexible approach to individuals can be maintained under PBR. There is wide support for a more tailored approach to BAME offenders, women or young adults – where PBR is adapted to the size of the group and a needs based approach is taken. A needs based approach on a PBR basis would mean tailoring the outcomes that are considered valid and payable in relation to the group. However, there is a danger in over-categorising offenders. It is critical that an individualised approach

is taken that has resonance with the service user. A tailored approach should focus on ensuring that small and specialised service providers are able to operate in this environment to provide a holistic and flexible service.

An outcome measure that is cheap, easy to use and versatile will be essential to the VCS in demonstrating its results. Focussing on frequency of reconviction across a whole cohort seems a more appropriate measure than evaluating the outcomes for each individual. There was consensus in our consultation events that severity of crime should be taken into consideration – perhaps ‘reconviction leading to a serious disposal’ would be a more sensible measure than ‘all proven reconvictions’. Delegates also stressed the need for sentencers to be receptive to advocacy on the part of a provider where a lapse has occurred and a further offence committed.

Distance travelled, as well as absolute reductions in reoffending, should be capable of financial reward under PBR. Participants at our consultation events gave examples such as the Richter Scale and the Outcome Star, as tools that display a richness lost when a binary measure alone is used to monitor results. For example, evidence of improved confidence and motivation indicates greater likelihood that a service user will retain employment gained.

This would also help to mitigate the incentive to cherry pick. In 2010, a DWP Research Report on Outcome Based Commissioning<sup>9</sup> recommended stronger service user feedback as a counterbalance to cherry-picking, and this approach has a natural fit with the ethos of the VCS. Developing and implementing robust measurement tools throughout the VCS will take time and resources. Many

<sup>9</sup> See <http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep638.pdf>

participants in our consultations on PBR have highlighted that funding arrangements must include resources for carrying out evaluations.

### 6.3 Bridging the transition

With Payment by Results expected to be fully in place by 2015, there is great uncertainty across the VCS about what will happen in the meantime. Social investment is an excellent source of funding for transitional and transformational models, and to test new approaches. However, there is insufficient social capital to finance the diversity of VCS organisations currently operating at a local level. While PBR pilots are taking place, it is vital that an adequate level of up-front funding is provided.

VCS organisations involved in this consultation have stressed the need for alternatives to PBR and have urged further investigation to identify the most appropriate models of PBR. We would therefore advocate a cautious and incremental approach. All sectors will need time to adapt to PBR – to adjust funding arrangements, form partnerships and develop a robust evidence base – but much of the VCS (as demonstrated by the results of the Clinks Economic Downturn Surveys) is in a highly vulnerable position financially.

It is essential that additional transitional funding is made available, perhaps in the form of some seed-corn grants or short-term contracts to develop sustainability around PBR.

### 6.4 Involving smaller VCS organisations as well as larger national ones

Smaller VCS organisations have emphasised that their successful involvement in PBR will depend on:

- Payment structures that include a payment for service as well as a payment for results;

- Phasing in PBR over a period of 3 – 5 years to give the Sector time to form new partnerships, adapt to new funding arrangements and develop a robust outcome measure;
- Providing a premium payment for harder to reach offenders to mitigate against cherry picking;
- An enabling and tailored approach for small specialised agencies that provide a holistic and flexible service to individuals;
- Providing financial reward for distance travelled as well as the offending/reoffending binary measure;
- The availability of multiple streams of finance to engage VCS organisations with different levels of risk appetite and capacity, including blended PBR and contract / grant funding approaches;
- Government potentially providing seed-corn funding to support the transition to a new commissioning environment that includes PBR.

## Section 7 | Sentencing

The Green Paper's proposals on sentencing provide an opportunity to rationalise the use of imprisonment and deal more effectively with offenders who have a range of needs that are best met outside the CJS. The measures suggested to facilitate access to treatment as early as possible in the CJ process should be adopted and appropriately funded. The VCS has a significant contribution to make in supporting these approaches in terms of providing services that address the often complicated circumstances offenders experience in their daily lives.

Clinks welcomes the proposed changes to legislation governing Indeterminate Public Protection (IPP) sentences, restricting this option to offenders convicted of offences carrying maximum sentences of 10 years or greater. The current situation where over 2,000 IPP prisoners have exceeded their 'tariff' date because of a lack of resources to enable them to demonstrate their reduced risk to the public has had a profound effect on the prison system. The intention to bring in measures to facilitate clearing the 'backlog' of prisoners who are past their 'tariff' date is welcome and we would urge the Government to involve the VCS in supporting whatever arrangements are proposed.

The proposal to grant greater discretion to supervising probation staff in the management of community orders is also widely welcomed, particularly in relation to enforcement of requirements to attend treatment.

Offenders with mental health needs, histories of substance abuse, and related housing and employment problems require 'holistic' services – best delivered in the community by VCS organisations with the experience and expertise to address these issues flexibly within a 'person-centred' approach. The proposal to create a 'generic health treatment' community order would assist greatly in driving this forward.

## Section 8 | Youth Justice

The support for diversion referred to in the previous section applies equally to suggested reforms to Youth Justice.

The proposed changes to the implementation of 'out-of-court' disposals where the police will have greater discretion about how to respond to low level first

time young offenders will undoubtedly reduce the unnecessary flow of cases through the Youth Justice system. However, in order to be really effective, the police and prosecutors will need to have access to a wide range of services to link young people into.

The development of stronger links between the VCS and local Community Safety Partnerships will greatly assist in this regard, and the aforementioned Home Office funded pilots that Clinks is co-ordinating will provide relevant learning in this area.

However, some of those involved in our consultation cautioned that the Youth Sector is being particularly hard hit by current austerity measures, such that important VCS services may no longer be available to contribute to local diversion strategies.

The proposal to restrict custodial remand to those offences where imprisonment is most likely will limit the unnecessary damage that custody inflicts on young offenders. There is considerable potential in moving towards arrangements where local authorities will assume the full cost of secure remands for young people. This could be reinforced by further developing the operational relationships with prosecutors in order that they can receive relevant information supporting decisions to bail young offenders before the court. It is often the case that if prosecutors do not oppose bail then the chances of avoiding unnecessary custodial remand are greatly enhanced.

The availability of VCS support services around mentoring, accommodation, support back into mainstream education, etc. is key to decisions made at this stage of the criminal justice process.

Many participants at our consultation events were alarmed by the sparse mention in the Green Paper of the importance of family relationships in mitigating the impact of sentencing or indeed in supporting and

sustaining rehabilitative gains with adult and young offenders. There are a range of VCS organisations that deliver good quality and innovative interventions in this area.

There is a significant role for targeted family intervention at an early stage to prevent youth offending from occurring and there is a range of community-based family support services that can be recruited to this agenda. This would include family mediation services and support for young families.

It is also important to support innovative schemes to keep young people in education both before they become involved in offending and as a way of steering them away from further offending following arrest and conviction. High quality mentoring and volunteering schemes for young people have a major role to play in reducing youth crime. These can also support the work of the proposed 'compliance panels' as a way of increasing the effectiveness of Youth Rehabilitation orders for young offenders.

There is little attention paid in the Green Paper to the issues affecting young female offenders. The factors contributing to their offending are different to young male offenders and their emotional and psychological needs are unique. It is crucial to ensure that there are gender specific services for young female offenders, and these should include sexual health and provision for victims of sexual assault and exploitation.

## Section 9 | Diversity

### 9.1 Black, Asian and Minority Ethnic (BAME) offenders

The success of the 'Rehabilitation Revolution' depends on the degree to which the Government addresses the disproportionate representation of BAME groups in the CJS. This issue is relevant at

every stage of the criminal justice process from arrest to custody and it has a cumulative effect resulting in a massive over-representation of BAME offenders in the prison system.

Clinks has worked with a number of organisations and individuals in the Race for Justice campaign and our report, *Less Equal than Others*<sup>10</sup>, identifies a number of key actions and policy recommendations including the importance of supporting BAME-led VCS organisations working directly or indirectly in the CJS.

Rigorous monitoring of decision making at all stages of the CJS remains critical to ensuring that unfair discrimination is identified and addressed, and this includes the decisions around investment in the BAME VCS. There is evidence that local VCS organisations, including faith groups, are effective at engaging with BAME communities that have been hard to access by mainly white agencies, and in particular BAME prisoner and family support groups should be involved in supporting prisoners in resettlement as well as offenders on community sentences in order to facilitate compliance.

Arrangements need to be made to ensure that minority ethnic communities are fully engaged in decisions about the location of Community Payback projects. Restorative Justice initiatives need to be racially and culturally sensitive including the provision of interpretation facilities to ensure full participation in RJ.

A recently published Clinks report<sup>11</sup> on resettlement services for BAME offenders, *Double Trouble*, identified the 'bridging role' of BAME-led VCS

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<sup>10</sup> Available at:

<http://www.clinks.org/publications/reports/r4j-report>

<sup>11</sup> Available at:

<http://www.clinks.org/assets/files/PDFs/'Double%20Trouble'.pdf>

organisations in helping offenders who may be distrustful of statutory services.

## 9.2 Foreign national prisoners

Several participants at our events identified the needs of Foreign National Prisoners as requiring specific attention.

Although there is scope for returning many of these prisoners to their home countries following conviction and sentence, a significant number remain in our prisons for lengthy periods and are often isolated and unsupported. The VCS has delivered a range of schemes to address the challenges faced by this group, but these are now severely threatened by loss of funding. A strong strategic steer from Government on this issue would therefore be welcome.

## 9.3 A specific approach for women offenders

There is considerable support in the Green Paper for relevant and appropriate services for women offenders. In particular 'one-stop-shops' based in the community, and usually delivered by VCS organisations, have demonstrated their effectiveness and provided credible alternatives to imprisonment, especially short custodial sentences. However, there are very few action points listed in the Green Paper relating to women. Delegates at our events therefore urged the need for a specific commitment to invest in women-only services, which provide a safe and gender specific environment and often have out of hours outreach as part of their specialist service.

Women in Prison estimate that 81% of the women they work with have experienced domestic violence or sexual abuse. Services designed by and for women afford a level of insight and empathy that is often missing from generic programmes, and provide an essential space to address their distinct needs.

Many respondents to our events and surveys have warned of the impact of the termination of the MOJ funding for these initiatives and believe a strategy for supporting their continuation will be critical to the ambition of reducing the women's prison population.

There is also a range of other VCS provision for women offenders, including serving prisoners, that needs to be preserved and indeed expanded. This includes many innovative arts-based projects and counselling services that cater specifically for women. These services are typically delivered by small organisations that are particularly vulnerable to the economic downturn.

Women's offending is overwhelmingly driven by poverty and issues related to substance misuse, and the lives of women offenders are often characterised by abuse and violence. Services for women need to reflect their status as victims/survivors as well as their offending behaviour.

Because women's offending profile is predominantly low-risk they may be overlooked in terms of prioritised spending on CJS services. Given this situation, and some ambivalence about the appropriateness of PBR models for women, there was broad support at our consultation events for Social Finance's recommendation that a SIB pilot should focus on women offenders.

A broader range of diversionary services and orders that include attendance at women's services is now at the disposal of sentencers. However awareness of these options is still relatively low and a commitment to ensuring that sentencers are well briefed on a regular basis and trained on these options would be welcome.

The impact on children and families of imprisonment is costly, emotionally damaging, can contribute to intergenerational offending and may exacerbate

family crisis issues. For women offenders in particular a family centred approach to rehabilitation is essential and should thread through all aspects of their sentence.

## Section 10 | Service Users' Voice

The Green Paper fails to identify the contribution that ex-offenders and current offenders (service users) can make to deliver the 'Rehabilitation Revolution'. Participants in our consultation events were very vocal about the importance of service user engagement. Many of the solutions that were discussed across all workshops included service user voice as a mechanism for understanding and improving CJS services.

There is evidence across a range of VCS agencies, both in the CJS and in other social and health care fields, of the value which service users bring to developing and improving services, as well as enhancing strategic engagement<sup>12</sup>.

Clinks is currently involved in a project which is reviewing levels of service user engagement in prisons and probation in England and Wales. The successful operation of Prisoner Councils has improved regimes in those prisons where they have operated including evidence of reduced disorder and indiscipline. Routinely collecting offenders' views of their experience in the CJS has led to important changes in service delivery, as well as influencing policy.

The type of service user engagement that works in different institutions varies, for example a Prisoner Council model may be less appropriate in a prison

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<sup>12</sup> Available at:  
<http://www.clinks.org/publications/reports/unlocking-potential>

with a very short average stay. It is therefore important to share learning across institutions about workable models<sup>13</sup>. Early indications show the value of bringing in the expertise of a VCS organisation to help with training of staff and service users and to apply proven models.

In order for this approach to be effective there need to be structures and policies in place to support service user engagement. Clinks has published a code of practice<sup>14</sup> which identifies the key principles and processes that should inform engagement of offenders and ex-offenders in the delivery of CJS services.

Providing a vehicle for representing the views of offenders is also linked to the role of the VCS in engaging with local communities about the issues for offenders and their families. This is a role for both delivery organisations and for LIOs which are primarily locally based, often have local citizens on their management boards (trustees), and thus are well placed to facilitate rational and informed debate about key issues around crime and rehabilitation.

## Section 11 | Working with Communities to Reduce Crime

### 11.1 Localism

The greater freedoms now being given to Probation Trusts undoubtedly represent an opportunity for enhanced engagement with the VCS both in terms of commissioning and strategic building of relationships.

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<sup>13</sup> Clinks will also be producing a collection of Best Practice examples.

<sup>14</sup> Available at:  
<http://www.clinks.org/assets/files/PDFs/Code%20of%20Practice%202009.pdf>

Prisons have faced significant challenges in linking with local communities in many areas and the effectiveness of Voluntary Sector Co-ordinators has been variable. Where prisons have managed to implement VCS Liaison Forums in their establishments this has been a vehicle to reach in to the local community.

In our event workshops on localism, many delegates from smaller VCS organisations were very supportive of a more localised approach to criminal justice, and believed this should provide them with much greater opportunities to engage in local partnerships with CJS agencies both operationally and strategically, and to contribute to reducing reoffending in their local areas. However, particular concerns were voiced about how a PBR system will be implemented at local level.

There is clearly a challenge in taking forward localism in those cases where national service delivery contracts are delivered by large private or VCS organisations with little local history of delivery. Fears were expressed by many delegates that the new PBR funding mechanisms will simply incentivise large, national prime contractors to 'parachute' into local areas where they have no history and no established relationships, undermining small local providers and resulting in the loss of a diverse local market able to meet the needs of individual offenders. Commissioners will therefore have to be skilled in ensuring that new arrangements do not crowd out smaller local community-based organisations.

Overall, the VCS organisations that participated in our consultation asserted the importance of creating new local commissioning structures that will shift responsibilities for needs identification, gap analysis, service planning and commissioning / funding arrangements to local CJS commissioners. This will

however require clarification of what local commissioning structures will look like, and the development of greater awareness and engagement by local commissioners with their local VCS markets.

The Green Paper does not clearly identify the future role of Police and Crime Commissioners (PCCs) or their remit in terms of holding local crime reduction budgets. Similarly, there is no discussion of the place of Community Safety Partnerships (CSPs) in co-ordinating or commissioning services. VCS participants at our consultation events voiced a need for these gaps in Government strategy to be filled as quickly as possible, to enable them to plan and prepare for change.

The loss of Area Grants was also highlighted as having serious implications for the development and sustainability of strategic partnership arrangements between CSPs and the local VCS working with both offenders and victims, at a time when these relationships are becoming more important than ever.

In order to support the development of new local commissioning arrangements, VCS participants particularly highlighted the need for neutral VCS organisations to take on a 'brokering role' in bringing together local VCS and statutory partners. Three models viewed as having potential are:

- the Local Infrastructure Organisation (LIO)-led model being developed in Gloucestershire, Croydon, Dorset and elsewhere;
- the development of local VCS consortium arrangements (e.g. Devon Reform, a new forum of VCS organisations working across Devon, Plymouth and Torbay, which is seeking to enable consortium bidding by small and medium VCS organisations);

- the VCS provider-led model (e.g. West Mercia Probation Trust's selection of YSS as its 'preferred provider').

However, the potential of all of these approaches to transform local markets and enable innovative VCS involvement in localising justice and reducing reoffending will depend crucially on how and where funding flows at the local level.

## 11.2 Volunteering

The Green Paper rightly identifies the range of volunteering opportunities in the CJS including Special Constables, Magistracy, IMB, and supporting offenders and ex-offenders. The VCS recruits volunteers in a range of capacities to deliver its services and there are large numbers of mentoring services specifically established to help offenders and their families.

There are still some probation trusts that operate their own offender mentoring schemes, and prison chaplaincies recruit and deploy hundreds of volunteers. These have been augmented in recent years by the growth in Community Chaplaincies which work with prisoners after they have been released. Volunteers are also integral to the delivery of Circles of Support and Accountability which work with high risk sex offenders.

There remains however a challenge regarding the capacity of organisations to effectively recruit and manage volunteers. Although volunteers give freely of their time, investment is needed in good quality management of volunteer schemes including on-going training, supervision, and implementation of robust referral arrangements<sup>15</sup>. Strategic investment

in volunteering and mentoring for offenders would help to increase the provision available and also ensure the survival of schemes currently operating.

It is encouraging to note that the Government is intending to significantly amend the legislation and procedures governing the Criminal Records Bureau and the Vetting and Barring Scheme. This has been a tremendous barrier to organisations working with volunteers especially in relation to peer mentoring schemes.

It would be additionally helpful if prisons could align their 'clearance' processes so that volunteers (and VCS staff working in more than one prison) did not have to undergo the bureaucratic procedures of obtaining 'clearance' each time they went to a different prison.

There is compelling evidence of the impact of peer mentoring on changing the lives of offenders in custody and in the community (see section above on Service Users' Voice). The fact that peer mentors have faced similar challenges to the offenders they are working with brings an extra dimension to the relationship.

However there needs to be more consistency in approach towards the involvement of offenders and ex-offenders undertaking peer-to-peer support services. Largely the difficulty lies in the different attitudes of prisons to involving offenders and ex-offenders in peer support roles. Although some of these differences are related to the security needs of different categories of prison, Clinks' consultations and wider work with members have revealed vastly disparate approaches to peer services within prisons of a similar security category. Some institutions are

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guides to support volunteering schemes covering areas such as setting up a project, demonstrating effectiveness, etc. These are available at:

[http://www.clinks.org/publications/reports/vol\\_guides](http://www.clinks.org/publications/reports/vol_guides)

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<sup>15</sup> Clinks has published two training packs which focus on volunteering with offenders in prison and in the community respectively. Additionally, in partnership with a number of other organisations, Clinks has published four

supportive but there is no consistent policy on whether or not these peer led services can be embedded in offender related services. There needs to be a change in the way peer support and wider service user involvement is undertaken in offender services.

Volunteering and mentoring providers should work to a minimum standard of good practice that gives prospective volunteers confidence in an organisation's ability to provide quality services. In addition this will improve the confidence of statutory and private sector partners in the professionalism of VCS organisations that they may choose to partner with or sub-contract to deliver services. This needs to be understood both in the wider context of criminal justice practitioners looking to partner with VCS organisations to strengthen resettlement services, as well as commissioning procedures.

Not only should there be a focus on measuring outcomes for service users but also for volunteers involved in service provision. This would help volunteers understand the benefit they bring to a service and encourage new volunteers. For example, guidance on monitoring the impact of volunteering has been developed by Volunteering England; however, this does require adequate resources to allow the lead organisation time to monitor outcomes.

There is a risk that many organisations that support volunteering could disappear as they come under increasing threat from cuts in public expenditure. Smaller VCS organisations may be more acutely affected by forthcoming cuts but larger organisations are also likely to struggle. Those charities that provide locally responsive mentoring and/or volunteer services will be key to the realisation of both the Big Society and the desire to engage more people in the CJS.

There is concern from organisations and prospective volunteers that paid roles may be replaced with unpaid volunteers to save expenditure in a tight financial climate. It is important to reassure both volunteers and paid staff that this is not the case when promoting volunteering opportunities.

Working in partnership with representative bodies such as the National Association of Probation Officers and the Prison Officers Association, Clinks and its VCS partners could help develop a clearer understanding of the role of the volunteer to ensure that they are not used as a way of replacing or doing jobs that would otherwise be undertaken by employees. Volunteering England has achieved similar outcomes in other sectors.

It is vital to bear in mind that volunteers who have positive experiences will draw in other, new volunteers. Volunteers who do not will leave volunteering and promote a negative view of the experience. For that reason, to achieve the desired outcome of increasing volunteering in the CJS, there is a need to ensure that staff are understanding and welcoming of volunteers and volunteering more generally.

Finally, participants at our events wished to emphasise the importance of the non-judgmental approach taken by all volunteers and the positive way they tend to be viewed, given their 'non-statutory' role and the fact that they have chosen to spend their time with offenders, rather than being paid to do so.

Volunteers play a positive role in local communities, similar to that of VCS organisations working with offenders and their families, as local individuals who, through their social networks and neighbourhoods, can carry a rational and informed message about offenders and their needs.

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## Section 12 | Further Information

For further information about Clinks' response to the Green Paper, please contact any member of our Policy Team:

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