

December 2016



CLINKS
RESPONSE

Clinks response to the Prison Safety and Reform white paper

About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working in the Criminal Justice System (CJS). Our aim is to ensure the sector and those with whom it works are informed and engaged in order to transform the lives of offenders and their communities. We do this by providing specialist information and support, with a particular focus on smaller voluntary sector organisations, to inform them about changes in policy and commissioning, to help them build effective partnerships and provide innovative services that respond directly to the needs of their users.

We are a membership organisation with over 500 members, including the voluntary sector's largest providers as well as its smallest. Our wider national network reaches 4,000 voluntary sector contacts. Overall, through our weekly e-bulletin Light Lunch and our social media activity, we have a network of over 15,000 contacts. These include individuals and agencies with an interest in the CJS and the role of the voluntary sector in rehabilitation and resettlement.

About this response

Clinks welcomes publication by the Ministry of Justice (MoJ) and National Offender Management Service (NOMS) of the white paper, *Prison Safety and Reform*,¹ which summarises the proposals of the Secretary of State for Justice to deliver the prison reform commitments set out in the Queen's Speech in May 2016.² We very much support the ambition to make prisons places of safety and reform. There is clearly a significant role for the voluntary sector in helping the Government to achieve this aim and to deliver a significant reduction in reoffending through the successful rehabilitation and resettlement of people serving custodial sentences.

Although the white paper is not accompanied by any formal consultation process, Clinks has taken this opportunity to respond to the proposals contained within it, drawing on all our work to build the sector's effective engagement with prisons during 2016 and our recent submission to the Justice Committee's inquiry on prison reform.³ The response also draws on *Prison reform and the voluntary sector*, a paper prepared by the MoJ's Reducing Reoffending Third Sector Advisory Group (RR3), which is chaired by Clinks, at the request of the previous Minister for Prisons and Probation.⁴

In order to make a constructive contribution to the still evolving reform plans, this response is structured around an overview and analysis of each chapter of the white paper in terms of what is welcomed, what areas still require more detailed development and in particular what offers Clinks and our members can make to the MoJ, NOMS and prison governors to support this important work. It is not intended as a detailed briefing on the content of the white paper.

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Overview of the white paper

Clinks very much welcomes the white paper's focus on prison safety and its promise of increased staffing – 2,500 new officers – to support this objective. The paper clearly recognises that safety is of critical importance, not only for the wellbeing of staff and prisoners, but also to maintain a productive atmosphere of order and purposeful normality. Safety is a key issue for all who work in or visit prisons, including voluntary sector staff and volunteers, family members, health and education workers, probation officers and many others. All of these can only function well and effectively in a safe and calm environment.

Offer 1: Clinks can help MoJ policy/NOMS operational leads and governors to find out from people in custody, families and voluntary organisations what a safe prison environment means from their perspectives and what additional action is needed to achieve this goal.

Equally welcome is the white paper's focus on reform – a reformed system that delivers better education, health care, employment and resettlement (operational reform), and that does more to help people in prison to turn their lives around (individual reform). However, while the paper talks a lot about operational reform (the 'what'), it says much less about the underpinning philosophy and approach that will support and enable individual reform (the 'how'). The word 'rehabilitation' is used very sparingly, and 'desistance' only twice. Instead, individual governors are to decide for themselves 'what works' and design their own regimes, whilst delivering measurable outcomes across a core set of activities – education, employment, drugs and mental health services. It is therefore hoped the promised legislation setting out the purpose of prison will provide a much more unifying vision and framework for individual reform (a theory of change), clearly focused on rehabilitation and describing qualitatively as well as quantitatively how prisons will be expected to actively support individual desistance.

Offer 2: Clinks and RR3 can help MoJ/NOMS/governors to think through the purpose of prison that will be enshrined in legislation, and to develop in greater depth and detail a vision of the range of approaches and interventions capable of supporting individual reform. Given the potential impact of these changes, the Government should include sufficient time for consultation with the voluntary sector and service user organisations within the timetable for the introduction of legislation, and allow for continued input of their expertise and feedback during the programme's design and implementation.

As well as crystallising the accountability of the Secretary of State for delivering the prison standards that will be determined by parliament, the white paper rightly recognises the importance of enabling frontline staff to change the culture of the service and bring about lasting improvements. In this context it acknowledges the tireless work of volunteers in helping to keep prison safe, a key contribution that was recognised in a recent Clinks review of volunteering in prisons, commissioned by the MoJ.⁵ Disappointingly, however, the white paper does not mention anywhere the valuable role played by many hundreds of voluntary organisations in prison and their potential to work with governors and staff in creating a more normalised, community-facing prison culture to support rehabilitation.

Offer 3: Clinks can work with MoJ/NOMS/governors to maximise the role and value of voluntary organisations, and their volunteers, in supporting prison reform. This offer builds on a significant volume of work undertaken by Clinks in 2016 to model good prison engagement with voluntary organisations in the South West and to disseminate best practice.⁶ We are also currently grant-funded by NOMS to support greater voluntary sector involvement in HMP Ranby, one of the six 'early adopter' reform prisons, particularly in relation to work with families. The learning from all this work will be available to support wider prison reform in 2017.



Clinks welcomes the white paper's focus on decentralisation and increased partnership working between prison governors and other local services, working towards a whole systems approach across the local criminal justice infrastructure. However, we believe that there is a missed opportunity here to link prison reform to a review of sentencing and to the development of cross-governmental strategies that will strengthen community services and support the increased use and effectiveness of non-custodial sentences.

Offer 4: Clinks and our members can help to design, develop and test new community strategies and services to divert people from the justice system and to support the increased use and effectiveness of intensive 'wrap around' community orders, thereby reducing the courts' reliance on short prison sentences. This builds on previous innovative work with the Home Office to involve voluntary organisations as key strategic and delivery partners in local Integrated Offender Management arrangements.⁷

Most welcome is the white paper's announcement of a new women's strategy for custody and the community and the creation of five small community prisons. The paper also helpfully acknowledges the particular needs of young adult prisoners and makes a commitment to consider the recommendations of the recent report of the Justice Select Committee, *The Treatment of Young Adults in the Criminal Justice System*.⁸ However, the white paper does not talk about the involvement of people in custody and their families in discussing/developing any of the measures set out in the paper or the new strategies it proposes, for example for mental health, education, employment and new build prisons. Furthermore, it makes no mention of any plans for better meeting prisons' equality duties in order to address the needs of significant numbers of people in custody with protected characteristics (e.g. black, Asian and minority ethnic (BAME) people, older people, those with disabilities, transgender people).

Offer 5: Clinks and others such as User Voice, Revolving Doors Agency, Prison Radio Association and Prison Reform Trust's helpline are well placed to advise, assist and reach out to facilitate engagement and dialogue with people in custody and their families, to involve them in the process of prison reform.

Offer 6: Clinks and RR3 can signpost and provide access to specialist voluntary bodies and organisations to discuss how both existing and new prisons can better meet the needs of people with protected characteristics (e.g. the Independent Advisory Group to the Young Review, which is seeking to improve outcomes for young black and Muslim men in the CJS).⁹

Chapter 2: The right framework for improvement

Clinks welcomes the framework for improvement set out in the white paper, especially in terms of its promise to:

- Provide greater clarity about roles and responsibilities at national and local levels
- Enshrine the statutory purposes of imprisonment in legislation
- Potentially provide a new evidence-based 'what works' resource to support governors' individual commissioning decisions
- Strengthen inspection while protecting the independence of the inspectorates
- Ensure transparency over the funding allocation and budget to run each prison.

Clinks would however place a number of caveats around some of these undertakings. As discussed in the overview section of this response, the purpose of prison needs to be explored in greater depth and detail if it is to guide and inform governors' commissioning behaviour and the meaningful measurement of outcomes. The stated purpose of prison needs to go beyond safe detention and aggregated measures of prison performance, and include a requirement to uphold the human rights of those in custody to ensure the humanity and dignity of prison regimes. It should also be focused on individual quality of life and improved personal opportunity for all those in custody, including the right to maintain family relationships and access a diversity of community engagement.

As per Offer 2 above: Clinks and RR3 can help MoJ/NOMS/governors to think through and consult on the purposes of prison that will be enshrined in the legislation.

The independence of Her Majesty's Inspectorate of Prisons (HMIP) and its focus on protecting human rights and identifying potential abuses has been its key strength and must be safeguarded. Its role should not become simply one of regulation/ performance measurement on behalf of the Secretary of State and MoJ.

Offer 7: Clinks can provide further commentary on any proposed changes to the statutory inspection framework, following our consultation with the voluntary sector in January 2017 on HMIP's own proposed changes to the inspection methodology and its current Expectations.

It is not yet clear whether staffing increases to deliver improved safety are to be paid for by governors from their individual prison budgets in the longer term. If so, the future funding implications for other commissioned services need to be made transparent at an early stage to the providers currently working in each prison.

Offer 8: Clinks and RR3 can provide opportunities for MoJ/NOMS to discuss and consult on any budgetary implications for the voluntary sector arising from the funded prison staff increases.

Chapter 3: Raising standards

Clinks welcomes the proposals set out to raise standards across the prison estate, in particular:

- The recognition that, in order for people in prison to reform, the regime needs to provide the right services and opportunities for change, in addition to ensuring public protection and safety
- The proposed identification of a clear set of measures in the core areas of health, work, education, housing, and the maintenance of family relationships, to reflect the effectiveness of each prison's reformatory work as well as the delivery of a safe, decent environment
- The confirmation of the value of release on temporary license (ROTL) in enabling people to take up training and employment opportunities in preparation for release
- The recognition of the importance of resettlement services that follow people through the gate and that aim to place them in work, education and suitable housing.

Services that promote health, work, education, housing and family relationships are clearly core components of a regime focused on reform. However, as explored in Clinks' recent discussion paper, *The rehabilitative prison: What does 'good' look like?*¹⁰ and our response to Dame Sally Coates' review of prison education, a range of other



activities and interventions may be equally important in supporting desistance, e.g. arts, sports or faith-based activities.¹¹ Governors must therefore be encouraged to look beyond the white paper's core expectations in designing their regimes.

Offer 9: Clinks and its members can help governors to explore the benefits of a much wider range of activities and interventions to support prison safety and reform than are set out in the white paper.

It will be important to ensure that the metrics used to measure prison effectiveness get much closer than is suggested by the white paper to the kinds of transformation needed to support lasting change. There is a danger otherwise that the setting of targets, e.g. for settled accommodation, will remain very blunt institutional tick-box measures rather than conveying meaningful information about the distance travelled by individuals.

Offer 10: Clinks, working with its members and RR3, can help MoJ/NOMS/governors to develop meaningful measures based on members' expertise in delivering services focused on health, education, housing and the maintenance of family relationships. For example, The Prisoner Learning Alliance and existing Offender Learning and Skills Service providers are well placed to assist in developing more nuanced measures of educational outcome.

Chapter 4: Empowered governors

Clinks welcomes the confirmation in the white paper that all governors are to have greater autonomy to commission services that meet the specific needs of local populations from their allocated budgets. From April 2017, governors will be able to:

- Select from accredited programmes
- Jointly commission prison health services
- Develop relationships with local employers
- Design their own staffing structures
- Decide how to spend their own budgets
- Enjoy greater operational freedoms, e.g. in relation to the Incentives and Earned Privileges policy and ROTL.

Clinks also welcomes the advance notice in the white paper of the plans for 2017-18, in terms of giving governors control of education and family budgets and services and the introduction of a Prisoner Apprenticeship Pathway. It is helpful to know that all national contracts will now be reviewed as they come to an end, to assess whether commissioning responsibility should be devolved to governors. However, if governors are to have new freedoms over budgets from April 2017 and the start of the new commissioning cycle, it is not clear from the white paper how NOMS intends to ensure that existing providers, including voluntary organisations, are fully engaged with those plans at the earliest possible date. This also relates to all discussions about the future of national contracts as they fall due for renewal.

Nor is it clear what research (beyond that already available through the Justice Data Lab) will inform the potential 'what works' evidence base, provided to governors to support their new commissioning activity, or whether this will be transparently shared with other stakeholders to let them know what is regarded as good/proven practice.

Offer 11: Clinks can help to disseminate information to the voluntary sector about governors' new budgetary and commissioning responsibilities and facilitate consultations (including via RR3) about the future of national contracts as they fall due and the evidence base that will underpin future commissioning. We can also help governors to engage with expert charities on the design of new services and the best approaches to meet the rehabilitation and resettlement needs of specific groups, e.g. people with protected characteristics.

While some governors may be well equipped to take on new roles as commissioners and purchasers of services, many will not. If commissioning is to be truly flexible and responsive to locally identified needs, governors will need to be equipped to take innovative approaches to commissioning that depart from NOMS' traditional, more burdensome procurement and tendering processes, for example by using their new freedoms to negotiate directly with known and trusted providers.

The recent NOMS £1.7 million voluntary sector grants programme, 'Enabling the voluntary sector to contribute to prison reform and better outcomes for prisoners and their families',¹² enabled the sector and especially smaller organisations to go through a light touch application process. The creative use of similar processes at the individual prison level would enable individual governors to award grant funding from their budgets for locally specified services. Such an approach would overcome some of the potential stumbling blocks for governors in undertaking their own procurement. It would also allow small voluntary organisations to engage with a more proportionate process, thereby supporting local economies and helping to develop a more diverse market.

This is not an issue that can be addressed entirely through the Academy for Justice Commissioning, helpful though that undoubtedly is. It will also require direct support from NOMS and the provision of a range of light touch commissioning and procurement templates that governors can adapt to suit local conditions.

Furthermore, it is Clinks' experience that governors' understanding of the voluntary sector – especially small and local organisations – can be limited. This has the effect of limiting the contribution of voluntary organisations as strategic and delivery partners in prison reform and restricting the potential for people in custody to access community resources, for example through organisations that provide family support, arts activities, ageing well initiatives or training and employment opportunities for ROTL.

Offer 12: Clinks can engage with the governor training/leadership programmes to raise awareness of the voluntary sector's potential contribution to their regimes. We have considerable experience and practical resources that can help governors to develop their local engagement with the sector, including tried and tested models and processes to support the important role of voluntary sector coordinator in prisons.¹³

As part of the plan to empower governors and give them greater control over all the work that is done in their prisons, the white paper helpfully sets out the Secretary of State's intention to review the respective resettlement roles and responsibilities of governors and probation services, and to improve resettlement services. Concerns have been raised by a number of commentators about the quality of 'through the gate' resettlement services that have been provided or procured by Community Rehabilitation Companies (CRCs) and the National Probation Service (NPS) since the implementation of the Transforming Rehabilitation (TR) reforms. Voluntary sector respondents to Clinks' most recent Track TR survey echoed



these concerns. They felt that a number of services, such as housing, had been adversely affected and that some groups of users had lost access to important sources of support.¹⁴

In seeking to improve resettlement services, it will be important to recognise that the majority of the voluntary sector organisations working in the CJS are small and have an annual turnover of less than £1 million. Although the role of the voluntary sector was central to the Government's promotion of the TR reforms,¹⁵ only one quarter of the 151 voluntary sector organisations that responded to Clinks' latest Track TR survey reported being funded through a CRC's supply chain.¹⁶ Those in supply chains are predominantly larger voluntary sector organisations, with smaller or medium sized organisations significantly under-represented. The voluntary sector will therefore need to be part of any new conversation about resettlement services, to ensure a more inclusive approach.

Offer 13: Clinks and RR3 would wish to have a voice in any redesign or reallocation of responsibility for resettlement services, to ensure that learning is captured from the CRC supply chain experience and Track TR recommendations, and that the potential contribution of smaller voluntary organisations is effectively harnessed.¹⁷

Chapter 5: Safe and secure

The proposals set out in this chapter are greatly welcomed in terms of:

- The promise of 2,500 new prison officers and a greater emphasis on staff time to build relationships between prison officers and the people in their care, to improve safety and better support rehabilitation
- Reformation of the offender management system to provide consistent through-care by allocating a dedicated prison officer to each person in prison, with each officer working on residential units having a caseload of around six people
- The creation of a case manager function, to coordinate the delivery of interventions
- New measures to address the use of psychoactive substances in prison and to reduce levels of violence.

If the new case management role is to include responsibility for coordinating delivery of prison interventions, this will need to include good engagement and coordination of voluntary sector partners. Case managers will also need to know where to access specialist community support or expertise, rather than trying to meet specialist needs themselves.

Offer 14: Clinks can provide a lot of direct experience and guidance to support the new case management role, and help identify sector specialists to develop/deliver training on specific issues.

Chapter 6: Developing leaders and staff

Clinks welcomes the white paper's proposals to invest in prison officers and their skills development, including the important commitment to explore whether officers should develop specialist roles for working with segments of the prison population that have identified needs, such as young adults, women, and older people. These approaches could usefully be further extended to include specialist roles in working with BAME and transgender people and those with learning and other disabilities.



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In discussing how better to support the development of leaders and staff, the white paper rightly acknowledges the tireless contribution of volunteers working alongside them. What is not recognised here is that most volunteers working in prison are recruited, trained and supported by voluntary organisations, of whom the white paper makes no mention.

In order to make their prisons work, it will be important for governors to include all the organisations working or represented there – and not just their volunteers – in the development of strategies for recruitment, retention, training and development, so as to make them part of the cultural change and team approach needed to deliver system reform.

Offer 15: Clinks can help MoJ/NOMS/governors to develop strategies to engage more effectively with both voluntary organisations and their volunteers, thereby involving them as valued partners in building a new team culture and making their prisons work.

Chapter 7: Building the right estate for reform

The commitment to create five small community prisons for women is most welcome, as is the commitment to publish a strategy in early 2017 setting out improvements to the safety and reform of women in custody and in the community.

Offer 16: The voluntary sector will very much welcome the opportunity to help shape the new strategy for women in custody and the community, via Clinks and the wider criminal justice women's sector, the Advisory Board on Female Offenders and RR3's specialist sub-group.

The white paper helpfully proposes a simplification of the prison estate and the creation of reception prisons to service the courts and house people on remand or on very short sentences. It also promises improved training and resettlement provision in prison. Very little detail is provided, however, about how the prison estate will be re-configured or what criteria/plans are in place for the intended prison closures and new builds, or how the MoJ and NOMS propose to consult on this hugely important infrastructure project.

Offer 17: Clinks can help MoJ and NOMS to develop an information and consultation strategy that will enable the sector to contribute its views and expertise in advance of the planned prison closures and new prison builds, as set out in RR3's recent paper on prison reform.¹⁸

Conclusion

The proposals in the white paper clearly only represent the start of a process of long-term change to reform a prison system that, as the Secretary of State herself states, is 'not working'. Much detail remains to be fleshed out. This represents a huge volume of work for MoJ and NOMS, not least in relation to the ten new strategies that the white paper says will now be developed in relation to controlled substances within prison, women, mental health, education, employment, radicalism and extremism, staff corruption, staff capability, resourcing and new builds.

As the Secretary of State has readily acknowledged, all of these strategies, and the overarching prison reform plan, will involve drawing on the experience and expertise of others if prison reform is to work. This engagement and involvement activity will place heavy demands not only



on MoJ and NOMS officials but on the capacity and resources of all stakeholders with experience and expertise to contribute, including the voluntary sector.

Offer 18: Clinks and RR3 can help make prison reform a more manageable and effective process through discussions with MoJ and NOMS to identify priorities and agree an appropriate engagement, involvement and consultation timetable for the voluntary sector.



Clinks supports, represents and campaigns for the voluntary sector working with offenders. Clinks aims to ensure the sector and all those with whom they work, are informed and engaged in order to transform the lives of offenders.

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