

Clinks' response to Modern Commissioning

January 2011

About Clinks

Clinks is the umbrella body supporting Voluntary and Community Sector (VCS) organisations working with offenders and their families. Our priorities include:

- promoting the role of small VCS organisations in criminal justice delivery;
- tackling racism and discrimination;
- promoting service user engagement;
- and building effective partnerships

We welcome the opportunity to respond to the Government's proposals on Modern Commissioning.

Payment by results (PbR)

The PbR model, with its focus on outcomes rather than processes, clearly provides opportunities for VCS organisations to be innovative in their delivery of services. This will hopefully mean that specifications for tenders will concentrate on metrics that define what results will 'count' and broad outcomes to be achieved rather than tightly prescribed outputs and processes.

However, there are significant challenges in relation to the availability of working capital necessary to deliver the services with payment delayed until the results have been demonstrated. This may mean that large contracts will have to be delivered through a 'prime contractor' sub-contracting with smaller organisations and providing some 'up-front' funding for smaller organisations. It is imperative that the supply chain promotes opportunity for smaller organisations – and that proposed results are realistic and manageable.

There is also an issue related to the delivery of services to 'niche' groups which may not be large enough to attract the kind of 'risk capital' that social investors will be interested in. For instance, services for women offenders may suffer because there are relatively few of them proportionate to male offenders. PbR will often depend on volume in order to be financially viable. Some level of grant funding should be maintained and an awareness of the limitations of PbR for working with people with highly complex needs.

Public services delivered by VCS organisations

The Criminal Justice System (CJS), and in particular the prison and probation services, has been a potential source of public service delivery for the VCS for over a decade. During that time, there have been a range of policy initiatives to increase VCS delivery of CJS services¹ but little progress has been made to date. The only exception has been the successful consortium bid for two new prisons by Serco, Turning Point, and Catch 22, the latter two organisations delivering the resettlement services in the prisons when they are completed.

In other respects, the VCS has been limited to providing contracted services in relation to substance misuse, accommodation advice and support, and other resettlement services.

¹ Clinks. 2010. *Criminal justice outsourcing: What is the potential role of the Voluntary & Community Sector?* Online at: <http://www.clinks.org/assets/files/PDFs/Market%20Testing%20the%20VCS%20Discussion%20Paper.pdf> [Last accessed January 2011]

Combined investment in VCS delivery across prison and probation has never risen above 5% of total operational expenditure.

One of the major barriers to increased levels of VCS delivery in the CJS has been that the commissioners of these services have had insufficient independence from the prison and probation services. Although NOMS has defined itself as a 'commissioning organisation', it has for the most part been a public sector delivery organisation with little scope for the disinvestment that would need to take place if the VCS were to gain a greater share of the market.

There are also difficulties in the shape and size of the VCS that is involved in the CJS. There are a small number of large national organisations (e.g. NACRO, SOVA, Catch 22, etc.) and hundreds of smaller, much more local, organisations that do not have the capacity to participate in any major tendering opportunities. Overall the VCS market is under-developed.

Although PbR may bring some positive developments, to date the specifications for delivery in the CJS have been focussed on outputs rather than outcomes. This has meant that recent large tenders have been geared around 'transfer' of services rather than 'transformation' of services; with commissioners designing services in ways very similar to the current delivery model. Transformation of services will require the development of much more local PbR models which enable commissioning to focus on locally specified outcomes.

Right to challenge to run public services

There are significant constraints to implementing the 'right to challenge' in relation to delivering prisons and probation services. Not least is the importance of ensuring that justice, rehabilitation, and punishment are balanced in a consistent manner across all localities. Nevertheless, there is scope for delivering greater innovation in both custodial and community-based offender services through increased local management and ownership.

Currently, there is a national 'template' governing the structure and governance of both prisons and probation areas. These structures are not always necessary for the successful delivery of offender services and alternative models could be viable. For instance, how and where probation services should be delivered in rural areas could be quite different to urban settings. There is some evidence from the pilots testing models of Integrated Offender Management - where the local community safety partnership is working with police and local VCS and other agencies - that it is possible to deliver a service tailored to local circumstances and needs.

Existing VCS organisations joining with employee-led mutuals

There is potential for these kinds of initiatives in relation to both the prison and probation services. The CJS in particular has been subject to centralised government policy making expressed often in a range of 'top-down' targets, many of them contradictory, as well as an explosion in managerialism to deliver these targets. This has left employees, and especially front-line workers, powerless to innovate and produce creative solutions to the problems they encounter in helping offenders change their lives. Encouraging and empowering employees to form mutuals would be greatly enhanced by the experience and expertise of those working in civil society organisations for whom the attributes of creativity and innovation tend to be 'normal business'. However, there would have to be a much greater sharing of risk, genuine involvement in service design, and effective governance for the VCS to be able to devote resources and expertise to this sort of enterprise.

Issues to address in implementing these measures

There needs to be recognition that there is a difference between the culture and objectives of small & medium enterprises (SMEs) and VCS organisations. The former are profit-making businesses that are able to more easily access working capital through mainstream financial

institutions. The products and services they deliver are usually more quantifiable. They do not operate within a framework of charitable aims and missions. This is not to argue that SMEs do not deliver valuable public services but they do so primarily as a business opportunity.

Civil society organisations, especially the VCS, generally come into being in response to identified need in society. This unique ethos needs to be reflected in the language that is used in the procurement environment and in some important respects in the criteria used to evaluate their bids.

Merlin standard

The adoption of the Merlin standard across government procurement systems would be greatly welcomed by the VCS, especially organisations working in the CJS. This is particularly welcome given that probation trusts, for example, will in the future be in a pure commissioning relationship with the Secretary of State and, as the prime contractor in this environment, will be sub-contracting a range of rehabilitative and resettlement services from the VCS. Merlin will act as an incentive for trusts to support and develop the smaller organisations that are sub-contracted.

There has been some good work undertaken in a number of probation trust areas but much more could be done. This would include providing training, job shadowing, support to access other funding streams, business support, etc. Importantly, the expectations of smaller VCS organisations to supply complex and onerous management information and performance data should be proportionate. There are often a range of other funders that are requiring monitoring information from these small organisations and this can become overwhelming.

Merlin also provides a real opportunity for larger organisations to learn from smaller VCS organisations about the unique nature of local communities and build this knowledge into their commissioning/sub-contracting arrangements.

Consortium delivery and related barriers

Successful consortia are really valuable initiatives especially in the CJS where the needs of offenders are so complex and require the combined skills and expertise of a range of providers. The two key barriers to consortium building are funding (to provide the capacity to create the necessary partnerships and agreements), and the time required to build trust and form relationships. Where consortia have been successful there has usually been a history of growing partnership work which has been supported by local commissioners making decisions on a longer term strategic basis.

Social, environmental and economic impact

Women offenders and Black, Asian and Minority Ethnic (BAME) offenders are two groups in the CJS that would particularly benefit from greater emphasis given to wider social, environmental and economic outcomes. Investment in organisations delivering services to these two groups builds community capacity which supports greater equality beyond the CJS.

Additionally, there are community cohesion objectives that can be realised through this kind of investment but it is important that agreed measures/metrics are in place to assess these at early stages of the commissioning process. The case for 'full value' criteria to be used particularly favours small local VCS organisations working with offenders. Large national VCS organisations and private sector companies have the infrastructure to deliver on efficiency and achievement of 'hard targets' but it is often (though not universally) the case that they do not have the same local impact as small community-based organisations. This again may support the case for prime/sub-contractor models of commissioning with Merlin principles firmly embedded.

The models for assessing social, environmental and economic value need to be realistic. Research has shown that, for instance, Social Return on Investment (SROI) models can be overwhelming for many even relatively large organisations. Where SROI and similar models are introduced it is undoubtedly more effective to do so incrementally.

Citizen and community involvement

The creation of Police and Crime Commissioners will provide an important vehicle for greater citizen involvement in decisions about the kinds of services to be commissioned in the Criminal Justice System. However, this structure will need to be effectively supported by local neighbourhood structures that will have strong VCS representation. Residents' associations, neighbourhood watch organisations, victims groups and VCS providers of services can together bring citizens to bear on local solutions to local problems. However, there needs to be care given to ensuring that there is a diversity of representation and not 'the same old faces' who have had the loudest voices in the past.

An untapped resource in this area is the expertise and commitment of the trustees of local VCS organisations. Many of them will serve organisations that deliver services to offenders, and will have informed views on the key issues around reducing re-offending and community safety generally. And, of course, they can act as the voice of service users (offenders) themselves. Indeed, many of these organisations will have ex-offenders on their boards or management committees.

Statutory sector the VCS working in partnership

One of the key issues facing effective partnership working between the statutory sector and the VCS is bridging organisational culture. This has been a strand of the national training programme for commissioning but more could be done. Fostering job shadowing, staff secondment in both directions, joint training events (e.g. probation staff and accommodation providers attending risk training), robust communication arrangements including newsletters, and working closely with local VCS infrastructure organisations to facilitate closer working are all effective measures to enhance closer working.

Community budgets

'Community budgets' could well be an effective tool in overcoming the problems caused by so-called 'silo' delivery of services to offenders. The trials in relation to families with complex needs are welcome for two reasons. First, many of these families will have one or more individuals in contact with the Criminal Justice System. Second, the lessons learned are translatable to offenders who also experience multiple deprivation. VCS organisations have a key role to play in the delivery of community budgets given their flexibility of delivery (across more than one social care area) and their closeness to local communities. The bottom-up approach will not work without the local information about needs and priorities that rests within the VCS. To be successful however there needs to be an outcome focus on the commissioning of these services, and a minimum of process specification.

Conclusion

The 'offender-related' VCS has a small number of large national organisations (e.g. NACRO, SOVA, Catch 22) and several hundred small, local and often fragile charities. The funding streams supporting VCS work with offenders are complex in that not only the NOMS agencies but a range of other government departments commission services to offenders and their families. In fact, it is estimated that only 50% of offender services are delivered by the NOMS agencies. Hence, organisations delivering to offenders can often be accountable to a range of funders with multiple monitoring and budgeting requirements. Commissioners in the criminal justice arena need to be mindful of this

situation and work together to simplify arrangements and reduce the unique burden on VCS organisations working in this sector, and to enable their full engagement with new commissioning arrangements.



supporting voluntary organisations that
work with offenders and their families

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