

Clinks' response to NOMS Commissioning Intentions Discussion Document 2012-13

About Clinks

Clinks is the umbrella body supporting voluntary and community sector organisations working with offenders and their families. Our priorities include:

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

We are a membership organisation with over 380 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 7,500 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.

It is very helpful for the Sector to have an understanding of NOMS' commissioning priorities, and Clinks welcomes the opportunity to provide feedback. The following response has been informed by direct submissions from our members and by the views of participants in recent listening events and surveys facilitated by Clinks.

Engagement with VCS providers

Clinks has previously argued that decentralised commissioning structures would allow for services which both play to the unique strength of the VCS – its flexibility and local knowledge – and which are responsive to local need.¹ However, though the document states that prisons and Probation Trusts will be expected to act as primes and subcontract services 'to providers from any sector', there is no explicit requirement for commissioners to engage with VCS partners when developing local supply chains. Furthermore, though the possibility of engaging the Sector is alluded to in the discussion of working prisons on p.30, there is no mention of a potential role for VCS providers in relation to several areas where the Sector already has a strong presence and/or potential to develop, notably:

- Restorative Justice;
- Integrated Offender Management;
- Providing education and training to offenders (particularly as OLASS 4 is put out for re-tendering);
- Providing services to vulnerable offenders/those with specific needs, e.g. youth and women;
- Providing services to offenders' families.

¹Clinks, 2010. *Localising justice*. Online: <http://www.clinks.org/assets/files/PDFs/Localising%20justice.pdf> [last accessed 5.3.2012]

It is understandable that local primes will require a certain degree of discretion in how they subcontract services for their area. Clinks would argue, however, that the flexibility and expertise of local VCS providers can greatly assist in achieving NOMS' desired outcomes of 'better for less' and reduced reoffending. Early findings from our research into volunteering in the criminal justice system indicate that many offenders have different perceptions of services provided by paid staff and those provided by volunteers, and often respond more favourably to the latter.² Put simply, it is crucial that commissioners are made aware of the real added value which the Sector can bring to local supply chains and are encouraged by NOMS to make use of VCS providers wherever possible.

Clinks would recommend that the next version of the commissioning intentions document explicitly highlights the areas of the Criminal Justice System (CJS) where VCS organisations already play a significant role and/or could be deployed further to good effect.

NOMS and local commissioners should remain mindful of the risk that VCS organisations may be used as 'bid candy' by larger prime partners during the tendering process or be placed at a disadvantage due to their smaller working capital. This danger is not explicitly highlighted in the document, and it is critical that commissioners are aware of the need to facilitate a level playing field for potential providers. The Reducing Reoffending Third Sector Advisory Group (RR3) paper "Competition, Commissioning and the VCS" explores these issues in some detail and makes a number of recommendations on facilitating the participation of small and medium-sized VCS organizations in service delivery.³

Clinks would recommend that NOMS review this document following the launch of the Probation Review and consider incorporating its recommendations in the next version of the Commissioning Intentions.

Policy Context

NOMS' outline of how its commissioning intentions relate to other overarching policy objectives, as set out in the vision for Open Public Services and the *Breaking the Cycle* Green Paper, is very helpful to the Sector. Clinks would like to reiterate our concern that the momentum of the 'rehabilitation revolution' should not be lost. We believe that the rehabilitation revolution presents a real opportunity to capitalise on the commitment and creativity of those working in the CJS in order to achieve lasting change in our communities.

Clinks members have raised concerns about the inclusion of 'making prisons places of work' under policy initiatives designed to promote 'punishment and payback' (p.4). It is important that work in prisons is not limited to unskilled or low skilled, repetitive and menial labour, and that it used as an opportunity to motivate service users to seek work upon release. NOMS may therefore wish to consider placing 'working prisons' under the 'rehabilitating offenders to reduce crime' heading in future versions of this document, rather than under 'punishment and payback'.

Furthermore, while NOMS' commitment to maintaining current levels of investment in rehabilitation services and interventions (p.29) is to be welcomed, Clinks members have pointed out that education, learning and skills are not currently included as part of the core rehabilitation offer. NOMS should therefore outline how these particular services could be safeguarded in future versions of the Commissioning document.

²Forthcoming Clinks research into volunteering in the criminal justice system.

³RR3, 2011. *Competition, commissioning and the VCS*. Online:

<http://www.clinks.org/assets/files/PDFs/RR3%20Competition,%20Commissioning%20and%20the%20VCS.pdf>
[last accessed 5.3.12]

As the Commissioning Intentions remain subject to the need to align with the recommendations of the forthcoming Probation Review, in addition to the proposed reforms in health and social care and the election of Police and Crime Commissioners in November 2012, the exact form of the new commissioning landscape remains very uncertain for VCS organisations, at a time when the Sector is already facing the impact of funding cuts and an increased demand on its services. Clinks' recent survey into how VCS organisations were affected by the economic downturn during 2010/2011 found that:

- 63 of the 99 organisations that responded had made, or would imminently be making, staff redundant, with four respondents losing all their staff;
- 74% of respondents had experienced a decrease in grant income, almost half had reductions in earned income and over a third had experienced a reduction in public donations;
- 87% expected further decreases in grants in the coming year;
- 76% of organisations reported an increase in people seeking their services.⁴

The pace and volume of planned reforms to the commissioning structures are thus of critical importance to the Sector. The full impact of the commissioning changes is unlikely to be felt until the reforms of the Probation Review are implemented, and there is a risk that many VCS providers will have to cease providing some or all of their services in the time that it takes for new structures to 'bed in'.

Financial constraints and uncertainty also make it difficult for organisations to think about how they might form consortia or work in partnership. In the current economic climate, competition has increased not just between the statutory sector and the VCS, but between different VCS organisations.⁵ It would be very helpful if future versions of the commissioning intentions could highlight the need for commissioners to consider ways of facilitating partnership work (for example through local networking events) and supporting existing services through transitional funding arrangements until new structures are in place and working smoothly.

Clinks would urge NOMS to ensure that any new developments are communicated promptly to the VCS, and to make full use of both the RR3 and national and local infrastructure organisations as mechanisms to achieve this.

Evidence-based commissioning

As the document rightly states, evidence-based commissioning raises difficulties for smaller VCS organisations which lack the resources or data to measure their outcomes, and for new or innovative services which may not have had time to develop an evidence base. Clinks welcomes NOMS' intention to develop the evidence base for all outcomes and to share its position in relation to this evidence. However, it is not clear whether this includes data held by the statutory sector to which other providers currently do not have access. If these data were available, smaller providers could potentially provide quantitative indicators of the value of their interventions, and seek to ensure that services which could have a real impact on reoffending are not discontinued. NOMS should investigate how they can share this information with other providers and outline a plan for doing so.

⁴Clinks, 2011. *When the dust settles*. Online: <http://www.clinks.org/assets/files/PDFs/When%20the%20dust%20settles.pdf> [last accessed 5.3.2012]

⁵Clinks, 2011. *When the dust settles*. p.9

The document does suggest that, where a firm evidence base is lacking, this could be substituted by a 'clear, plausible rationale' for the service and why it should work. Although this latitude is welcomed, it nonetheless leaves commissioners plenty of room to disinvest in a service on the grounds of lack of evidence. Future versions of the commissioning intentions could therefore usefully outline in more explicit terms what constitutes a 'plausible rationale' for a service. It would be particularly helpful for providers to know how the experience they have of delivering services will impact upon procurement decisions when contracts are being awarded.

It is worth noting that many commissioners may need some guidance on what constitutes a 'quality' service for the various groups they are buying services for. While Clinks welcomes NOMS' commitment on p.7 to commission quality services in relation to engagement between staff and offenders, it would be helpful for the document to set out more clearly what would constitute a 'quality' service for various sub-groups of the offender population.

Clinks would recommend that NOMS consults with providers to clarify this area of its commissioning intentions, for the benefit of both commissioners and potential contractors.

Desistance literature and 'what works'

It is very encouraging to see NOMS reference the growing body of literature on desistance in its Commissioning Intentions. As the document notes, successful rehabilitation work is individually tailored and holistic in nature. NOMS' recognition of the importance of sequencing and combining services to match the needs of individual offenders, and maintaining the broader picture of an individual's 'rehabilitative journey', is welcomed.

Clinks would however urge caution when considering how desistance literature relates to 'what works' research. One of the key tenets of desistance theory is that the decision to desist from criminal behaviour is ultimately an individual one. A quality service which has effectively supported desistance in one individual can still fail to reduce reoffending in another, if the latter lacks the resources and 'social capital' required for successful desistance. Commissioners and providers do not 'own' this process and should not be disproportionately penalised for an apparent failure to reduce recorded reoffending, particularly where they have been successful in delivering intermediate outcomes or where the frequency or severity of offending in their cohort of service users has reduced.⁶

Thus, the assertion that various intermediate outcomes are 'likely to be important and worth consideration' (p.10) is to be greatly welcomed. The exclusive use of a binary reoffending measure in evaluating success – though easily quantifiable - could give commissioners an incentive to disinvest in services which, even if they have not stopped reoffending altogether, have acted to reduce its frequency or severity.

NOMS should engage in dialogue with academics and practitioners to develop its thinking around intermediate outcomes as these apply to different sub-groups of offenders, and endeavour to develop this section in future versions of the document.

Clinks members have also pointed out that the development of a social, 'non-criminal identity', which has been identified by researchers as an important stage in an individual's desistance from crime, is missing from the document, and that this should be included in future versions as an intermediate outcome likely to be worth consideration.

⁶Maruna, S. and LeBel, T., 2010. 'The desistance paradigm in correctional practice: from programs to lives' in McNeill, F. Raynor, P., & Trotter, C. (Eds.) *Offender supervision: new directions in theory, research and practice* pp. 65-87. Online: <http://blogs.iriss.org.uk/discoveringdesistance/files/2012/01/Maruna-and-LeBel-Chapter-4.pdf> [last accessed 5.3.2012]

Resettlement

The document does not devote much space to dealing with the challenges of resettlement, despite the fact that this has consistently been highlighted as an issue of major concern by participants at recent Clinks events. Clinks members have also highlighted the detrimental impact that prison transfers and offenders being held a long way from home have on their ability to provide continuity of provision and effective 'through-the-gate' services.

There are several case studies of VCS organisations taking on a 'brokering role' between custody and the community for offenders, with very promising results. The recent *Review of the Northern Ireland Prison Service* has highlighted the [Inspire Women's Project](#) as a particularly impressive example of effective partnership working between the statutory sector and VCS which should be rolled out as the default model for women offenders in the province.⁷ Led by the Probation Board for Northern Ireland, along with NIACRO and the Women's Support Network, the Inspire project adopts a 'communities-in' rather than a 'prisons-out' approach. NIACRO links individual women under probation supervision or soon to leave prison with appropriate mainstream services in the community. It's most recent evaluation has shown significant improvements in reported rates of reoffending, self-esteem and substance abuse among service users. In addition, the Clinks report *What works in local commissioning: a 360° perspective* is an extremely valuable resource for new commissioners, summarising four pieces of research commissioned by Clinks to establish how a variety of services are commissioned for those leaving prison and serving sentences in the community.⁸

Clinks would therefore propose that, in the next version of its commissioning intentions, NOMS highlights effective resettlement as a key issue for commissioners and develops its thinking around how to maintain a coherent set of interventions between custody and in the community, and what role VCS providers could play in achieving this.

Segmenting the offender population

It is essential to ensure that segmenting and prioritising local offender populations is not to the detriment of providing a holistic approach. As the document itself notes, many offenders cannot be neatly segregated into such categories. We welcome the commitment to an intelligent interpretation and some adaptation of this model for certain sub-groups of offenders. While separate data is given for women offenders and for offenders under the age of 25, there seems to be scope for commissioners to take a 'one size fits all' approach for the adult male offender population, ignoring important factors such as race, ethnicity, sexuality and learning ability.

Participants in listening events for the Clinks Economic Downturn Survey have stressed the importance of having some national 'levers' in place to ensure that the needs of vulnerable and 'unpopular' groups within the CJS do not become even more marginalised within local areas. Without a strong steer from central government, it is likely that a 'postcode lottery' will prevail, with wide variations in provision for vulnerable women, refugees and offenders, among others. This risk would be mitigated if VCS organisations working with these groups were given sufficient support and representation in their localities.

⁷Owers, A. et al, 2011. *Review of the Northern Ireland Prison Service*. Online: <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-northern-ireland-prison-service/owers-review-of-the-northern-ireland-prison-service.pdf> [last accessed 3.5.2012]

⁸Clinks, 2009. *What works in local commissioning: a 360° perspective*. Online: <http://www.clinks.org/assets/files/PDFs/What%20Works%20in%20Local%20Commissioning%202009.pdf> [last accessed 5.3.2012]

In addition, Clinks members have stressed that small VCS organisations do not currently ask for or collect data on offence type, as this is resource-intensive and may also discourage some prisoners from applying to the organisation for help.

Women

The document contains much that is positive in relation to women offenders. The provision of separate data for women when segmenting the offender population, the commitment to maintain current levels of investment in rehabilitation services for women, and the recognition of the complex needs and vulnerable nature of many individuals in this group are all to be welcomed. Clinks supports the assertion that many of the needs most prevalent among female offenders (e.g. education, mental health) are most appropriately dealt with through co-commissioning services with partners. However, future versions of the document could explicitly recommend early diversion into more appropriate services for girls and women wherever possible. This would improve chances of successful rehabilitation and also reduce current levels of unnecessary recourse to custody among this group.

The document also fails to mention the specific needs of young women in the CJS or to give any guidance on the commissioning or co-commissioning of services for young female offenders.⁹ Recent research which demonstrates that over half (55%) of girls in custody have previously been in care, compared with 27% of boys, clearly indicates the vulnerability and distinct needs of this often overlooked group.¹⁰ However, the segmentation methodology leaves it unclear whether young women should be included in the '<25' or 'female' category, raising the possibility that their specific needs and individual levels of risk and vulnerability will be usurped by that of a larger group.

Clinks members have questioned the inclusion of 'interventions that mainly aim to build self-esteem' in the list of approaches which 'do not impact on reoffending outcomes or in some cases may increase reoffending'. It has been demonstrated that women and girls in the CJS are often victims of sexual abuse and violence, have complex mental health needs and correspondingly low self-esteem. The recent Joint Inspectorate thematic report on women notes that, although women make up only 5% of the total prison population, they account for almost half the self-harm incidents in prison.¹¹

We would therefore suggest that interventions aimed at building self-esteem are of considerable importance in supporting desistance among the most vulnerable groups of offenders.

Young adults

Clinks is a member of the Transition to Adulthood (T2A) Alliance, which seeks to improve the arrangements for 18-25 year olds in the Criminal Justice System.¹² Specifically, it campaigns to remove the arbitrary change in regime and community provision that occurs when offenders reach the age of 18 and argues for arrangements that respond to young adults' needs based on an assessment of maturity rather than chronological age. Clinks therefore welcomes the fact that the segmentation methodology classes 'young adult offenders' as those aged under 25 (p.17).

⁹YJB, 2009. *Girls and offending: patterns, perceptions and interventions*. Online:

http://www.yjb.gov.uk/publications/Resources/Downloads/girls_offending_fullreport.pdf [last accessed 5.3.2012]

¹⁰Prison Reform Trust 2011. *Care – a stepping stone to custody?* Online:

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/caresteppingstonetocustody.pdf> [last accessed 5.3.2012]

¹¹HM Inspectorate of Prisons, 2010. *Women in prison: a short thematic review*. Online:

http://www.justice.gov.uk/downloads/publications/hmipris/thematic-reports-and-research-publications/Women_in_prison_short_thematic_2010_rps_.pdf [last accessed 5.3.2012]

¹²See <http://www.t2a.org.uk/>

Clinks would recommend that future versions of the document elaborate on the specific needs and differing maturity levels of 18-25 years olds in the CJS, and the difficulties posed by transition between the youth and adult secure estates.

In particular, there is significant scope for the probation service to make specialist provision for this group, by focusing on their education and employment needs, and deploying mentors to provide support and motivation.

Black, Asian, and Minority Ethnic offenders

Aside from the assertion on p.11 that ‘offenders from diverse cultural and ethnic backgrounds may respond best in situations where they are in the company of, or working with, others who share their cultural experiences’ there is little reference to the specific needs of Black, Asian, and Minority Ethnic (BAME) offenders, and this is not factored into the segmentation methodology. This is of concern, given that individuals from ethnic minority backgrounds are disproportionately represented at every stage of the CJS.¹³

Clinks would recommend that NOMS seeks to address this in the next version of its commissioning intentions as a matter of urgency, outlining how commissioners can provide quality services and interventions for BAME offenders.

The Race for Justice report ‘*Less Equal than Others*’ is a useful resource for commissioners and practitioners, highlighting the vital role which VCS organisations have to play in understanding, supporting and providing services for this particular group.¹⁴

Integrated Offender Management and restorative justice

It is of particular concern that the sections of the Commissioning Intentions which deal with Integrated Offender Management (IOM) and restorative justice conferencing make no reference to the potential role of VCS providers in these local arrangements.

Clinks has recently undertaken work in partnership with the Home Office to strengthen the role of local VCS organisations in IOM in four pilot areas: Bournemouth, Dorset & Poole; Croydon; Gloucestershire; and Leeds.

This was a VCS-led programme, managed by Clinks, which enabled local VCS organisations in all four areas to build effective strategic and operational links with statutory partners involved in local IOM arrangements. An overview of this programme, along with final project reports from the four areas and resources from local VCS organisations may be found [here](#).¹⁵ The project was independently evaluated by the Hallam Centre for Criminal Justice at Sheffield Hallam University, who found that the initiative clearly demonstrated the added value of VCS involvement in IOM, although a number of challenges were identified including setting up information sharing agreements and managing risk appropriately.¹⁶

¹³MoJ, 2010. *Statistics on race and the criminal justice system 2010*. Online: <http://www.justice.gov.uk/downloads/statistics/mojstats/stats-race-cjs-2010.pdf> [last accessed 5.3.2012]

¹⁴Clinks, 2008. *Less equal than others: ethnic minorities and the criminal justice system*. Online: <http://www.clinks.org/assets/files/PDFs/Race%20for%20Justice%20-%20Less%20Equal%20Then%20Others%202008.pdf> [last accessed 5.3.2012]

¹⁵See <http://www.clinks.org/services/localism-work/iom> [last accessed 5.3.2012]

¹⁶Kevin Wong, Caroline O’Keeffe, Linda Meadows, Joanna Davidson, Hayden Bird, Katherine Wilkinson & Paul Senior. 2012. *Increasing the voluntary and community sector’s involvement in Integrated Offender Management*. Online: <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/horr59/> [Last accessed 14/03/2012]

Clinks and the Home Office will shortly be publishing a series of resources to share the programme's learning about *Building VCS involvement in local IOM* arrangements.

Clinks would recommend that NOMS review the available information on this programme and use it to inform guidance on IOM in future versions of the Commissioning Intentions.

Similarly, Clinks feels that there is considerable scope for Probation Trusts to contract out restorative justice initiatives to VCS providers where they are available, and that commissioners could be more explicitly guided towards the use of a wide range of providers in this area. The option of good quality restorative justice services in the community would also go some way towards fulfilling the requirement to provide credible alternatives to custody or the courts (p.27) and, with the victim's permission, could be included as part of a sentence plan.

Volunteers

NOMS' commitment to work towards the greater deployment of volunteers within the CJS is a positive step. Early findings from Clinks' research into volunteering in the CJS indicates that offenders respond well to the perceived independence and personal commitment of volunteers, who can bring real added value to services. However, it is somewhat worrying that there is no corresponding commitment to support the greater engagement of VCS organisations in the provision of offender services.

While it is broadly correct to state that 'volunteers can make an effective contribution to reducing reoffending', commissioners must bear several things in mind. Volunteers should not be considered a replacement for paid staff, as their role brings a separate and distinct value to the work of organisations. Participants in the Clinks Economic Downturn Survey stressed that, while the use of volunteers had become a common strategy to deal with staff redundancies, there were significant risks in doing so. Volunteers usually did not have the same skill set and experience as the previous paid professional post holder, and could not be expected to provide the same quantity of time each week, nor indeed the same consistency of availability.¹⁷

Another key issue regarding volunteers is the importance of assigning a true cost to their deployment. There is a persistent view that volunteers are a 'free' resource and this ignores the need for a suitable host organisation to invest in their recruitment, induction, training and supervision, as well as to reimburse their out-of-pocket expenses. Hence, even when it is possible to use volunteers to undertake tasks previously done by paid professional staff, there remains a cost that needs to be reflected in contracting arrangements.

Clinks would recommend that future versions of the commissioning intentions make a more specific commitment to support VCS organisations which already make use of volunteers and/or have the potential to expand this service. Commissioners should also be made aware of the potential to expand volunteering opportunities for service users within the CJS.

Service user involvement

Service user involvement refers to the process by which the people using a service become involved in the planning, development and delivery of that service, in order to influence changes and improvements. Desistance theory supports the view that playing an active role in one's community and taking on a measure of responsibility can assist in the offender journey away from crime.

¹⁷ Clinks, 2011. *When the dust settles*.

Clinks would recommend that, in the next version of this document, NOMS makes a commitment to commission services which offer opportunities for service user involvement and delivery.

A review undertaken by Clinks to assess the extent and nature of service user involvement in prisons and probation trusts in England and Wales may be found [here](#).¹⁸ Prisons and Probation Trusts may also be interested to see the corresponding report which details nine [best practice examples](#) and potential models of service user involvement.¹⁹

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¹⁸ Clinks, 2011. *Service user involvement: a review of service user involvement in prisons and probation trusts*. Online: <http://www.clinks.org/assets/files/Service%20User%20Findings%20Sept%202011.pdf> [last accessed 5.3.2012]

¹⁹ Clinks, 2011. *Service user involvement: best practice in service user involvement in prisons and probation trusts*. Online: <http://www.clinks.org/assets/files/PDFs/Service%20User%20Best%20Practice%20Sept%202011.pdf> [last accessed 5.3.2012]



supporting voluntary organisations that
work with offenders and their families

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