

Clinks' response to NOMS Commissioning Intentions Discussion Document 2013-2014 August 2012

About Clinks

Clinks is the umbrella body supporting Voluntary and Community Sector (VCS) organisations working with offenders and their families. We are a membership organisation with over 450 members, including the Sector's smallest providers as well as its largest, and our wider national network reaches 3,500 VCS contacts. Overall, through our weekly e-bulletin Light Lunch, we are in contact with over 8,200 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.

Clinks welcomes NOMS' invitation to stakeholders to respond to this version of its commissioning intentions, albeit within a tight timeframe. It is very helpful for the Sector to have an understanding of NOMS' commissioning priorities and to have an opportunity to feed in to future versions of the commissioning intentions document. It is also encouraging to see that a number of recommendations from Clinks' response to the previous set of commissioning intentions for 2012-13 appear to have been incorporated in this updated version. The following response has been informed by both direct submissions from our members and the views of VCS participants in recent Clinks events and surveys. It does not seek to answer all the questions posed in the NOMS discussion document, but rather focuses on those areas which have most direct relevance to our members.

The role of the VCS in commissioning and service provision

As stated in our response to the Commissioning Intentions Discussion Document 2012-13, Clinks broadly supports the development of a decentralised commissioning structure for prisons and Probation Trusts which would allow greater opportunities for the involvement of local VCS partners in service delivery. We therefore welcome the directive on p.39 that 'Providers should further develop joint working arrangements with a range of partners and service providers', including 'community and voluntary sector organisations'.

Clinks feels, however, that this document could make specific reference to areas where commissioners should seek to engage with local VCS partners, so that local arrangements can make best use of the Sector's flexibility and specific expertise. On p.26, the document states that providers will be expected 'to seek out opportunities to both influence and support local strategic planning which will contribute to outcomes for offenders, including through co-commissioning'. While local primes will obviously require a certain amount of discretion in how they sub-contract and deliver services for their area, commissioners should also be expected to engage with potential providers – including VCS organisations – as part of their initial assessment of local need and provision and to involve them routinely in their strategic planning as well as in operational delivery. There are several studies and evaluations which demonstrate the value of involving VCS organisations in local partnership working from the earliest possible planning stages and not

merely as a delivery agent.¹ Clinks would particularly encourage this approach in relation to several key areas where VCS organisations already have a strong presence and/or potential to develop greater involvement :

- Integrated Offender Management and other local, multi-agency arrangements;
- Women and girls;
- Young adults;
- Restorative Justice;
- Offenders' families;
- Education, training and work-related mentoring;
- Managing Approved Premises.

Discussion question G (p.32), asks for views on ways in which Trusts can work with partners to improve outcomes. Clinks greatly welcomes the opportunity to respond to this question and agrees that Trusts should be able to make use of innovative approaches in their local partnership working, including Integrated Offender Management and using appropriately-trained volunteers. Clinks' Local Development Team has employed a variety of approaches to enable partnership working between the statutory sector and local VCS organisations. A number of resources and area-specific information arising from this work may be found on the Clinks website at <http://www.clinks.org/services/localism-work/ldt> .

Commissioners may also wish to make use of the Clinks resources *Building Voluntary and Community Sector Involvement in Integrated Offender Management*, which arose from a project conducted with the Home Office.² This could be applied to a number of different models of local partnership working. There are additional opportunities for Trusts to engage with the VCS networks being developed through Safer Future Communities (a Clinks-led VCS partnership funded through the Home Office – see <http://www.clinks.org/services/sfc/>), which have been established to facilitate partnership working with Police and Crime Commissioners and other key commissioners of community safety services.

Clinks recommends that the Commissioning Intentions Negotiation Document should ask commissioners to engage with VCS partners as part of their assessment of local need and service provision. This document could also explicitly highlight those areas of the CJS where VCS organisations already play a significant role and/or could be deployed to further good effect.

¹ See for example the final report by Sheffield Hallam University on the project *Building VCS Involvement in Integrated Offender Management*, funded by the Home Office and managed by Clinks. Online: <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/horr59/horr59-report?view=Binary> [last accessed 2.8.12]. The process evaluation of the Heron Unit at YO1 Feltham also stressed the need to involve VCS partners from the earliest stages of planning. Online: http://www.londoncjp.gov.uk/publications/ipsos_MORI_Interim_Report_Final_Version_20_04_2011_internal_use_only.pdf [last accessed 2.8.12].

² Clinks & Home Office. 2012. *Building Voluntary and Community Sector Involvement in Integrated Offender Management*. Online: <http://www.clinks.org/publications/guides-resources/iom-resources> [last accessed 2.8.12].

Policy context

We note that the commissioning priorities outlined in this document remain contingent upon several other key policy reforms, notably the proposed reforms to probation services in England and Wales and the election of Police and Crime Commissioners in November 2012. The pace, volume and scope of these proposed reforms are of absolutely critical importance to the VCS, and Clinks would urge NOMS to ensure that commissioners are made aware of the vulnerable position of the Sector as a result of the economic downturn and 'perfect storm' of funding cuts and increased demand on VCS services.

The full impact of change will not be felt until the proposed reforms to probation services are implemented, which is unlikely to take place until at least April 2014. There is a strong likelihood 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 take effect. Clinks' recent survey of the impact of the economic downturn on VCS organisations during 2010-11 found that three quarters of respondents had experienced a decrease in grant income, almost half had reductions in earned income and over a third had experienced reductions in public donations.

Most VCS organisations working in criminal justice are too small to consider acting as prime providers, yet the alternative options of forming consortia or working in partnership to bid for contracts take considerable time and energy, particularly as the economic downturn has led to heightened competition between different VCS providers. If NOMS wishes to achieve its desired outcomes in reducing reoffending, it is imperative that its commissioners act to safeguard smaller, niche service providers during this period of uncertainty.

Clinks would recommend that future versions of the commissioning intentions ask commissioners to consider supporting existing services through transitional funding arrangements until new local structures are in place and working smoothly.

NOMS should also ensure that any new developments are communicated promptly to the VCS, making full use of both RR3 and national and local infrastructure bodies as mechanisms to achieve this.

Evidence-based commissioning

Clinks welcomes the fact that NOMS has significantly expanded this section of its commissioning intentions. It is undoubtedly helpful to have some clarification of what constitutes adequate evidence of the value of an intervention and very encouraging to see that NOMS is committed to commissioning services with a connection to established theories of crime and desistance, and to developing the evidence base around what works in addressing offending behaviour.

It remains the case, however, that the vast majority of VCS and other small providers are not currently in a position to provide meaningful quantitative evidence of their reducing reoffending outcomes, due to both cost and relatively small cohorts of service users. Furthermore, even when statutory data on reoffending and other outcomes are made available to VCS partners via the proposed MoJ Data Lab, it will remain extremely difficult to pinpoint which particular intervention was the most important in triggering a change in behaviour. It may be that a number of services working in combination have a cumulative effect on an offender's thinking and circumstances, and the document itself recognises that the way in which interventions are sequenced and combined for the individual is critical (p.13).

While NOMS is to be commended for giving guidance on what to do where the evidence base for an intervention is lacking, it needs to reconsider what can realistically be expected of small VCS providers. For example, given the situation described by the majority of respondents to Clinks economic downturn survey, it is doubtful that many VCS organisations could afford to have a strategy in place to collect quantitative evidence of their outcomes using one of NOMS prescribed methodologies (p.9).

Clinks would recommend that in future versions of this document NOMS revises the bullet point on p.9 which begins ‘There must be a strategy in place for gathering evidence about whether the service works, using a high quality methodology’ to state that NOMS will build this cost into contract pricing or provide direct technical assistance at heavily subsidised cost, via the Data Lab, to support small organisations which are not in a position to gather quantitative evidence of their outcomes by themselves. In this way, NOMS fulfils its commitment to ‘work with a range of providers to continue to build our shared understanding of how services contribute to the desired outcomes’.

Clinks is also concerned by several significant gaps in the table on pp.11-12 which summarises the current evidence base regarding interventions addressing the nine criminogenic needs.

Clinks would recommend that NOMS outlines its plans to develop the evidence base in relation to:

- **Social support for crime (anti-social associates), with a particular emphasis on the value of Mentoring and Circles of Support and Accountability for sex offenders, to see whether these could be moved from ‘promising approaches’ to ‘evidence-based approaches’;**
- **Anti-social lifestyle; lack of positive recreations and leisure activities;**
- **Homelessness.**

It is striking that these are areas in which numerous well-established VCS providers have a strong interest, and the perceived lack of a suitable evidence base may reflect the problems outlined above for small providers in providing quantitative evidence of NOMS’ desired outcomes. Clinks is concerned that, by advocating a strictly evidence-based approach where research is still needed, NOMS is giving commissioners scope to end good quality interventions on the basis of a technicality. For example, in targeting homelessness, guidance for commissioners should adopt a common-sense, rather than dogmatic, approach to evidence-based commissioning, while NOMS works with a variety of partners to commission high-quality studies on the value of certain interventions among different groups of offenders.

NOMS must also develop a more sophisticated understanding of how far ‘evidence-based approaches’ for the nine categories of offending behaviour apply to different groups of offenders. For example, as acknowledged on p.11, while Restorative Justice techniques can have a significant impact on violent and/or acquisitive offenders with a personal victim, this may not be as effective with other groups.

Intermediate outcomes

Clinks very much welcomes NOMS' recognition of the importance of intermediate outcomes alongside binary measures of reoffending. Clinks would, however, advocate for a more flexible and dynamic approach to intermediate outcomes that allows new or different outcomes to be credited and/or given differential weighting within Payment by Results, as the research base improves. For example, Clinks and other organisations would consider improved self-esteem to be an important intermediate outcome for certain groups of vulnerable offenders, particularly those who have suffered domestic violence or abuse, despite the fact that this is listed on p.17 as an approach which does not impact upon reoffending outcomes for some offenders. One way of quality controlling the sort of intermediate outcomes rewarded would be to build in mechanisms to directly consult the service users of various programmes about the outcomes that are most relevant and pertinent to their journey towards desistance.

Given the personalised nature of many intermediate outcomes, it is likely that qualitative feedback will always be an important measure of whether these have been successfully achieved, alongside quantitative evidence, for example the journey mapping approach adopted in the evaluation of the Bristol Impact (IOM) Service.³ The implication of the following statement on p.10 suggests that only quantitative evidence of a direct link between interventions and intermediate outcomes will be deemed acceptable, however:

'Commissioners will of course still need evidence that intermediate outcomes are a direct result of the service, for example by a comparison of intermediate outcomes for offenders who receive the service with a similar group who do not.'

Small to medium VCS providers will find it immensely difficult in terms of cost, capacity, technical skill and access to properly constructed comparative samples, to achieve this level of evidence of their intermediate outcomes, unless resourced and supported to do so. If NOMS considers that it cannot relax the strict criteria for evidence outlined on p.8 when measuring outcomes such as the development of pro-social attitudes, strengthened family ties, or acceptance into non-criminal communities and social networks, then Clinks would ask the Data Lab to extend its service to support the collection of evidence about these intermediate outcomes and to provide subsidised access to technical support and comparative data in this area.

NOMS should further clarify what it means by 'intermediate outcomes' in the next version of the commissioning intentions document, and indicate how it would like providers to demonstrate that these have been achieved and what support it will put in place in the longer term to make comparative data on such outcomes available to small to medium providers. Commissioners should also be urged to exercise latitude while this work is being developed; otherwise many smaller providers will be dropped for failing to provide evidence to an acceptably high standard.

³ Novas Scarman. 2012. *Offender Journey Mapping with the clients of the Bristol Impact Service*. <http://www.peoplecan.org.uk/news/2012/2/28/release-of-the-offender-journey-mapping-study-of-the-bristol-impact-service.aspx> [last accessed 2.8.12].

Effective offender supervision in the community

The document notes on pp.13 and 15 that structured interventions should be targeted towards medium to high risk offenders, and that low risk offenders should generally 'receive only core services'.

It is important that NOMS continues to update VCS partners on the implication of this for VCS service delivery, particularly in light of the probation review, which proposes to contract out the provision of services for low and medium risk offenders, while retaining responsibility for high risk offenders with the statutory sector. As Clinks has already stated in its response to the consultation on Effective Probation Services, VCS providers already have experience in managing high risk offenders (through Circles of Support and Accountability, managing Approved Premises etc.), and the Sector should not be excluded from providing services to medium-high risk offenders if this is where NOMS wishes to target resources and interventions.⁴

Following the government response to the review of probation services, NOMS should update VCS partners on the implications of this for VCS service delivery to low, medium and high risk offenders respectively, via RR3 and national and local infrastructure bodies.

Evidence relating to specific groups of offenders

Clinks welcomes NOMS' recognition that the needs of certain groups are sufficiently different so as to merit separate commissioning strategies. We would note, however, that the sections on women and young adults in particular require considerable expansion.

Women offenders

While it is greatly encouraging to see a specific commissioning intention for women offenders on p.28, NOMS may wish to consider revising the wording to place the emphasis on meeting the distinct needs and risk profiles of women and girls in the CJS, rather than simply ensuring that women complete their sentence. It would be helpful for commissioners to develop a greater understanding of why so many women end up in custody for failing to comply with the terms of their community sentences, and to focus on addressing these issues. Clinks would endorse the following recommendation around breach made in the recent RR3 paper *Breaking the cycle of women's offending: a system redesign*:

'Slowing the number of women entering prison for breach would represent a key strategy for reducing the use of custody. This would require greater discretion for criminal justice practitioners and Sentencers alongside a richer understanding of the complex reasons behind breaching and the development of appointment systems and locations that support women's compliance.'

NOMS should consider revising the wording of the commissioning intention around women to include girls, and place emphasis on meeting their specific needs as opposed to successful completion of sentences.

Clinks welcomes the fact that commissioners will be expected to outline in their responses what systems are currently in place for women offenders and to refer to HM Inspectorate of Probation's 2011 joint thematic inspection report on women. We would also refer commissioners to the

⁴ Clinks. 2012. *Clinks' response to the Ministry of Justice's consultation: 'Punishment and reform: effective probation services'*. Online: <http://www.clinks.org/assets/files/PDFs/Response%20Documents/Clinks%20Response%20-%20Probation%20review.pdf> [last accessed 2.8.12].

recent RR3 task and finish group report on women in the criminal justice system, which would provide some useful insights in relation to NOMS' stated interest in the use of community provision for women.⁵

Given that the evidence base for interventions aimed at women offenders is still developing, Clinks would recommend that NOMs outline how they will seek to develop this in conjunction with partners from other sectors, taking into account the findings of the forthcoming Justice Select Committee investigation into women in the CJS and the MoJ's planned strategy for women offenders.

NOMS should state how it will seek to develop the evidence base around women offenders.

Young adult offenders

It is very encouraging to see young adults identified as a subset of the offender population requiring a separate commissioning strategy. Clinks would recommend that 18-25 year olds are identified as a distinct group in the segmentation methodology, and also endorses the following recommendation from the RR3 task and finish paper *Maximizing our potential: youth justice and the role of the VCS*:

*'The TFG would urge MoJ and YJB to work closely with NOMS and their partners in the Youth to Adult Transitions Forum to identify transitional issues, and develop policy that guides local areas towards effective solutions for young adults in the criminal justice system, taking into account the lessons of the T2A pilots. Meaningful engagement with VCS and statutory providers should take place with the aim of simplifying the commissioning and procurement process for providers whose work covers both the under-18 and adult justice systems.'*⁶

BAME offenders

Clinks is very concerned by the fact that the Commissioning Intentions Discussion Document does not engage with the overrepresentation and reported differing experiences of BAME offenders in the CJS.

NOMS' commissioning strategy provides a unique opportunity to make a significant change in the delivery landscape for BAME offenders. The persistence of direct and indirect racism in the Criminal Justice System needs urgently to be addressed, and there remains a need to undertake more exhaustive research into the distinctive pathways of BAME offenders into and out of the CJS. On p.27 the document cites research commissioned by Clinks which found that BAME offenders share many of the generic resettlement needs of other groups and that these services were often poor or lacking. This report nonetheless highlighted that service providers must display an understanding and sensitivity towards cultural difference and address the impact of perceptions of discrimination and stereotyping within the CJS and wider society.

⁵ C. Hayes & L. Frazer. 2012. *Breaking the cycle of women's offending: a system redesign*. RR3. Online: <http://www.clinks.org/assets/files/PDFs/RRTSAG/RR3%20Paper%20on%20Women%20-%20FINAL%20-%20EMBARGOED.pdf> [last accessed 2.8.12].

⁶ K. O'Donoghue, L. Frazer & C. Hayes. 2012. *Maximizing our potential: youth justice and the role of the VCS*. RR3. Online: <http://www.clinks.org/assets/files/PDFs/RRTSAG/Youth%20Justice%20TFG%20Paper%20FINAL%20July%202012.pdf> [last accessed 2.8.12].

The BAME VCS has the experience and local knowledge which is crucial to engage the BAME community including offenders. In those areas with large BAME communities there is scope for commissioning specialist services for this group. In other areas it should be possible to employ the imaginative use of smaller grants to procure services for BAME offenders that will best support their desistance.

Segmenting the offender population

Clinks' primary concern regarding the use of segmentation methodology is the extent to which this is compatible with the individualised, whole systems approach outlined on pp.13-14. While we understand that commissioners need some method of targeting limited resources to the best possible effect, segmenting the offender population undoubtedly carries the risk of perpetuating a 'one size fits all' approach, which fails to take into account the fact that many offenders have complex, multiple needs and will not fit neatly into any one category. We would recommend that the next version of the document contains wording to this effect, and encourages commissioners to adopt an intelligent, common-sense approach to segmentation methodology.

In response to discussion question A (ii) asking whether there are any specific sub-groups of the offender population which require particular consideration as part of segmentation, Clinks would reiterate the need to consider separately the needs of young adults and women offenders. While these groups may be considered low risk, research has demonstrated that they have distinctive need profiles and 'triggers' for offending behaviour. It is also encouraging to see that NOMS has recognised the needs of offenders with learning difficulties and/or difficulties on p.16. Clinks would recommend that this is also applied to the segmentation methodology.

It is probably unrealistic to expect that any segmentation methodology could be truly holistic in nature, and segmentation will clearly not be the best approach for all offenders. NOMS should therefore produce guidance for commissioners on the intelligent interpretation of its segmentation methodology, stressing that this is a blunt tool which should be combined with sensitive practice in procurement.

Commissioners should also bear in mind that risk, as currently measured by OASys, is not a static entity and is liable to change. It is therefore imperative that local services are well integrated and place the individual at the centre, enabling them to access a customised set of services tailored to their individual needs, current assessed risk, and sequencing / progress in successfully completing their sentence.

Intentions for co-commissioning

Clinks welcomes all of NOMS' stated intentions for local co-commissioning. As described on p.2 of this response, a number of Clinks resources are available to help key stakeholders to review the role of VCS partners in a variety of local, multi-agency working arrangements.

Ending services

Discussion question H asks respondents to comment on the challenges of stopping activities that fall outside the minimum required output in NOMS service specifications. Clinks would stress that, where existing services are likely to fall outside these specifications, commissioners should engage in dialogue with the provider at the earliest possible opportunity. NOMS should take steps to ensure that interventions which seek to deliver intermediate outcomes, for example within the specifications for Rehabilitation in the Community and in Custody, are not disproportionately affected by the directive to end services which fall outside the minimum requirements of NOMS service specifications.

AUTHORS & CONTACT DETAILS

Katie O'Donoghue, Policy Officer | katie.o'donoghue@clinks.org
Lesley Frazer, Policy Manager | Lesley.frazer@clinks.org
Clare Hayes, Senior Policy Officer | Clare.Hayes@clinks.org

Tel: 0207 248 3538
Clinks, 59 Carter Lane, London, EC4V 5AQ

© Clinks 2012