

## Renewing our bond with the third sector

### September 2014

#### About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working with offenders and their families. 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, and 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 600 members including the sector's largest providers as well as its smallest, and our wider national network reaches 4,000 voluntary sector contacts. Overall, through our weekly e-bulletin Light Lunch and our social media activity, we are in contact with up to 10,000 individuals and agencies with an interest in the Criminal Justice System (CJS) and the role of the voluntary sector in the resettlement and rehabilitation of offenders.

#### About this response

Clinks welcomes the opportunity to respond to Labour's consultation, *Renewing our bond with the third sector*. We believe that government has an important role to play in strengthening the voluntary sector working in criminal justice, and we therefore work with all political parties to ensure that the experiences of our members inform policy decisions in this area.

In this response we confine our answers below to the consultation questions where our experience of working with our large and diverse membership has given us up-to-date knowledge and examples of best practice and also provide some additional information which we believe is relevant to the themes in the consultation. We believe it is essential that the Labour party and any incoming Labour government understand that the voluntary sector is in need of stable and committed support for the vital contribution it makes to rehabilitation and community safety, both as providers of services, as an essential strategic partner and an advocate for better services and policies.

#### The voluntary sector in criminal justice: the current picture

Voluntary sector organisations have a long history of complementing the work of statutory agencies in criminal justice, both in prisons and in the community. This dates at least from the work of eighteenth and nineteenth century prison reformers such as John Howard and Elizabeth Fry; probation services themselves have their roots in early voluntary work such as that of Victorian court missionaries. Recent estimates list many as 13,596 voluntary organisations in

England who work in some way with offenders as part of their wider remit, and 1,475 who have offenders, ex-offenders and their families as their primary beneficiaries<sup>1</sup>.

Yet, despite instances of progress from various administrations, the history of the voluntary sector working in criminal justice can still be characterised by a lack of a long-term support from the state, as a result of the frequent political initiatives which have significantly shifted the landscape. The current changes to rehabilitation services contained in the coalition government's Transforming Rehabilitation agenda are only the most recent of these; Labour's own term in office also saw significant change, including the creation of the Ministry of Justice, Probation Trusts and the National Offender Management Service (NOMS). Although real efforts from many Probation Trusts to work in partnership with the voluntary sector did follow, it is important to recognise that this is not a longstanding feature of the justice system, and in any case remains patchy and inconsistent between areas.

This is a significant problem, given the evidence of squeezed alternative funding sources that has emerged from Clinks' *State of the Sector* surveys which have mapped the impact of the economic climate since 2010. We are concerned that there is a reducing pool of grants available from a limited range of trusts and foundations. Our most recent survey of the sector has shown that the level of income that organisations have secured over the last three years particularly varies by size; medium-sized organisations were more likely to see a drop in turnover than either larger organisations (with over 50 staff) or smaller ones (with fewer than 10 staff)<sup>2</sup>.

It is important to note that voluntary organisations working with offenders have not traditionally found fundraising from the public a reliable source of income, given that this client group does not enjoy significant public sympathy. Fundraising from the public constitutes just 3% of total income for those organisations who responded to our most recent survey<sup>3</sup>.

As a result of the various challenges outlined above, as many as 50% of responding organisations tell us they are not recovering their core costs, and 65% are using their reserves to cover these. They also say that this reduced income and the need for staff to dedicate more time and energy to fundraising are negatively impacting on their ability to meet rising demand, and an increasingly complex needs profile amongst service users.

Given this context, Clinks believes that any incoming Labour government must have a clear vision for how it intends to support the role of the voluntary sector working in criminal justice. This should include a more explicit recognition, in Labour's policy messaging, of the sector's contribution to criminal justice: as demonstrated above, the system would be unrecognisable without the work of the thousands of voluntary organisations working alongside the police, courts, and prison and probation colleagues.

The current government has a clearly-stated intention to engage the sector as part of its Transforming Rehabilitation agenda for probation and rehabilitation services; it has declared itself

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<sup>1</sup> Cabinet Office (2011), *2010 National Survey of Charities and Social Enterprises*, Online: <https://www.gov.uk/government/news/2010-national-survey-of-charities-and-social-enterprises> (last accessed 5th September, 2014)

<sup>2</sup> Clinks (2013 pg 9) *State of the sector: October 2013*, Online: <http://www.clinks.org/eco-downturn> (last accessed 5<sup>th</sup> September, 2014)

<sup>3</sup> *ibid*

“determined to design a system which brings together the best of the public, private and voluntary and community sectors”<sup>4</sup>. Equally, we note the in-depth engagement with the work of the voluntary sector that has been developed alongside this agenda by Conservative-leaning think-tanks, for example the reports on how the voluntary sector in criminal justice complements the statutory Criminal Justice System (CJS)<sup>5</sup>, and on the status of mentoring in particular<sup>6</sup>, by the Centre for Social Justice.

While Clinks does not endorse these proposals or recommendations, we do welcome this degree of focus on the challenges facing our sector, and the interest in expanding its interventions more widely. This has not been part of mainstream political debate before, despite the clear benefits it has long provided to individuals and communities. We would like to see an incoming Labour government, and the party’s wider research and policy activity, develop its own vision for the work of the many voluntary organisations currently working to promote desistance from crime, and keep their communities safe.

### Transforming Rehabilitation

To date, Labour’s response to the Transforming Rehabilitation agenda has focused almost exclusively on the outsourcing of offender supervision, with limited engagement around the ways in which the reforms also have implications for the work of the voluntary sector. As the relevant infrastructure body, Clinks has worked to track the actual effects of this agenda on the voluntary sector ever since it was first launched; we also receive funding from the Ministry of Justice to ensure the sector is ready for the transition. We therefore know how far-reaching and varied an impact the changes are likely to have.

For some of our members, who have the capacity to take on contracts, either within a consortium or as a major subcontractor, Transforming Rehabilitation represents an important opportunity to continue their work. The Labour Party should be clear that the sector has always worked with whatever structures subsequent governments have chosen to put in place; this does not represent a political statement on the rights and wrongs of privatisation, but a commitment by the sector to put the needs of their service users and communities first by continuing to provide services.

By contrast, however, the vast majority of the sector is not in a position to enter contracts of this kind; this is particularly the case for small voluntary organisations, which make up a significant proportion of Clinks’ membership and voluntary sector delivery in this field, with three quarters of our 600-strong membership having 20 staff or fewer. These are likely to operate either outside the new landscape as before, or on the periphery as a minor subcontractor. They face a profoundly insecure future if government and funders do not register the extent to which they will not find a home in the Transforming Rehabilitation landscape, and the scale of the threat that may thus be posed to the work of the sector, and therefore rehabilitation, without alternative support.

Labour’s policy interventions on Transforming Rehabilitation would therefore benefit from a recognition that it has ramifications well beyond the outsourcing of supervision services to prime providers. It should prioritise the development of an offer to the voluntary organisations seeking to continue the innovative and holistic interventions that have long been an essential complement

<sup>4</sup> Ministry of Justice (2013) *Transforming Rehabilitation; A Strategy for Reform*, Online:

<https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation> (last accessed 5th September, 2014)

<sup>5</sup> Centre for Social Justice (2013) *The new probation landscape*, Online:

<http://www.centreforsocialjustice.org.uk/publications/the-new-probation-landscape>

<sup>6</sup> Aitken, J. (2014) *Meaningful Mentoring*, Online: <http://www.centreforsocialjustice.org.uk/publications/meaningful-mentoring> (last accessed 5<sup>th</sup> September, 2014)

to the statutory CJS. We know that Labour has been on record stating their intention to unpick any contracts that are already in place if it enters government; whether it seeks to restore probation trusts or create wholly new providers, Clinks would urge them to consider structures which will ensure the voluntary sector can continue to play a key role in supporting offenders and reducing crime.

We expand on some of these points in our answers to the consultation themes and questions below.

### 1. Volunteering

Clinks welcomes the commitment given in the consultation document that “Ensuring that everyone can play their part in their community will be a priority for the next Labour Government”<sup>7</sup>. Volunteering is an important element in the range of innovative interventions our sector provides, and volunteers undertake varied and diverse roles from mentoring, including peer mentoring, to preventative work with young people, supporting high risk offenders, and activities such as reading groups in prison.

The voluntary nature of this engagement, in contrast to the work of the statutory sector, is particularly important to the successful outcomes to which it may lead; as Clinks has summarised elsewhere, “for supervision to support the desistance process, research suggests that it needs to facilitate the development of a positive relationship between the worker and service user that focuses on the service user’s strengths rather than the offence they have committed”<sup>8</sup>.

The role of volunteers within organisations varies depending on the purpose, size and turnover of organisations, with some being volunteer-led and others being led by paid staff, but delivering interventions through or with the support of volunteers. It is therefore important to acknowledge the crucial role of volunteers without treating volunteering and the voluntary sector as synonymous.

Clinks would therefore encourage an incoming Labour government to reflect on the diverse and varied nature of volunteering, and the ways in which it enhances and goes beyond the role of the statutory sector in criminal justice. It should develop its own vision for how these might be expanded to maximise the benefits to people in the CJS and communities. This should incorporate the expertise of organisations currently involving volunteers in diverse roles across the CJS.

#### What are the main barriers to volunteering?

A clear potential barrier to volunteering in the CJS is the level of risk presented by some service users and settings which require high levels of training and security clearance. However, the sector has demonstrated an ability to overcome these obstacles, through additional risk assessments and safeguarding measures which have enabled significant innovative practice, such as the work of Circles of Support<sup>9</sup> volunteers with sex offenders. Under the Transforming Rehabilitation reforms, a key role has been articulated for the voluntary sector in working with low-medium risk offenders as part of Community Rehabilitation Companies’ supply chains. There has been much less detail on how it is envisaged that the sector will work with the National

<sup>7</sup> Labour Party (2014 pg 1), *Renewing our Bond with the Third Sector*, Online: <http://www.yourbritain.org.uk/agenda-2015/policy-review/policy-review/renewing-our-bond-with-the-third-sector> (last accessed 5th September, 2014)

<sup>9</sup> <http://www.circles-uk.org.uk/>

<sup>9</sup> <http://www.circles-uk.org.uk/>

Probation Service, who will manage high risk offenders. We recommend that any incoming Labour government should consider the contribution the voluntary sector and volunteers can make in working with both of these groups of offenders.

Clinks is also a long-term advocate for the importance of involving service users as volunteers (and as paid staff) in the design and delivery of criminal justice services. Many of our members specialise in service user involvement, such as User Voice, a national charity led and staffed by ex-offenders, which has pioneered the 'Prison Council' model for including prisoners in democratic participation within prisons. At the time of writing, User Voice has also been commissioned by the London Probation Trust to develop Community Councils, in which users of probation services are elected to engage with staff over improvements, in every London borough<sup>10</sup>.

The dual benefits of enabling ex-offenders to play a part in delivering rehabilitation services are obvious; peer mentoring, for example, in which "people with the same shared experience provide knowledge, experience, or emotional, social or practical help to each other"<sup>11</sup>, both contributes to the resettlement needs of the mentee, and allows the mentor to gain valuable skills and self-belief that enhance their long-term ability to desist from crime.

However, our members tell us that it is too often the case that unnecessary barriers are placed in the way of this and other activities carried out by ex-offenders; these often seem disproportionate to any genuine risk. For example, recent proposals by the Charity Commission suggested broadening the range of offences that would disqualify someone from acting as a trustee or senior staff member for a charity, even where the charity concerned has expertise in working with offenders and believes it is able to manage any risk by itself. We supported Clinks member Unlock in their submission to the consultation; in the words of Clinks director Clive Martin,

"At the heart of the voluntary sector is the idea that we work with service users, rather than doing things to them. This is no less important with offenders than with any other group. In fact, it is arguably more important, given the level of formal and informal exclusion offenders already face.

Any unnecessary barriers to the recruitment of people with unspent convictions as trustees and in senior positions is a serious threat to the core mission of our sector. At a time when many are working to promote the value of service user involvement, including to potential new providers as rehabilitation reforms get underway, it would undermine our ability to practise what we preach. Clinks therefore joins the calls on the Charity Commission to engage with organisations with direct experience of the challenges caused by the current rules before it considers any further restrictions"<sup>12</sup>.

<sup>10</sup> User Voice (2014) London Probation Community Council <http://www.uservice.org/our-work/our-services/councils/lpt-council-pilot/>

<sup>11</sup> Clinks (2012, pg 8) *Volunteer peer support*, Online: <http://www.clinks.org/criminal-justice/service-user-involvement> (last accessed 5th September, 2014).

<sup>12</sup> Unlock (2014) *People with convictions as trustees, a consultation response*, Online: <http://www.unlock.org.uk/people-with-convictions-as-trustees-consultation-response-by-unlock/> (last accessed 5th September, 2014)

What could a Labour government do to encourage and support more people to volunteer?

Clinks would urge an incoming Labour government to review the restrictions facing people with convictions from volunteering and working in the sector, and to work with expert organisations in doing so. This would not only help to ensure that the full potential of all individuals to play an active part in their communities is realised, but would also demonstrate a serious belief in the fundamental principle of rehabilitation: that people who have offended remain members of society, and with the right support have the same potential to contribute as anyone else.

## 2. People

We are also pleased to see the recognition that it is not only volunteers, but also the thousands of paid staff who have chosen to work in the sector, who deserve recognition and support for the contribution they make.

How can we ensure the sector is more representative of the population and its beneficiaries?

We would reiterate the points outlined above in regards to the involvement of service users, and stress that it is equally important for people with prior convictions to be able to access employment opportunities in the CJS, where their lived experience can add significant value to local services.

## 3. Supporting charities to grow and thrive

What more could Government do to support the sector to grow and thrive? Are existing funds aimed at ensuring charities survive tough times well targeted?

How can Government support small and medium-sized charities better?

As indicated in our introductory section above, Clinks has a specific interest in the challenges faced by small and medium-sized charities working in criminal justice. This is because they are the overwhelming majority of organisations working in this field.

Clinks is keen to see government ensure that support is targeted at these; an example is the Cabinet Office's recently announced fund to promote the sustainability of the voluntary sector, with a specific focus on medium-sized organisations. Clinks has submitted ideas on what forms of support would be most helpful in criminal justice, and how it could be delivered, especially through the involvement of local infrastructure organisations<sup>13</sup>. Overall, however, we would be keen to see support of this kind supported and extended, and hope that a Labour government would continue it.

We would also highlight the important role played in criminal justice by specialist organisations who are often small but target services at groups with specific needs. These include women's centres who work holistically with female offenders to better meet their distinct needs; Black, Asian, and minority ethnic (BAME) organisations who are able to respond to the ethnic and racial disproportionality that exists in criminal justice; and organisations working specifically to meet the needs of the Transition to Adulthood Alliance (T2A) age group (18-24) who are most at risk of

<sup>13</sup> Clinks (2014a) *Response to the Cabinet Office consultation on a new fund to support the sustainability of voluntary sector organisations*, Online: <http://www.clinks.org/responses> (last accessed 5<sup>th</sup> September, 2014)

reoffending, and experience increased vulnerability due to the gap that often exists between youth and adult services<sup>14</sup>.

Due to the specialist nature of this work, and resulting low volume levels, it can often be overlooked, especially in an environment of reduced resources. However, in order to ensure the needs of these service users can be adequately met, government should ensure that support and resources is targeted at them.

We would recommend that there must always be a role for direct grants, especially in supporting the work of small, medium-sized, and specialist organisations. Although they have not been mandated to do so, we hope to see some of the new probation providers decide to include grant-funding alongside contracts as a means of support for local voluntary sector organisations working with offenders. This is particularly crucial for those who provide specialist interventions or those which cannot easily be measured through 'payment by results'; we discuss this in more detail in section 4. We recommend that any plans Labour forms for the future of probation and rehabilitation services should include a prominent place for grants to fund voluntary sector services.

*How important are local and regional strategies for the sector? Who should lead them?*

Clinks is strongly supportive of localised support that reflects the differences in local need. However, recent experience of the introduction of local commissioning in some areas of criminal justice would suggest that a national steer is equally necessary to ensure synergy with those parts which remain nationally commissioned. This should support genuine engagement by all commissioners with the sector, and aim to prevent unfair variations by area, which almost inevitably impact upon society's most marginalised, including offenders.

It is instructive to look at a significant project that Clinks was tasked with running as part of the current government's creation of police and crime commissioners (PCCs). Funded by the Home Office, the Safer Future Communities project brought together networks of voluntary sector organisations with a role in community safety in each police force area. Led by local infrastructure organisations, these aimed to establish relationships with PCCs and their offices; many were indeed able to do so. However, following the end of the Safer Future Communities funding, and two years on from the elections, the picture is a mixed one. Some networks continue to thrive and have built strong strategic relationships with PCCs and other local commissioners, but with no central steer to PCCs on how they should engage with the voluntary sector, including by continuing to fund the Safer Future Communities networks, many have been unable to continue. With the advent of Transforming Rehabilitation swiftly after the creation of PCCs, voluntary organisations working in criminal justice are having to adapt quickly to a rapidly changing environment at a local level; for many, keeping up with who to engage with and how is simply beyond their resources.

Clinks is currently undertaking a survey with our members to record the voluntary sector's experiences of engagement with PCCs, and intends to publicise the findings to all political parties in November 2014. We would urge Labour to give consideration to these, and to think through how any future plans for localised strategies would mandate a level of consistency in funding and engagement of the voluntary sector; this should of course include probation and rehabilitation

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<sup>14</sup> Barrow Cadbury Trust (2010), <http://www.t2a.org.uk/>

providers, PCCs or whatever structures replace them, and all other relevant commissioners. We believe there is a role for ring-fenced budgets to support voluntary sector engagement.

#### 4. Procurement

##### The commissioning cycle

Clinks is pleased to see this consultation acknowledge the important role the sector can play in the delivery of public services. Clinks understands the commissioning of services as a cycle which includes not just procurement but the whole process of reviewing current provision, assessing what is needed, ensuring that there is a good range of potential providers of services, selecting the best mechanism to buy services and then procuring and managing the delivery of the services selected to meet the need. Clinks' recent report on best practice commissioning for the voluntary sector, *More Than a Provider*<sup>15</sup>, identified many examples of good practice in commissioning, including:

- Use of expertise and intelligence from voluntary sector organisations to assess service user need, identify emerging issues and review existing services.
- Involvement of service users in decision making processes, including commissioners meeting directly with service users to review services and assess needs.
- Clear information about tendering processes, with support such as provider days targeted at voluntary sector organisations to enable them to participate and compete with larger providers.
- Grants for innovative service development and partnership formation.

One of the key recommendations of the report is that service users and voluntary organisations should be involved throughout the commissioning cycle and that commissioning and procurement teams should have the opportunity to meet directly with service users.

We would recommend that Labour gives thought to this and other recommendations in the report; particularly the aspect of it that gave rise to the title: the sector should be involved not only as a provider of services but as “advocates, campaigners, sources of vital information on service user need, a critical eye on existing services, and innovators that drive social change”<sup>16</sup>.

##### Assessing needs

A primary concern of any commissioning authority must be identifying the needs to be met, and the corresponding outcomes that services should achieve and how these should be measured. Under Transforming Rehabilitation, reducing reoffending is the primary stated goal of commissioners, and the voluntary sector working in this field makes a significant contribution towards this. However, to understand the sector's contribution fully, we also need to look at a range of other outcomes, including the frequency and severity of reoffending, the attitudes and behaviour of service users, and factors like their mental health, wellbeing, family relations and

<sup>15</sup> Clinks (2014) *More than a provider: the role of the voluntary sector in the commissioning of offender services*, Online: <http://www.clinks.org/resources-reports/more-provider-role-voluntary-sector-commissioning-offender-services>

<sup>16</sup> Clinks (2014b) Op. cit., p.3.

employment. These are often understood as intermediate outcomes which may not result in immediate reductions in reoffending but contribute towards long-term desistance.

While the National Offender Management Service (NOMS) has supported intermediate outcomes<sup>17</sup>, there is currently no mandated place for them within Transforming Rehabilitation, under which the outcomes that will trigger payment are the binary and frequency reoffending rates. Providers will only be rewarded for reductions on the frequency metric if the binary metric at least stays constant, that is, there is no increase in the number of individuals in their cohort that are convicted of further criminal offences. In other words, where an intervention achieves success in encouraging desistance from crime over a longer period, despite re-offences within the first twelve months, this will not be recognised by Transforming Rehabilitation. An incoming Labour government should ensure that it recognises the complexity here, and that any 'payment by results' system it decides to create or preserve builds in an awareness of intermediate outcomes, and funding structures that promote them, including direct grants.

#### Market stewardship

One of the key areas that Clinks believes is important in any commissioning and procurement process, and which this consultation does not cover, is the need for transparency in the contracting arrangements between the voluntary sector and lead providers where public services are outsourced. The Transforming Rehabilitation governance documents include a set of market stewardship principles designed to ensure this, covering such issues as risk transfer and the application of the Compact.

Assuming that an incoming Labour government would inherit some level of outsourced criminal justice services, and therefore have to manage them for the foreseeable future, Clinks recommends a review of the current market stewardship principles to test their robustness, and monitor how far they are realised in practice.

#### How can we ensure that payment by results models of commissioning do not exclude smaller, grassroots charities from bidding?

Clinks shares the concern expressed in the consultation that payment by results (PbR) systems are likely to squeeze out smaller and medium-sized providers. Even for larger organisations, the risks of PbR are not insignificant, especially given the experiences of some voluntary organisations involved in PbR contracts as part of the Department for Work and Pensions' (DWP) flagship Work Programme<sup>18</sup>.

In our response to the initial consultation on Transforming Rehabilitation, we recommended that, where possible, voluntary sector providers should receive 100% of their costs upfront, with the risk borne either by the lead provider, or external investors. Where this was not possible, we recommended that a scalable amount should be left at risk, proportionate to the size of their organisations and their position in the supply chain, and that this should in any case not exceed

<sup>17</sup> NOMS (2012) *NOMS Commissioning Intentions for 2013-14: Negotiation Document*, <http://www.justice.gov.uk/downloads/about/noms/commissioning-intentions-2013-14-oct12.pdf>

<sup>18</sup> Rees, R., Taylor, R. and Damm, C. (2013) *Does sector matter? Understanding the experiences of providers in the Work Programme*, Third sector Research Centre Working Paper 92, <http://www.birmingham.ac.uk/generic/tsrc/documents/tsrc/working-papers/working-paper-92.pdf>

20% of the total contracted fee<sup>19</sup>. We believe that this constitutes best practice in the development of a PbR model.

We expect that Labour will also want to look into the progress of social finance as a means of ensuring that the sector is enabled to be part of such commissioning arrangements. Obvious current criminal justice examples include the Social Impact Bond (SIB) that has been in use as part of a PbR pilot at HMP Peterborough. Here, social investment funds are pooled into a Special Purpose Vehicle (partnership or limited company) which then contracts with voluntary sector providers to provide innovative resettlement support to short-term prisoners. These providers are paid 100 per cent of their delivery costs upfront and all risk is carried by the investors, who also receive a return on investment from government proportionate to the outcomes achieved. The results from the Peterborough pilot have been described as a “qualified success”<sup>20</sup>, in that reoffending by those offenders who had accessed the services did drop compared to a comparable group, but that as the reduction was 8.4% and not the minimum set level of 10%, the investors did not receive any of their money back.

Clinks would therefore suggest that the best position for the sector, for the government, and for Labour is to welcome social finance as a potential addition to the range of financing options available to support the involvement of the voluntary sector in delivering public services, but that further piloting is needed before this could be embraced on a significant scale. It is also worth noting that the only major pilot of such a model in criminal justice to date has overwhelmingly been led by the voluntary sector itself as investors. Future expansion of this model will not be possible without greater engagement by a diverse range of new and existing funders.

As set out already, we believe that there will always be a role for direct grants in supporting voluntary sector participation in public service delivery, and we hope to see any future probation and rehabilitation providers include these. This is particularly important in relation to small and medium-sized organisations, those providing specialist services, and those organisations working towards intermediate outcomes which do not achieve immediate reductions in reoffending but contribute towards longer-term desistance from crime.

Clinks recommends that Labour should commit to preserve a mixed model of funding for the sector, which includes direct grants for those organisations which cannot easily fit within a payment by results model, but are still playing a vital role in supporting offenders and keeping communities safe.

*What can be done to encourage and support collaboration amongst charities to bid jointly for contracts?*

A very clear message to emerge from recent legal support we provided for organisations considering entering into Transforming Rehabilitation contracts and supply chains was that building successful consortia takes far more time and negotiation than either government or the sector itself may realise. While collaboration is clearly a valuable option for many organisations,

<sup>19</sup> Clinks (2013), *Clinks’ response to Ministry of Justice consultation: ‘Transforming Rehabilitation: A revolution in the way we manage offenders*, <http://www.clinks.org/sites/default/files/Transforming%20rehabilitation%20consultation%20response%20Feb%202013.pdf>

<sup>20</sup> Stephen Cook, *Editorial: a qualified success for the Peterborough prison social impact bond*, in Third Sector magazine, 08.08.14, <http://www.thirdsector.co.uk/editorial-qualified-success-peterborough-prison-social-impact-bond/finance/article/1307221>

given the opportunity it provides to pool resources and share best practice, it should not be considered any less risky an enterprise than entering a supply chain as a single entity.

*What role should regional and local infrastructure bodies play in supporting charities to bid jointly for contracts?*

One of the most important ways that government can ensure support for the voluntary sector, and particularly its small and medium-sized members, is to ensure a strong national and local infrastructure. Infrastructure organisations have emerged over the years to provide voice, advocacy, and practical support to the voluntary sector to ensure that they, and by extension communities and people in need, may thrive.

Clinks has extensive and current insight into the skills required to ensure that the relevant parts of the sector are contract-ready; not only have we been tasked with disseminating information and opportunities through our infrastructure grant from the Ministry of Justice but we have also undertaken more specific projects, such as the aforementioned legal support we delivered this year with Cabinet Office and Ministry of Justice funding. This has thrown light on the extent to which voluntary sector organisations need tailored support to develop their skills and capacity before entering contracts of this nature.

It is important for infrastructure support to remain independent from statutory provision. This allows it to act as a trusted broker on behalf of the entire sector, a vital source of information to its members on all relevant opportunities and policy initiatives (however major or minor), a hub for networking and practice-sharing, and an 'early warning system' where problems arise. The success of all these functions relies on there being no conflict of interest between an infrastructure provider and the sector it serves.

The fact that many organisations in the criminal justice field require significant support to understand and engage with contracts shows that there is a need for infrastructure support in criminal justice. Equally, as Labour considers its own vision for the future of criminal justice, we would hope to see it engage with us and other relevant infrastructure organisations to ensure communication with our members, and understanding of their concerns.

*Has the Social Value Act had an impact on charities ability to win contracts? Could more use be made of it?*

While the Social Value Act is a useful statement of principle, its contribution to better commissioning in the future is wholly dependent on how it is actually integrated into commissioning decisions.

Clinks' *More than a Provider* report highlights many examples where voluntary organisations have achieved positive change to public services on behalf of their service users, such as improving access to primary healthcare for people who have been banned from attending GP surgeries. Often these changes are things that the organisations are not directly funded to address, but are indirect consequences of investment in these organisations and represent the added social value of purchasing services from them.

Examples from the Cabinet Office show how the Act also has the potential to maximise the opportunities for the reintegration of offenders into the community by contracting with organisations that provide volunteering and employment opportunities for ex-offenders, for

example, an Environment Agency river management contract with a social enterprise providing training and employment for young offenders.<sup>21</sup>

The Act also has potential to address some of the problems with defining and measuring progress towards desistance from crime over the longer term that we cite in relation to needs assessment above.

In addition, guidance on the Social Value Act<sup>22</sup> emphasises the need for consideration of social value at the pre-procurement stage, which can be aided by providing flexible but systematic routes for all voluntary sector organisations (not just service providers) to share intelligence about emerging needs, pitch ideas, and advocate for service improvements. In order to maximise all these potential benefits of the Act, Labour should look at ensuring that commissioners receive a clear steer about making it a core factor in commissioning decisions.

*How might successful co-commissioning models pioneered by charities and councils be extended more widely?*

There are examples within the criminal justice field of voluntary sector organisations taking the lead to drive improved join-up between local services and commissioners in order to better meet the needs of service users.

The Making Every Adult Matter Coalition (MEAM)<sup>23</sup>, of which Clinks is a member, has pioneered an approach with works with a variety of agencies to improve coordination of services for people with complex, overlapping needs who experience multiple problems such as homelessness, substance misuse, mental health problems and offending. Their multiple needs mean that they experience ineffective contact with services and live chaotic lives at the margins of our communities.

Similarly, women's centres provide flexible holistic support to women with a range of needs which may include offending, poor health, drug and alcohol abuse and being victims of violence against women and girls (VAWG). In order for such vital services to exist, it is necessary for commissioners to work together and recognise how services meet priorities across social policy silos, suggesting that they should be jointly commissioned.

However, recent and forthcoming changes to the local commissioning landscape have led to fragmentation rather than greater coordination. For instance, there is no co-terminosity between the geographical areas within which police and crime commissioners' fund community safety activity, new health structures commissioning offender health services, and the forthcoming contract package areas under Transforming Rehabilitation. This represents a significant challenge to the co-commissioning of services. The added lack of synergy between localised and national strategies mentioned earlier means that an incoming Labour government will need to consider

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<sup>21</sup> Cabinet Office. 2014. The Public Services (Social Value) Act 2012: One Year On. Online: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/275719/Public\\_Services\\_Social\\_Value\\_Act\\_-\\_One\\_Year\\_On.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275719/Public_Services_Social_Value_Act_-_One_Year_On.pdf) [last accessed 10.04.2014]

<sup>22</sup> Cabinet Office. 2012. Procurement Policy Note: The Public Services (Social Value) Act 2012 – Guidance for commissioners and procurers. Information note 10/12, 20 December 2012. Online: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/79273/Public\\_Services\\_Social\\_Value\\_Act\\_2012\\_PPN.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79273/Public_Services_Social_Value_Act_2012_PPN.pdf) [last accessed 10.04.2014]

<sup>23</sup> Making Every Adult Matter Coalition (2014), <http://meam.org.uk/>

how it can steer local commissioners to work better together while continuing to balance responsiveness to varied local needs.

## 5. Big Lottery Fund

### What should the Big Lottery Fund prioritise?

As highlighted above, Clinks is concerned about a reducing pool of grant opportunities, from a reducing range of funders, for voluntary sector organisations working in criminal justice. Therefore we would hope that the Big Lottery Fund would see organisations that meet the needs of offenders and their families, in order to make communities safer places, as a priority in the future.

In our response to the Big Lottery Fund's Your Voice Our Vision consultation<sup>24</sup>, we also raised the importance of funding for specialist infrastructure alongside local and generic infrastructure. Clinks has worked in partnership with a range of generic and local infrastructure organisations to develop projects and activities to bring our specialist policy and practice understanding together with their local knowledge and links for the benefit of local voluntary sector organisations working in criminal justice.

Labour should consider how it would provide support for organisations that build the capacity and capability of the voluntary sector, and build on partnership models like this, to ensure that the vital services provided by both specialist and generic infrastructure organisations can be sustained.

### Why is the success rate for applications that 'mostly benefit' people from BME communities lower than average, and what could be done to address problems here?

The BAME voluntary sector has previously been significantly funded, and subsequently maintained, through a range of Department for Communities and Local Government Area Based Initiatives funding streams, such as the Inner City Partnership and successor programmes. In the context of austerity, such funding streams have been curtailed<sup>25</sup> meaning that the BAME sector has been disproportionately affected. For BAME organisations working in criminal justice, this compounds the funding challenges we have outlined above.

Organisations providing specialist services to BAME offenders have an important role to play in supporting desistance, and therefore reducing the critical levels of over representation in our CJS. Through Clinks' ongoing work supporting Baroness Young's independent review into improving outcomes for young black and/or Muslim men<sup>26</sup>, we have seen how ethnicity, faith and culture have an important role to play in the desistance process. In addition we have explored how the impact of multiple disadvantages in other areas of these young men's lives combines with their experience of the CJS, and also affects the resilience of the communities they return to. There is therefore a critical need for investment in organisations that are based within these communities.

<sup>24</sup> Clinks (2014), <http://www.clinks.org/community/blog-posts/why-funding-specialist-criminal-justice-infrastructure-important>

<sup>25</sup> <http://www.birmingham.ac.uk/generic/tsrc/documents/tsrc/working-papers/briefing-paper-103.pdf> p1

<sup>26</sup> <http://www.youngreview.org.uk>

The Young Review's final report will be published later this year, and we would urge the Labour Party and the Big Lottery Fund to engage with its recommendations in order to ensure that the important role BAME-led organisations can play in addressing the disproportionate number of BAME people in our CJS is realised.

## 6. A strong independent voice

Clinks has a strong interest in the ability of our members and the wider sector to speak out on the circumstances and needs of their service users. We believe that this is of particular importance in the CJS: offenders in prison do not have the right to vote, and those in the community, and upon release, commonly have chaotic lifestyles and the associated difficulty in engaging with the democratic process. Hence our sector's service users often have little or no voice in policy-making. The role of our members in speaking out on their behalf, for example on prison conditions, is therefore particularly important in ensuring that elected representatives are informed and engaged.

We are members of the Commission on Civil Society and Democratic Engagement<sup>27</sup>, and so support the need for the current Lobbying Act to be repealed or amended. We have no specific recommendations to make in relations to alternative methods of regulating lobbying, and would instead urge an incoming Labour government to liaise with the sector to ensure that any plans in this area take into account the unique role of the sector.

However, we would observe, as summed up by the most recent report by the Panel on the Independence of the Voluntary Sector, *Independence undervalued: the voluntary sector in 2014*<sup>28</sup>, that support for and understanding of the sector's independent voice appears to have declined across the board, and is not just an issue for the current government. We would hope to see an incoming Labour government ensure that an understanding of the voluntary sector's right and indeed obligation to campaign on its service users' behalf is embedded throughout its Cabinet and Parliamentary party. Equally, any future renewal of the Compact must contain strengthened guarantees of the sector's independence.

We also share the concerns raised in the consultation about so-called 'gagging clauses' in commissioning arrangements. These are particularly problematic when they are included in subcontracting arrangements, in which organisations lower down the supply chain are prevented from raising concerns with the commissioning authority in case this may prove damaging to the lead provider. We would argue that subcontracting arrangements must ensure that communication channels remain open between the responsible department and voluntary sector subcontractors.

Finally, as referenced under section 4 above, we would also urge Labour to build upon the support it has so far expressed for the sector's right to an independent voice by ensuring that it envisions a role for the sector beyond service delivery: as a valuable strategic partner, advocate and source of intelligence when decisions about criminal justice policy and services are made. The party should ensure it fully understands what the sector stands to offer government, beyond the unique interventions it delivers in communities, as it forms its own vision for voluntary sector organisations, their role in public services, and the future of criminal justice in particular.

<sup>27</sup> Commission on Civil Society and Democratic Engagement (2013), <http://civilsocietycommission.info/supporters/>

<sup>28</sup> Panel on the Independence of the Voluntary Sector, *Independence undervalued: the voluntary sector in 2014*, <http://www.independencepanel.org.uk/wp-content/uploads/2014/01/Independence-undervaluedfinalPDF-copy.pdf>

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