

**Clinks response to Ministry of Justice consultation:
'Transforming Youth Custody: Putting education at the heart of detention'
April 2013**

About Clinks

Clinks is the national infrastructure organisation supporting Voluntary and Community Sector (VCS) organisations working with offenders and their families. Our aim is to ensure that the Sector and all those with whom it works, are informed and engaged in order to transform the lives of offenders and their communities.

Clinks is a membership organisation with over 400 members, including the Sector's largest providers as well as its smallest, and our wider national network reaches 4,000 VCS contacts. Overall, through our weekly e-bulletin Light Lunch, we are in contact with over 9,000 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.

About this response

Clinks' response has been informed by direct submissions from our Members following a call for views on the consultation document in Light Lunch, and by discussion at the Ministry of Justice (MoJ) and Youth Justice Board (YJB) Transforming Youth Custody consultation event.

This response has also benefitted from the help and advice of the Arts Alliance management and members, and has drawn upon the [Arts Alliance Evidence Library](#) for case studies of the many creative and innovative approaches to learning currently being provided in the CJS. The Arts Alliance is jointly funded by the Ministry of Justice and The Monument Trust to provide the national network for arts in criminal justice. The Arts Alliance is a coalition of 370 members who work across art-forms in a range of custodial settings and is managed by Clinks.

The response also draws upon previous consultation processes for a series of task and finish group papers on behalf of the Ministry of Justice Reducing Reoffending Third Sector Advisory Group (RR3) on commissioning and contracting, women and girls in the CJS, and the VCS in the youth justice system.

Clinks will not attempt to answer every question in the consultation document, but rather a selection of those which are of most direct relevance to its Members and other VCS organisations who may be interested in providing services in Secure Colleges. Some questions have been grouped together for a more coherent response.

While the focus of the response is largely on more creative, innovative and arts-based forms of learning – reflecting the type of work carried out by many VCS organisations – it is hoped that Government will recognise the significant value of these sorts of interventions as a pathway to more formal education, training and employment (ETE) outcomes, as well as an important means of building the personal resilience and skills to challenge offending behaviour.

Tailoring education to young people in custody

“How should we best engage young people in custody (both sentenced and remanded) in education and training? What evidence is there of different approaches that work well?”

“How might the educational balance in Secure Colleges best be struck between basic skills (literacy, numeracy, etc), traditional academic subjects, vocational learning and wider life skills such as self-respect and self-control, communication and teamwork?”

Clinks welcomes the broad intentions of the Transforming Youth Custody consultation document.

The Government’s commitment to placing education, training and employment at the heart of a Secure College system demonstrates a welcome emphasis on the rehabilitative function of the youth justice system and the importance of preparing young people who have offended for reintegration into society from the earliest possible stages of sentence planning. At a time when young people who have offended are subject to considerable stigma in the media, it is important to convey the message that young people in the custodial estate are still children entitled to an education.

It is widely accepted, however, that the vast majority of children and young people in custody are disproportionately disadvantaged compared with their peers who do not offend. As the number of young people in custody continues to fall, it stands to reason that those in the secure estate represent the most troubled and difficult to engage cohort.¹ While educational under-attainment is certainly a risk factor for offending behaviour in children and young people, it is only one aspect of a wide range of complex, multiple needs presented by children and young people in custody. HM Inspectorate of Prisons and YJB, Children and Young People in Custody 2010-2011, found that the majority of young people in the secure estate had been excluded from school, but also that 27% of boys and 55% of girls had spent time in local authority care. Young people in the secure estate are also significantly more likely to have a diagnosable mental health condition, a learning disability, or some form of speech, language or communication need.² Thus, while educational attainment and employability is a vitally important youth justice outcome, it must form one part of a whole systems approach which also takes each young person’s health, family relationships and broader social capital into consideration.

Education for young people in custody should be as much about personal development as the acquisition of skills or knowledge. Government should therefore define ‘education’ as broadly as possible in Secure Colleges and avoid replicating systems and structures which have already failed to engage young people outside the custodial estate. The desire to emphasise core skills, such as literacy and numeracy, is understandable in the current economic climate. However, many young people who have come into contact with the Criminal Justice System also need to develop qualities and skills such as resilience, self-confidence, communication and teamwork. Not only

¹ MoJ. 2013. *Monthly data and analysis custody report – February 2013*. Online: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/185622/Youth_Custody_Report_-_February_2013.xls [last accessed 13.4.2013].

² L. Khan. 2010. *Reaching Out Reaching In: Promoting mental health and emotional well-being in secure settings*. Centre for Mental Health. Online: http://www.centreformentalhealth.org.uk/pdfs/Centre_for_MH_Promoting_mh_in_secure_settings.pdf [last accessed 30.4.2013].

are these wider life skills critical for challenging offending behaviour, but they can act as a foundation or stepping stone on the path to engaging with more 'traditional' forms of learning.

There is a large amount of evidence to suggest that, by including more creative approaches to learning and opportunities for personal expression and development alongside traditional literacy, numeracy and vocational training, Secure Colleges can considerably heighten their potential to engage with troubled young people. An evaluation of the Summer Arts College programme for high-risk young people, a joint initiative of the YJB and Arts Council England, has found that the programme successfully met its objectives of reducing reoffending, increasing educational engagement and improving literacy and numeracy through an arts-based programme. In the four weeks immediately following the programme, 71% of young people who completed the Summer Arts College were in education, training or employment, compared with 54% in the four weeks preceding the programme.³

A significant number of VCS organisations particularly excel at providing educational services which encompass more creative approaches to learning, often making use of the arts or sport to engage young people and complement more traditional learning methods. The traditional strengths of the Sector – its flexibility, individualised approach and dedicated personnel – play out well in the youth custodial estate, and are often successful in engaging a constituency of young people who may be alienated from formal learning structures and lack social capital, trusted adults and role models.

An evaluation of Dance United's two-year Academy project, for example, highlights the value of arts-based interventions and physical activity in bolstering participants' capacity to learn, and outlines how 'soft' skills can in turn be linked to very favourable 'hard' educational and reoffending outcomes. The Academy programme incorporates a range of activities and educational outcomes within a dance-led curriculum. A three-week performance project culminates in a live, professionally staged public production. The absolute emphasis on quality and excellence demands high standards of discipline and teamwork from young people, generating responsibility, co-operation and a sense of achievement. Participants were found to demonstrate 'measurable increases in confidence and self-awareness, communication and coping skills, flexible thinking and self-control.' This in turn was found to trigger greater ambition, signalled by a willingness to take up or re-engage with education and employment pathways, as well as improved personal and family relationships and a reduced risk of reoffending.⁴

Desistance theory has also found that young people who come into contact with the Criminal Justice System are particularly susceptible to negative labelling, and that interventions may unintentionally exacerbate this tendency and cement a 'criminal identity'.⁵ Arts-based interventions have been found to be particularly effective in challenging this tendency. A study of Changing Tunes' work in prisons found that the benefits for participants included increased confidence, finding one's voice and an identity separate to that of an offender. Public performance and praise from music teachers, other participants and even prison staff were highlighted as particularly important in fostering a sense of achievement and bolstering self-confidence. This is particularly important in an environment where young people are often made

³ R. Tarling & M. Adams. 2012. *Summer Arts Colleges Evaluation Report 2007-2011*. Unitas. Online: <http://www.unitas.uk.net/Assets/425220/Document.pdf?1350409889> [last accessed 30.4.2013].

⁴ A. Miles & P. Strauss. 2008. *The Academy: A report non outcomes for participants*. Online: <http://artsevidence.org.uk/media/uploads/evaluation-downloads/du-academy-report-2008.doc> [last accessed 30.4.2013].

⁵ F. McNeill & B. Weaver. 2010. *Changing Lives? Desistance research and offender management*. Online: http://www.sccjr.ac.uk/wp-content/uploads/2012/11/Report_2010_03_-_Changing_Lives.pdf [last accessed 30.4.2013].

to feel like failures, and Changing Tunes participants commented that the programme helped them to 'see another side of yourself other than just a criminal' and that group affirmation through music-making 'takes the anger and negativity away from us'.⁶

Greater user involvement is also key to ensuring that young people are engaged in educational projects and that programmes are responsive to their specific needs. Arts projects naturally encourage this kind of active participation. Participants in the Changing Tunes programme felt that they were given considerable responsibility over the direction of the projects, and with this experienced a sense of ownership. Nearly all respondents felt that their voices were listened to within the context of the group and stressed the value of their social skills, confidence and sense of self-worth.⁷

Clinks therefore recommends that Government takes a broad view of education in custody, taking into account the large body of evidence of the value of creative interventions and recognising that these can form an effective pathway to more formal modes of education and training. Secure Colleges, which are likely to accommodate some of the most troubled and difficult-to-reach young people, should each seriously consider how to implement alternative approaches to learning, using expert providers as good practice examples from the arts and criminal justice sectors. It is also critical to implement opportunities for meaningful user involvement in the planning and implementation of a wide-ranging programme of activities. VCS infrastructure organisations, including Clinks and the Arts Alliance, are well-placed to point to good models of work in this area, and the questions of how to involve a diverse range of providers in Secure Colleges will be discussed in more detail below.

Meeting the wider needs of young people in custody

"How would your model of a Secure College support young people leaving custody to get placements in education, training and employment upon release and support them to maintain this engagement?"

Local VCS organisations are in a good position to provide through-the-gate support for young people leaving Secure Colleges. Secure Colleges could partially overcome the problem of young people being released into areas far away from where they have been imprisoned by building strong relationships with VCS organisations in these localities. Local and national infrastructure organisations should be able to help play a brokering role here.

A one-to-one mentoring relationship can also aid young people to maintain their attendance and commitment to ETE programmes upon release. There are numerous VCS organisations nationwide who provide this sort of service and Secure Colleges should certainly explore the possibility of an appropriate mentor on release for young service users. It is important to note, however, that mentors themselves must be properly trained, supported and resourced, and that the mentoring relationship may not be appropriate for all service users.

⁶ S. Maruna. 2010. *The Great Escape: Exploring the Rehabilitative Dynamics Involved in 'Changing Tunes'*. P.1.4 Online: <http://www.changingtunes.org.uk/The%20Great%20Escape%20Prof%20Shadd%20Maruna.pdf> [last accessed 30.4.2013].

⁷ Ibid.

“How can we design our approach to ensure that the widest range of providers with relevant experience can participate?”

Clinks welcomes the fact that MoJ and YJB are committed to ensuring that a diverse range of providers can participate in the new Secure College system. As outlined above, the VCS has a long and distinguished history of working with the youth justice system, and it is important to preserve the good work already being carried out as well as exploring new and innovative approaches. It is therefore necessary for Government to listen to the concerns of VCS practitioners, take steps to ensure that there is effective communication with the statutory sector at both the national and local level, and consider carefully the impact of new commissioning and funding mechanisms on small and medium-sized organisations, particularly those working with specialist and minority groups.

The RR3 paper, ‘Maximising Our Potential: Youth justice and the role of the VCS’ outlines the precarious position of many VCS organisations working with young people.⁸ The impact of stringent funding cuts to Youth Offending Teams (YOTs) has also impacted upon many VCS organisations which had been engaged to work with young people, with VCS projects working with young people who are subject to Youth Rehabilitation Orders (YRO) or being resettled from the secure estate facing significant cuts to their services.

Furthermore, there remains considerable uncertainty regarding future models of commissioning, procurement and funding for offender services. At the time of writing, the Government had not yet issued its response to the Transforming Rehabilitation consultation document. A large proportion of the Sector, working with both adult and young offenders, is therefore waiting to see what potential business opportunities will arise under the new structures. In the meantime, large numbers of organisations are surviving on their reserves.⁹

The main problems faced by small to medium sized VCS organisations are lack of capital or resources to bid for opportunities, the possibility of having to become part of a larger organisation’s supply chain and not having ‘access’ to the custodial estate or knowledge of potential opportunities. The particular problems posed by Payment by Results (PbR) contracts for smaller organisations will be considered in more detail in response to the specific question on PbR below.

Government may help keep the market open to potential VCS providers by communicating planned changes and opportunities to tender in a timely manner to allow organisations to plan and, where necessary, develop new relationships and partnerships. It is not yet clear who is likely to hold responsibility for individual Secure Colleges – the statutory sector, private sector, VCS organisations or educational establishments – making future planning somewhat problematic. VCS organisations working in the CJS are unlikely to have established strong relationships with Academies and Free Schools, to give just one example. Government should therefore ensure that there are simple mechanisms in place for potential partners to identify one another, making use of the channels of communication provided by local and national VCS infrastructure organisations.

⁸ K. O’Donoghue & L. Frazer, 2012. *Maximising 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 30.4.2013].

⁹ Clinks. 2013. *The State of the Sector: Summer 2012*. p.3. Online: http://www.clinks.org/assets/files/PDFs/clinks_state-of-the-sector-2012_FINAL.pdf [last accessed 30.4.2013].

Effective communication also needs to be maintained between statutory and VCS partners. Many VCS respondents to the RR3 task and finish paper on youth justice commented that they had lost sight of their previous contacts in YOTs, prisons and other statutory sector organisations as a result of funding cuts and staff changes in public sector bodies. Ideally, each Secure College should have at least one dedicated staff member with responsibility for co-ordinating VCS-led activities and liaising with external organisations. A local service audit of VCS organisations and activities in each Secure College area would also enable links to be made and would be a valuable early step in drawing up a wide-ranging programme of educational activities.

Government should also note that the provision of educational services in both the adult and juvenile secure estates has become noticeably more complex in recent years. It may be difficult for smaller organisations with something to offer young people in the secure estate to gain an overall picture of the educational system in custody and to see where they could contribute. It would be helpful, therefore, for MoJ and YJB to consider publishing a straightforward guide outlining the education services currently available in both the adult and youth custodial estates, covering topics such as the introduction of the virtual campus, re-tendering of OLASS contracts and the introduction of Secure Colleges, highlighting where opportunities may exist for potential new delivery partners.

A focus on outcomes

“How can tangible educational processes for different sections of young people in custody be best measured, including by qualifications?”

“How might a payment by results or incentive approach apply to a Secure College, and what outcomes might it focus on?”

The focus on outcomes – in education and the CJS more generally - is understandable. Setting personalised goals for young people to work towards in custody can be a positive experience, teaching focus, self-reliance and conferring a sense of achievement which can in turn stimulate greater confidence and ambition.

Clinks has some reservations, however, about the value of implementing a PbR model in youth justice, particularly where this is reliant upon a binary reoffending measurement. The vast majority of VCS organisations do not have enough capital to take on the level of financial risk associated with becoming a prime provider. As a sub-contracted partner in another organisation’s supply chain, VCS organisations often continue to carry a substantial proportion of the risk associated with reoffending. Combined with a delayed payment mechanism and unpredictable referrals, this places a heavy burden on small organisations reliant on an outcomes-based payment to continue providing their core service. Subcontractors in the DWP work programme who worked with minority groups or provided specialist services found that the lack of consistent referrals was particularly problematic.¹⁰

In a recent position paper, ‘Payment by results and the youth justice system’, the National Association for Youth Justice expressed concerns that the implementation of PbR in the youth justice system would ‘encourage risk-averse practice at the expense of interventions intended to

¹⁰ NCVO. 2012. *The Work Programme: Perceptions and experiences of the voluntary sector*. pp.6-9. Online: http://www.ncvo-vol.org.uk/sites/default/files/sig_survey_june_2012_report_17.9.12.pdf [last accessed 2.5.2013].

enhance the wellbeing of children'.¹¹ It seems that the problems inherent in the use of a binary outcomes measure may be even more pronounced in the youth justice system than in the adult CJS. As noted above, the substantial achievements of the YJB and YOTs in reducing the number of first time entrants and young people in custody sets the benchmark very high for those entering into PbR contracts which primarily seek to reduce reoffending.

If a PbR mechanism is to be implemented in Secure Colleges, then Clinks would continue to endorse the recommendations made in its response to the Transforming Rehabilitation consultation, namely:

- The implementation of a PbR model where subcontracted VCS partners receive 100% of their delivery costs upfront, with the outcomes-based risk held by either the prime or an external investor (as in the PbR pilot at HMP Peterborough);
- Where it is not possible to implement this model, no more than 20% of the full contract value should be left at risk, with the upfront element sufficiently priced to cover the cost of sentence or licence delivery, including any rehabilitative services contained within these arrangements, and any TUPE obligations.¹²

Qualifications certainly have some value as an outcome measurement, but commissioners and policymakers should take account of the fact that qualifications themselves are only a proxy indicator of knowledge and development and not necessarily a sign that the root causes of offending behaviour have been challenged.

It is critical that commissioners recognise the value of so called 'intermediate' outcomes in the context of educating young people in custody, as these are an important indication of 'distance travelled'. As outlined above, these are key outcomes for the majority of VCS organisations working in this particular area, and include improved capacity to learn, self-confidence, responsibility, teamwork, and communication. It is heartening to see that NOMS has recognised the value of these intermediate outcomes in the most recent iterations of its Commissioning Intentions document.¹³ MoJ and YJB should give careful consideration to which intermediate outcomes are most appropriate for the provision of education in Secure Colleges, through consultation with academics, practitioners and young people themselves.

Equality and diversity

"What are the likely impacts of our proposals on groups with protected characteristics? Please let us have any examples, case studies, research or any other type of evidence to support your views."

Clinks considers that there are a number of unknown quantities regarding equality issues in youth justice education programmes. Given the acknowledged overrepresentation of young people from a Black or minority ethnic background in the youth justice system, it is particularly important

¹¹ NAYJ. 2011. *Payment by results and the youth justice system*. Online: http://thenayj.org.uk/wp-content/files_mf/1332866787_magicfields_document_the_document_8_1.pdf [last accessed 30.4.2013].

¹² P. Lane, R. Foster, L. Gardiner, L. Lanceley & A. Purvis. 2013. *Work Programme Evaluation: Procurement, supply chains and implementation of the commissioning model*. pp.34-35. Online: http://www.cesi.org.uk/sites/default/files/publications/WPEvaluation_implementation.pdf

¹³ NOMS Commissioning. Online: <http://www.justice.gov.uk/about/noms/commissioning> [last accessed 30.4.2013].

that MoJ and YJB commit to a programme of ongoing monitoring and evaluation with this group and to piloting innovative techniques and methods of engaging different groups.¹⁴

Additional comments

Transitions to adulthood: Clinks would ask that MoJ and YJB consider carefully how Secure Colleges, and education services in the secure estate more generally, can facilitate smooth transitions from youth to adult provision. This could be achieved through dialogue with partners in the Youth to Adult Transitions Forum and VCS organisations involved in the T2A pilots.¹⁵

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¹⁴ YJB. 2010. *Exploring the needs of young Black and Minority Ethnic Offenders and the provision of targeted interventions*. Online: <http://www.justice.gov.uk/downloads/youth-justice/yjb-toolkits/disproportionality/Exploring-needs-young-bme-offenders.pdf> [last accessed 30.4.2013].

¹⁵ T2A. 2012. *Going for Gold: Delivering effective services for young adults throughout the criminal justice process*. Online: <http://www.t2a.org.uk/wp-content/uploads/2012/11/Going-for-Gold-guide.pdf> [last accessed 30.4.2013].