

Third Sector Leaders

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Beating Re-offending The Third Sector Solution

FOREWORD

by Joyce Moseley

Rainer has worked alongside the Probation Service since it was first founded. In fact, both organisations share their origins in a five shilling donation:

“Offence after offence and sentence after sentence appear to be the inevitable lot of him whose foot has once slipped. Can nothing be done to arrest the downward career?” – Frederic Rainer, a printer, whose donation founded the first police court missionary and laid the foundations for Rainer and the national probation service.

In many ways, and despite the enormous impact of the probation service, this statement is just as appropriate today as in 1876. Re-offending rates are stubbornly high. Prison and probation staff are expected to cope with increasing numbers of offenders with a catalogue of support needs from mental ill health through drug and alcohol dependency to learning difficulties.

That is why, for agencies like Rainer, it makes sense for the service to return to its roots and draw on the expertise and experience of voluntary organisations across the country to tackle these challenges. These organisations are currently limited to bit-part roles and held back from having the full impact that they could.

We are not interested in privatisation and we would not support the National Offender Management Service (NOMS) if we believed that that is where it would take us. We hope that the social market introduced through the service will see the best provider in place for each role, with public-run Probation Trusts still at the very core of the service.

Within this briefing we have pulled together a host of examples of the strengths that voluntary organisations could bring to NOMS if we get the system right. That last caveat is a crucial one however. And the section on commissioning and regulation is particularly important.

I firmly believe that re-engaging the voluntary sector in this way can make a real difference to communities across the country. If we make the most of this change it could see a shift back towards tackling the causes of crime, having as large an impact as Frederic Rainer’s original vision more than 130 years ago.

Joyce Moseley OBE
Chief Executive
Rainer

Rainer is the national charity for undersupported young people and young adults. Last year we worked with 14,000 people through projects in 115 communities across the UK.

Approximately half of those we work with each year are involved in the criminal justice system in some way.

www.raineronline.org

CONTENTS

FOREWORD	2
EXECUTIVE SUMMARY	4
I THE CHALLENGE	5
The current situation	6
2 THE THIRD SECTOR SOLUTION	8
Independence	8
Missions and values	8
Engaging the community	8
Focus on the individual	8
Providing a voice	9
3 MAKING OFFENDER MANAGEMENT A REALITY	12
The potential for the third sector organisations within NOMS	12
Specify outcomes, not inputs	14
A level playing field	14
Developing commissioners	18
Local accountability	19
Winning the arguments	19
CONCLUSION	20
About acevo	21
About the author	21
Acknowledgements	22
CASE STUDIES	
Case Study 1: Crime Concern	5
Case Study 2: Pecan	10
Case Study 3: Rathbone	10
Case Study 4: South West England	11
Case Study 5: Rainer	13
Case Study 6: Blue Sky	15
Case Study 7: Rainer, Turning Point and Serco	16
Case Study 8: Foundation Housing: Last woman standing	17

EXECUTIVE SUMMARY

Rates of re-offending in the UK are staggering, with over 67% of those who leave prison re-convicted within two years. Young offenders and those on short-term prison sentences are particularly likely to re-offend. Part of the reason for these failures is that the majority of people in prison face a range of challenges and have often come from a background of extreme social exclusion. They often require complex and coordinated interventions to break the cycle of crime and prison, interventions that the current system simply cannot provide.

The third sector has a long and proud history of delivering services to offenders. However, third sector organisations have gradually been squeezed out of the current system and now need to move forward from the margins into the mainstream of provision.

Many third sector organisations are extremely well placed to deliver services to offenders. This is because of their:

- Ability to focus on the needs of the individual,
- Independence from statutory services,
- Clear commitment, mission and values,
- Ability to innovate and take risks,
- Capacity to join up different services across different government agencies in order to provide local solutions,
- Ability to reach and engage the most vulnerable groups,
- Engagement of communities in their work,
- Focus on prevention and early intervention, and
- Role in giving a voice to users in service design.

The National Offender Management Service has been established to oversee the end-to-end management of offenders and

establish contestability in the Probation Service. Evidence is clear that contestability and a purchaser-provider split can drive up standards. acevo warmly welcomes the Government's proposals to work with the third sector to reduce re-offending.

Examples throughout this briefing show the innovative and highly effective work done by individual third sector organisations. However, if the third sector is to be able to achieve its full potential, then the Government needs to provide the right framework. In particular it must:

- Be clear about the opportunities which will be available to the third sector to work alongside probation and other partners,
- Ensure a strategic approach to commissioning that specifies outcomes from service delivery, not inputs,
- Support innovation and flexibility by streamlining contracting and reporting arrangements,
- Ensure that existing government initiatives work together more effectively on the ground,
- Create a level playing field between providers with effective mechanisms for sub-contracting, and
- Provide long-term contracts which guarantee full cost recovery, share risk fairly and do not involve over burdensome reporting and regulation.

The Offender Management approach presents an enormous opportunity to tackle the root causes of re-offending and to broaden the range of agencies working across the country to help offenders move away from crime long-term. If Government gets these challenges right, the benefits could be dramatic; to individual offenders, to the victims of crime, to local communities and to the taxpayer.

The current failures of the criminal justice system are never far away from the headlines and have been well documented over recent months. Prisons are bursting at the seams and over 67% of those who leave prison are re-convicted within two years.¹ Preventative programmes, alternatives to custodial sentences and more coordinated rehabilitation of offenders both inside and outside of prison are essential to cut recidivism.

The cost to the Exchequer of re-offending is staggering. The Social Exclusion Unit in 2002 calculated the cost to the criminal justice system of crime committed by ex-prisoners to be £11bn per year. Almost half of all crimes are committed by people who have been through the criminal justice system before.² When you examine the challenges faced by those in custody, the difficulties in preventing re-offending become clear.

Basic skill levels of prisoners are very poor. 80% have writing skills below those of an 11 year old, 65% have similar numeracy skills and 50% similar reading skills.³ Home Office research has also shown that improvements in literacy and numeracy in prison have not been significantly related to improved chances of finding employment on release.⁴

The vast majority of prisoners display one or more forms of mental ill health or substance misuse and have been subject to a lifetime of social exclusion. The complex web of sophisticated interventions required to successfully rehabilitate offenders need to be well managed. This has not traditionally been the case in many parts of the criminal justice system where services have been provided in silos, with little attention to the overall needs of the offender, and producer interests dictating service design.

As awareness of these issues develops alongside the problems of overcrowding, interest has grown in effective community sentences, particularly for those on short-term sentences.⁵ In the US since 2000, a dramatic drop in prison spending as authorities looked to alternatives to incarceration has been accompanied by significant falls in crime rates.

Evidence also suggests that this is an approach supported by the victims of crime themselves who want more positive action to prevent crime and re-offending. A study by Smart Justice shows that 61% of victims of crime do not believe that prison works to reduce offences such as shoplifting, stealing cars and vandalism. In addition, 52% of victims of crime believe that sending drug addicts to prison is not effective at reducing their criminal behaviour, compared to just 28% who think it is effective.⁶

Case Study I: Crime Concern

Early youth crime prevention initiatives such as Crime Concern's Youth Inclusion Programmes have shown reductions in arrest rates of up to 60%. 73% of young people involved in these programmes committed fewer offences. Additionally the trends were towards less serious offences and there were knock-on gains including a reduction in school exclusions of 27%.

Crime Concern state that another 200 Youth Inclusion Programmes targeting 10,000 at risk young people would result in a net benefit of £41 million to the Exchequer.

1 Re-offending of Adults, results from the 2002 cohort, Home Office, 2003.

2 Public Value Partnerships, NOMS, 2006.

3 Reducing Re-offending by ex-prisoners, Social Exclusion Unit, 2002.

4 Bromley Briefings, Prison Reform Trust, 2006.

5 Compared to 67.4% of ex-prisoners re-offending within two years, only 54% of those with non-custodial sentences re-offended within the same period. (Ibid.)

6 Crime victims say jail doesn't work, Smart Justice, 2006.

Yet in places the Probation Service is already stretched and understandably preoccupied with security and public protection. It is unrealistic to expect them to also be experts in housing support, education, drug treatment, job hunting and the full range of other support needs that offenders may have.

When so many crimes are being committed by individuals who have already been through the criminal justice system, it is clear that the system as it is currently structured is not working. The effective tackling of re-offending requires the input of many different organisations with diverse expertise and, in particular, third sector organisations who have already proven their ability to deliver this work.

The third sector has a long and proud history of delivering services to offenders. “The relief or redemption of prisoners” was one of the original charitable purposes as defined in the statute of Elizabeth in 1601 and the Probation Service was created within the third sector as part of Rainer, before being transferred to the state.

The arguments have now come full-circle. A large and growing majority of policy makers from all political backgrounds and sectors are acknowledging that monolithic state provision of services does not provide the best outcomes for the service users or value for the taxpayer. More third sector involvement in delivering services to offenders is not a retrograde step but part of a return to the roots of early criminal justice interventions. Current proposals present a mechanism for greater third sector involvement and for organisations from all sectors to play to their strengths in order to cut crime and meet the needs of local communities and service users.

The current situation

In 2003, Patrick (now Lord) Carter proposed a number of changes to the criminal justice system aimed at reducing re-offending. Among these were:

- Sentencing offenders to a punishment which will best change their lives and cut their offending long-term,
- The end-to-end management of offenders, to join-up the disparate and varied range of services required, both inside and outside of the prison gate, and
- Using commissioning and contestability to ensure that the right intervention is available to the right offender at the right time.⁷

The National Offender Management Service (NOMS) was created in 2004 to realise the second and third of these points. In August 2006, NOMS published *Public Value Partnerships*, its “prospectus” outlining the elements of the probation service which will be contested, potentially allowing third and private sector organisations to tender. This built upon Carter’s vision for an expanded role for the voluntary sector, working in partnership with the probation service and bringing specialist skills and community involvement into offender management.

Charles Clarke, when he was Home Secretary, wrote,

“It’s not about privatisation, it’s about finding the best provider for the job”.⁸

⁷ Managing Offenders, Reducing Crime – A New Approach, Patrick Carter, 2003.

⁸ Restructuring Probation to Reduce Re-Offending, Home Office, 2005.

The current Home Secretary, John Reid, wrote in the foreword to the prospectus:

“All current providers should be open to challenge and able to demonstrate that the services they offer are the best available. We must do all we can to get the best possible service provision.”⁹

In its prospectus, NOMS states that contestability and contracting in the probation service will drive up service standards and result in better outcomes for the criminal justice system, and those who pass through it. In many cases public providers will continue to provide core services, with the threat of contestability driving up performance within existing providers.¹⁰

We agree with this assessment. An effective social market where the organisation best-suited to deliver a specific service wins the contract will encourage innovation and drive up service quality.

Similar arrangements have proven effective within fields such as social care, drug treatment and youth justice – where social markets have helped drive the personalisation of services. The reasons for this are clear. With clarity of roles, and clear incentives for providers to improve performance, a split between purchaser and provider is likely to drive up standards, as long as it is managed properly. Part Three of this briefing explores the issues relating to this last caveat.

The 2006 Queen’s Speech saw the introduction of the Offender Management Bill. The Bill will remove the statutory duty of probation boards to provide probation services and transfer this duty to the Home Secretary, thus allowing contestability and the commissioning of services from independent providers. This

legislation is vital for the realisation of Carter’s vision and for the third sector to be able to play a greater role in the delivery of probation services.

The Bill has been actively supported by acevo and a large number of third sector providers.

9 Public Value Partnerships, NOMS, p. 3.

10 See Le Grand, J. Motivation, Agency and Public Policy, OUP, 2003 for a full analysis.

2 THE THIRD SECTOR SOLUTION

Third sector organisations have a vital role to play in both the delivery and design of services to offenders. Many of them are ideally placed to deliver these services and enjoy certain advantages over other providers as a result of their structure, governance and core purposes.

1. Independence

They are independent of the state and the probation service or authority which is administering justice. This allows for a different and potentially more open relationship with the offender, who may be wary of engaging with statutory bodies.

Martin Narey, Chief Executive of Barnardo's and former Chief Executive of NOMS, recently wrote in *The Guardian*, arguing for greater third sector involvement in public service delivery. The teenage mothers who use Barnardo's teenage pregnancy services, he wrote, would not come if those services were run by statutory providers.¹¹

Similarly Julian Corner, Chief Executive of Revolving Doors Agency has emphasised the importance of the 'trusted relationships' built between voluntary agencies and offenders, and the importance that these are protected within the new system.¹²

2. Mission and values

A second strength is that third sector organisations are mission-driven. Staff and volunteers share a commitment to the causes they work for and are able to focus clearly on the needs of the individual service user and

innovate and take risks on their behalf. For many organisations, meeting these needs will be their very reason for existing.

3. Engaging the community

Third sector organisations are able to engage volunteers and the wider community in the delivery of services to offenders. This speeds up the integration of offenders back into their communities helping offenders feel that they have a stake in their community again, and helps to educate the community to tackle its social problems.

Community engagement in the treatment of offenders may also help to address the large gap between the public's perceived fear of crime and the reality of falling crime rates. By volunteering on projects working with offenders, individuals not only see the criminal justice system in action and the reality of community sentences, they also develop a better understanding of the causes of crime and what needs to be done to prevent further offending. Evidence also suggests that there is a willingness to engage with community programmes. In contrast to the 28% of victims of crime who felt that sending drug addicts to prison would be effective, 72% believe that more community based drug treatment programmes will be effective.¹³

4. Focus on the individual

Third sector organisations cut across silos of government provision and can put together a package of support to meet the offender's needs, rather than having to fit them into individual programme streams. This, of course, includes the huge spectrum of services

¹¹ Society Guardian, January 10, 2007.

¹² In *Returning to its roots? A new role for the Third Sector in Probation*, Social Market Foundation 2006.

¹³ Smart Justice, 2006.

needed by offenders which operate outside the criminal justice system. Third sector organisations are therefore more effective at reaching those who are most vulnerable and require the most support, and who would otherwise find it difficult or impossible to make the necessary connections.

They can help move offenders along the ‘pathways’ out of crime that NOMS has identified. By engaging with agencies outside the formal criminal justice system, they can pick up on problems at an early stage where interventions are relatively simple. The Audit Commission has estimated that every £1 spent on effective early interventions saves £3.64 on incarceration costs.

In August 2006 acevo produced a paper for HM Treasury on the economic case for more service delivery through the third sector. The document demonstrated the value which comes from early interventions, and acevo has called for a comprehensive assessment of the value which more third sector delivery could provide to government as part of 2007’s Comprehensive Spending Review.

5. Providing a voice

Finally, and perhaps most importantly, third sector organisations, embedded in their communities, provide a voice for those communities which have a stake in the criminal justice system, be they offenders, victims of crime or neighbourhood watch groups. The input of those with first hand experience of crime in the design of services to those communities is vital in order to create transformed user-focused services.

In spite of these strengths, without legislative changes, third sector provision will remain at

the margins and will not be able to move into the mainstream,¹⁴ and the opportunity for third sector organisations to play a significant role in the transformation of services to offenders will be lost.

Martin Narey’s summary is hard to better:

“We in the voluntary sector can do things economically and effectively. We can do things differently. Our services frequently grow from a local base and are unusually responsive to local circumstances. We are trusted.”¹⁵

¹⁴ acevo has long been advocating for such a shift, for example in Communities in Control, and in acevo’s response to NOMS consultation “Restructuring Probation to Reduce Reoffending”, 2005.

¹⁵ Society Guardian, 10 January 2007

Case Study 2: Pecan

Pecan is an employment charity in south London. It works with offenders on their release from prison, running two programmes to help with their re-integration into the community.

Offenders are introduced to young people who have been excluded from school to talk about career choices. By sharing the experiences of crime and prison, the offenders are able to help transform the aspirations of the young people, many of whom have been set on a career of crime.

Offenders are also introduced to teachers during their teacher training to share their experiences of being excluded from school. Feedback from the teachers, who learn about the impact of exclusions, has been extremely positive.

Currently the work with teachers receives no funding at all and funding streams are temporary. Pecan's Chief Executive says that without renewed funding, both of these projects will cease within two years

Case Study 3: Rathbone

Rathbone has developed a demand led engagement strategy for young offenders and disengaged/disaffected youths. They work in partnership with Youth Offending Teams, (YOT), Intensive Supervision & Surveillance Programmes, (ISSP) and Connexions, from whom referrals are generated. With their Outreach Programme, they are pro-active in finding young people that for many reasons do not wish to become engaged, this accounts for 25% of their learners.

The programme has been named 'Prove It', it is specifically designed for the young people to achieve nationally recognised qualifications in Key Skills, Literacy, Language and Numeracy, to assist with the transition into accessing more formal education and/or employment. They have had 100% success in achieving two or more qualifications and 70% of our learners successfully complete their ISSP/YOT supervision orders.

Case Study 4: South West England

The Regional Offender Manager in the South West of England covers the expenses for small third sector organisations (those with turnovers under £500K) to attend meetings of the commissioning reference groups. There are two such meetings, one for third sector organisations generally and one for BME third sector groups.

Support is also available for these organisations to attend the pathways group in the South West.

Many of these organisations would not otherwise be able to attend such a wide range of meetings and have their voices heard.

3 MAKING OFFENDER MANAGEMENT A REALITY

It is up to the Government to construct the right framework to enable the third sector to achieve its full potential in reducing re-offending. In order to maximise the contribution of the sector we need to ensure that the social market allows providers to play to their strengths. The most important step towards seeing this happen will be ensuring effective commissioning.

Commissioning lies at the heart of the NOMS approach, with most of the advantages dependent upon 'getting it right'.

Commissioning is a demanding role that requires a sound assessment of local need, an understanding of effective approaches and a network of supportive agencies and providers. Commissioners are also dependent on having the flexibility to plan long-term and should not be constrained by short-term budgeting processes.

There is therefore a danger that, if commissioning is not properly resourced and supported, the potential benefits of the NOMS approach will be severely curtailed. Similarly, it is vital that commissioners are enabled to look at the full range of issues and not limited to narrow concerns around contracting or procurement.

As Andrew Cozens CBE, from the Improvement and Development Agency (IDeA), states, one of the biggest obstacles to effective services is:

"Councils' tendency to think in terms of contracting rather than commissioning strategically to ensure a proper balance of services in their local area."

Reducing re-offending is now a Government target owned by every department, not just the Home Office. This is a strong indication

that Government is moving to a more coordinated approach to the services needed to help people out of cycles of re-offending. If third sector organisations are to be successful in being able to join up service silos for an individual, then Government must be doing all it can to join up the commissioning of those services.

Before we set out some challenges for commissioning, we explore the planned range of services that may be commissioned through NOMS.

The potential for the third sector organisations within NOMS

NOMS predicts a five year programme of competitions with a value of up to £9bn, around one quarter of NOMS' current annual expenditure on adult offender services.¹⁷

The prospectus says that existing providers will be challenged to prove that they can offer the most effective and efficient service. Contestability will also affect services which "might benefit from a different approach and different provider mix".¹⁸ NOMS makes reference to "capacity challenges" being met by third sector organisations,¹⁹ and in addition failing services will be contested.

As outlined above, all of this work will be open to public service providers including probation trusts. Furthermore, the intention is that many services will remain with the public sector, with the threat of contestability enough to drive up performance. Overall it is hoped that the social market will effectively match providers to needs, ensuring that the best provider is in place according to their skills and expertise.

16 In "Loose talk and a hard nut: commissioning for better outcomes", SFI 2007.

17 Public Value Partnerships, NOMS, p. 10.

18 Ibid, p. 13.

19 Ibid, p. 11.

One area where NOMS is clear on opportunities for the third sector is in unpaid work for offenders, particularly given the number of third sector organisations with expertise in training and employment support and the central role of employment in rehabilitating offenders.

Third sector organisations have already proved themselves in employment, training,

housing support, drug treatment, mental health and, most promisingly, tailored packages drawing together each of these elements. 200,000 people with drug or alcohol problems are helped each year by third sector organisations, including prison treatment programmes, and a large number of providers are already engaged in similar work through the Offender Learning and Skills Service.

Case Study 5: Rainer

Rainer South Yorkshire works in close partnership with the local probation service and the Youth Offending Team (YOT).

It provides a range of support and educational services to offenders under probation supervision or as part of the YOT's Intensive Supervision and Surveillance Programme. The service also provides a pre-release course with Doncaster Prison.

Courses are provided in an informal setting and are heavily focused on the practical skills needed to move into employment. While learners are initially forced to attend as part of their order, many soon establish good relationships with the staff and engage with programmes voluntarily.

Last year Rainer South Yorkshire worked with nearly 300 people. Over 100 gained City and Guilds basic skill qualifications and over 80 entered mainstream education, training or employment.

Working alongside probation or other partners, third sector organisations could transform the range and quality of interventions, tackling the root causes of offending and giving offenders a pathway back into employment. The example of unpaid work in the NOMS prospectus shows how this may operate. The probation trust would conduct the needs assessment, a private sector organisation then manages the logistics and keeps tabs on the offenders, the local authority defines the work schemes, a third sector organisation supervises the offenders and ensures community engagement and the local FE college provides the link with getting the offenders back into training.

This is an exciting vision which has the potential to deliver excellent outcomes. It demonstrates how services inside and outside of the criminal justice system can effectively join up. Its complexity, however, demonstrates the importance of securing the right commissioning framework.

It is vital that the Regional Offender Managers (ROMs), who will be responsible for NOMS interventions within their areas, are properly supported in their role and given a remit to look strategically at re-offending, engaging with local authorities and maximising the strengths of different providers.

Specify outcomes, not inputs

In order for partnership working between organisations and across sectors to be effective, it is vital that there is agreement between all organisations on what the desired outcomes are and what constitutes success.

Commissioning on the basis of outcomes can also foster innovation and maintain the independence of third sector providers.

Where commissioning and the supporting contracts are overly prescriptive, focused on process measures or accompanied by heavy regulation, there is a danger that they can effectively grind out the innovation and flexibility that made third sector organisations so attractive and effective.²⁰ Reporting should be coordinated and not duplicated. In addition, a focus on outcomes not methodology should help to reduce bureaucracy. This is particularly important for smaller providers and local community groups who may face insurmountable barriers through extensive contracting or regulatory regimes.

The broad aim to reduce re-offending is very likely to be shared by third sector organisations working across correctional services. This may then be underpinned by outcomes such as moving people into sustained employment, minimising levels of drug use or maintaining stable housing. Prescribing outcomes, rather than methodology should allow third sector organisations the space to work to their own mission while delivering the contract.

The focusing on outcomes by commissioners will not only allow the broadest range of organisations to enter the market and maintain those individual organisation's strengths, it will also allow commissioners

to spend more time focusing on outcomes and needs, rather than process.

Consideration must also be paid by commissioners to the space required for third sector providers to innovate. Commissioners tend to like the services they know and there is a significant danger that commissioning could become a straight-jacket. In pursuing their missions, and as a result of their close contact with service users, third sector organisations are often especially well placed to develop new ways of delivering services, or develop entirely new services. The Probation Service itself emerged in this way. More recent examples include agencies such as Blue Sky, which delivers employment and support to offenders.

Indeed, Government should support innovation in the sector and consider the establishment of an innovation fund for pilots, cross-cutting initiatives and new enterprises, which could dramatically reduce re-offending.

A level playing field

All organisations that have a role to play in reducing re-offending should be able to enter the market and there must be no unnecessary barriers to entry.

Many third sector organisations are small and operate on a sub-regional and local level. NOMS has indicated in its prospectus that it expects a lead provider to hold a contract directly with the Regional Offender Manager, and that the ROM will have little involvement in any sub-contracting process once the lead contract has been awarded. It is unlikely that in the first instance third sector organisations will be in a position to be sole lead providers. Therefore, the conditions of that lead provider

²⁰ Nonprofits for Hire; the Welfare State in the Age of Contracting, See Smith, S. & Lipsky, M. 1993

Case Study 6: Blue Sky

Blue Sky Development and Regeneration offers employment for offenders in grounds maintenance and provides the social and employment skills necessary for its employees to re-enter the workplace.

Recruitment begins in prison with one month of training. If successful, the employees progress on to a five month contract. Employment can reduce re-offending rates by 50%.

Blue Sky works with partners in all three sectors and the projects sit very well within the Safer Stronger Communities theme of Local Area Agreements, which has allowed very good relations to be quickly established with local authorities. At the end of February 2007 Blue Sky had employed 34 offenders and will have taken on 60 by the end of the year. In addition, commercial work contracted for the next twelve months indicate that a further 70 will be taken on in 2007-8.

Of the 34 that have gone through the programme, 8 are still working with Blue Sky, 14 are in full-time employment, and only two have re-offended. Only one who completed the full six month contract with Blue Sky has failed to find employment.

The success of the programme has been down to delivering a very high quality service to local authorities and the leadership, coaching and mentoring of team leaders on the ground, many of whom are ex-offenders themselves.

There has been strong interest from other third sector organisations and other sectors to expand the programme.

contract must allow for the participation of other organisations in the delivery and design of services.

Other lead providers have been formed by consortia of larger third sector organisations with the private sector.

Case Study 7: Rainer, Turning Point and Serco

The East of England pathfinder project, Path2Work, is being delivered by an alliance between Serco, Rainer and Turning Point.

Focusing on Luton, Southend and Bury St Edmunds, the service will establish key workers who will provide individualised support to motivate, mentor and prepare offenders to gain sustainable employment. In addition, the key workers will work with employers to ensure that they feel confident offering employment and training to offenders and can support offenders taking up employment offers in the longer term. The overall outcomes of the service are focused on engaging offenders in sustained employment.

The project will map out and work with existing provision rather than duplicating it and will provide tailored post-employment support for both the offender and their employer.

The project will also include a scoping exercise which may result in a tailored service to enable unpaid work to be used as a gateway to successful employment.

Although delivering its services through a series of programmes, the alliance recognises that there will be an individual journey for each offender. Key milestones will be agreed and documented in individualised action plans.

Serco will provide overall project management with responsibility for financial regulation, monitoring and evaluating, quality control and risk assessment within the project along with adherence to all legislation outlined in the contract and insurance.

Turning Point will provide a personal key worker service for the medium-high intensity offenders supporting them at every step up the employment escalator.

Rainer will provide a personal key worker service for low-medium intensity offenders, supporting them into employment.

Contracts will therefore need to focus on outcomes and be flexible enough for the lead provider to form effective partnerships and sub-contract. Lead providers should be able to clearly demonstrate how they will subcontract with other organisations, and

they should be given sufficient lead-in time to allow this to happen. Commissioners must ensure good practise in sub-contracting.

The prospectus makes a bold statement about all organisations being able to take part: “The

opportunities will be there for those who are willing to work with others and play to their strengths”.²¹ However, in other public service markets, third sector organisations have faced significant barriers to entry. These must be addressed in the design of this new social market.

Protracted and demanding commissioning processes are a major problem for even quite large organisations. It is vital that such demands are proportionate to the value of the contract. The ROM should ensure that the lead provider does not place undue demands

upon organisations bidding for a sub-contract. Some helpful initiatives are outlined by NOMS to assist organisations with the tendering process, including fit for purpose pre-qualification regimes, and toolkits.

Overall, it is vital that commissioners minimise the bureaucracy involved in delivering services, unnecessary reporting and regulatory regimes. This will not only reduce the transaction costs of commissioning but, as noted above, will preserve the specific strengths of third sector providers and support innovation and the most appropriate approach.

Case Study 8: Foundation Housing: Last Woman Standing

In 2004 the Home Office announced over £9m of funding for organisations to work with women offenders to reduce re-offending.

The North West and Yorkshire and Humber were selected as areas to trail this and in early 2006 the Regional Offender Manager for Yorkshire and Humber asked for expressions of interest.

Foundation Housing, a leading provider of housing related services in West Yorkshire, in a consortium with other third sector organisations was one of over 100 to express an interest.

The tender process was hugely complex and required a great deal of detailed information and reporting which would have excluded many smaller local organisations. This included monthly management accounts and evaluations of services, all requiring huge levels of skill and time to compile in a bid. Only five organisation out of more than 100 who had expressed an interest were able to pull a bid together for part one of the tendering process.

Following long delays, part two of the tender was issued to three organisations. The demands on the organisation in compiling the necessary information caused Chief Executive Steve Woodford to consider abandoning the bid. Nevertheless, he persisted and, following an unexpected presentation to the ROM, Foundation Housing were told that they were the preferred provider and now had to satisfy a number of new conditions at a final presentation, (again not part of the original process), this time at the Home Office in London.

Finally in October 2006, the consortium including Foundation Housing was awarded the contract. The ROM is conducting a review of the tendering process.

NOMS clearly recognises the terms of the Government's Compact with the third sector, and commitments to multi-year contracts and full cost recovery are welcome. Short term contracts divert attention away from the service, can damage the morale of staff and mitigate against a strategic, outcome focused approach to services.

The principles of Surer Funding, acevo's Commission of Inquiry which reported in 2004, require funders to commit to:

- Appropriate sharing of risk in contracts,
- Contracts which are of an appropriate timescale for the nature of the project,
- Cutting out waste and bureaucracy, and
- Fair cost and pricing.²²

The prospectus promises multi-year contracts and service level agreements for those who can prove themselves to be in "stable strategic alliances".²³ In addition the prospectus says that those performing well can expect a greater degree of autonomy.

The longer the term of the contract, the greater opportunity the organisation has to invest in the service it is delivering. Three year contracts should be considered an absolute minimum with five year contracts desirable. If there is a need to access capital, contracts should be even longer: up to ten years or more.

In addition to the commitment to full cost recovery, the awarding of a lead contract should involve a requirement to demonstrate how the full costs of all organisations involved in the consortia, or in a subsequently awarded sub-contract, will be met, especially in regard to TUPE arrangements which are currently a major barrier to entry for some third sector organisations.²⁴

22 Surer Funding, acevo, 2004. These principles were incorporated into the Gershon Review, where it recommended "further progress towards full acceptance of the principle of full cost recovery".

23 Public Value Partnerships, NOMS, p. 6.

Developing commissioners

NOMS is right to highlight the importance and complexity of the role of the commissioner in the new market. As the prospectus says, they have to offer choice, service innovation and effective partnership for individual offender managers.²⁵

In December 2006, in its action plan on third sector service delivery, the Government announced a national programme for training key commissioners. This will build the skills and knowledge necessary to work with the third sector.

As the customer in this new structure, the commissioners must be very clear what they want to buy. Less time spent prescribing the way in which services should be delivered and more time spent defining outcomes should help this. NOMS also makes it clear that best practice will be shared within and across regions.

The role of third sector organisations in working with the commissioner and the ROM to determine what outcomes are required is crucial for the transformation of probation services. The commissioner must understand, value and facilitate the input of advocacy organisations and involve all providers with local expertise early in the planning process.

As NCVO put it:

"commissioners need to review what it is that they value in service delivery and how that is recognised and rewarded through the procurement process".²⁶

24 Recent evidence suggests that NOMS may have further to travel to ensure full cost recovery than they recognise. The NOMSVSU Grants programme for 2007-8, a fund of £500,000 to support third sector organisations working with offenders and their families, required applicants to obtain match funding. Thus NOMS was expecting to buy services from the third sector at half-price with voluntary income often making up the short-fall.

25 Public Value Partnerships, NOMS, p. 12.

26 How voluntary and community organisations can help transform public services, NCVO, 2006.

Greater third sector involvement in the delivery of services to offenders is not about the transfer to a different management structure. It is about a transformation in the service, starting from the point of view of what the offender needs.

Local accountability

One of the key strengths of third sector organisations is their connection with local communities, advancing the resettlement of the offender and joining up services provided outside of the criminal justice system.

The Home Office estimates that 50% of the funding spent on reducing re-offending comes from outside its own budget. Many of these services, such as housing support, education and training, and social care are commissioned at a local level.

There is a danger, with the proposed regional commissioning structures, that local authorities are not properly engaged in planning. This was an issue heavily debated during the early stages of the Offender Management Bill and a number of new proposals have been put in place to address these concerns. These are welcome, and it is particularly important that ROMs work alongside local authority services and agencies throughout the commissioning process.

There needs to be clear mechanisms in place to ensure that both commissioners and providers plan and deliver services to offenders appropriate to that locality and developed in partnership with other agencies. Local strategic partnerships are a good vehicle for greater coordination of services to offenders and for clear local accountability. NOMS should ensure that this coordination with other local services is embedded within its reforms.

Winning the arguments

Concerns such as the impact on third sector independence, the exclusion of smaller groups and the loss of local accountability have already been discussed and should be addressed through appropriate commissioning arrangements.

The majority of opposition to the introduction of contestability and competition in probation has come typically from trade unions who fear a loss of a “public service ethos” and confuse contestability with privatisation.²⁷

It is the job of both the Government and third sector providers to clearly demonstrate the benefits which contestability and competition can bring to services for offenders.

Martin Narey, former director general of prisons, has had his previously hostile view of independent prisons changed by his experiences of improved treatment of prisoners and their families. However, it is the mechanism of contestability which drives up standards, he argues:

“Monopolies - public, private or charitable - are unlikely to be efficient. Competition drives efficiency, and innovation.”

He goes on to cite evidence of improvement in services delivered by all sectors which he as the commissioner could drive through the contractual arrangements.²⁸

Contestability is not the same as privatisation and many of the third sector organisations supporting these changes would not do so if they believed it would lead to privatisation of the probation service. Services will continue to be accountable to government, particularly through HM Inspector of Probation and through enhanced accountability to local authorities.

27 For example, A history of NOMS -Three years of costly bureaucracy and chaos, at http://www.napo.org.uk/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=153&view_records=1&www=1, accessed on 22 February 2007, NAPO, and NAPO's 10 Reasons to Oppose the Bill, 2006.

28 Society Guardian, 10 January 2007.

Conclusion

The vision of end-to-end Offender Management, delivered by partnerships of those agencies best placed to provide a specific intervention, is an enormously appealing one.

Third sector organisations are ideally placed to play a role in such a service, and possess specific characteristics, experience and expertise to enable them to do so.

The challenge for NOMS is to make that vision a reality, with the commissioning process lying at the heart of it. If they can do this, we are confident they can make truly dramatic inroads into reducing re-offending and transforming the criminal justice system to the benefit of communities across the country.

The new social market must be structured to be open to third sector organisations and allow them the space to do what they do best. This is an opportunity which must not be lost.

About acevo:

acevo is the professional body for the third sector's chief executives, with over 2,000 members, over 300 of whom work within the criminal justice system. Our mission is to connect, develop and represent the sector's leaders, with a view to increasing the sector's impact and efficiency.

We promote a modern, enterprising third sector, and call on third sector organisations to be:

- Professional and passionate in achieving change and delivering results,
- Well led, with a commitment to professional development, training and diversity,
- Well-governed and accountable, with robust and fit-for-purpose systems to protect independence and enable effective decision-making, and
- Enterprising and innovative, taking a businesslike approach to funding issues and striving for continuous improvement and sustainable development.

acevo has been at the forefront of campaigning on the third sector's role in the transformation of public services and played a key role in the creation of the Government's recent Action Plan on third sector service delivery. In addition, a number of publications, including *Replacing the State*,²⁹ and *Communities in Control*,³⁰ have significantly influenced the national debate. Our Commission of Inquiry, *Surer Funding*, set four key principles for contracting with third sector organisations. The commission significantly informed the Government's Compact with the third sector.

About the author:

Seb Elsworth has been Head of Projects at acevo since July 2006, working on a wide range of third sector policy issues, including developing board appraisal, stable funding and public service reform. Seb has convened the acevo Crime special interest group and led acevo's work on the NOMS agenda.

Prior to joining acevo Seb was an executive trustee of Leeds University Union for two years, where he pioneered reform in student union governance.

29 *Replacing the State*, The case for third sector public service delivery, acevo, 2003.

30 *Communities in Control*: The new third sector agenda for public service reform, by Nick Aldridge, Social Market Foundation, 2005.

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