

HOW POLICY IMPACTS CRIMINAL JUSTICE CHARITIES

Before the unprecedented circumstances of COVID-19 hit the world, there was a great deal of evidence to show that the UK prison system is in a state of crisis.

It is important to note that for many, prisons will always be dangerous and counterproductive detention centres. That is not a mainstream narrative, however, and prison continues to be used as a pillar of the British justice system.

Recent reports describe the alarming extent of overcrowding, drug use, self-harm and suicide in institutions across England and Wales. Clinks' most recent *The State of the Sector* report found that service user (people in prison) need is becoming increasingly complex (72%) and urgent (71%).¹ Voluntary organisations highlighted how overcrowding and a lack of resources in prisons create an increasingly unsafe environment, with growing levels of violence and self-harm.² In the year to June 2019, reported incidents of self-harm increased by 22% compared to the previous year, reaching a record high of 60,594.³ Furthermore, in the year to September 2019, there were 90 self-inflicted deaths in prison, averaging one every four days.⁴ This is equivalent to 1.1 self-inflicted deaths per 1000 prisoners, compared to the national average of 0.112 per 1000 population.⁵

Clearly, the prison estate is in desperate need of reform, if not mothballing, yet the current government has scrapped plans to close down several prisons and instead has announced the creation of 10,000 new prison places.⁶ Merely providing new prison places while failing to tackle underlying problems in prison is arguably ineffectual. Increasing the prison population will not reduce drug use, overcrowding, and high mental health need among those in prison. In contrast, these issues look set to worsen. The wider political agenda of austerity over the last 10 years has done much to undermine and decrease people's access to mental health, housing, and psychological, practical and financial support. As a result, austerity has led to increased involvement in the criminal justice system and "a miscarriage of justice occurs every time a ... vulnerable person is locked up."⁷

Criminal justice organisations and particularly those that work in prisons, therefore, have never been more important. In 2010, the National Survey of Charities and Social Enterprises estimated that 1475 charities and voluntary organisations centre their work around "offenders, ex-offenders and their

¹ Clinks, *The state of the sector: Key trends for voluntary sector organisations working in the criminal justice system* (2019). Available at: https://www.clinks.org/sites/default/files/2019-11/clinks_state-of-the-sector-2019_FINAL-WEB.pdf. p.8

² Ibid, p.9

³ Ministry of Justice, *Safety in Custody Statistics, England and Wales: Deaths in Prison Custody to September 2019; Assaults and Self-Harm to June 2019* (2019). Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843117/safety-in-custody-q2-2019.pdf

⁴ Inquest, *Deaths in prison: A national scandal* (2020). Available at: <https://www.inquest.org.uk/Handlers/Download.ashx?IDMF=bb400a0b-3f79-44be-81b2-281def0b924b>. p.4

⁵ Ibid; Office for National Statistics, 'Suicides in the UK: 2018 registrations' (2019). Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/suicideintheunitedkingdom/2018registrations> [accessed 24/03/2020]

⁶ Rt Hon Robert Buckland QC MP, *Ministry of Justice*, 'Press release: 10,000 extra prison places to keep the public safe'. Available at: <https://www.gov.uk/government/news/10-000-extra-prison-places-to-keep-the-public-safe> [accessed 06/03/2020]

⁷ K. McFadden, *The Justice Gap*, 'Is austerity causing miscarriages of justice?' (2018). Available at: <https://www.thejusticegap.com/austerity-causing-miscarriages-justice/> [accessed 27/03/2020]

families.”⁸ Specialist criminal justice organisations refer to those whose main purpose is criminal justice, while the work of non-specialist organisations may include, but is not exclusive to, ‘offenders and/or ex-offenders’. In general, there are fewer specialist organisations than non-specialist; the former employed 13,081 people in total in 2016/17, while 132,271 people were employed by the latter.⁹

The Ministry of Justice (MoJ) funds charities and social enterprises to deliver services and provide many forms of support in various sections of the criminal justice system. Funding, however, has decreased for both specialist and non-specialist organisations as austerity has hit the MoJ harder than any other domestic department.¹⁰ Between 2010/11 and 2014/15, for example, its spending was reduced by 30%, with HM Courts and Tribunals taking the biggest hit.¹¹ Grant funding is also decreasing, though it is an important source of income for both specialist and non-specialist criminal justice organisations. In 2017/18, only 3.5% of the total grants awarded from the central government went to charities (£380 million), while 51% went to local authority (around £5 billion) followed by 19% to universities (£2 billion).¹² As early as 2004, research indicated that unstable statutory funding had negative implications for organisations. A study by ACEVO ascertained that short-term funding opportunities which are continually subject to review have made it difficult for organisations to invest in developing their services and staff, or expand to increase their service delivery.¹³ Sixteen years after this study was published, funding for criminal justice organisations remains a prevalent issue.

The majority of income (80%) for specialist charities is earned in the form of contracts or fees for services provided (see Figure 1 below).

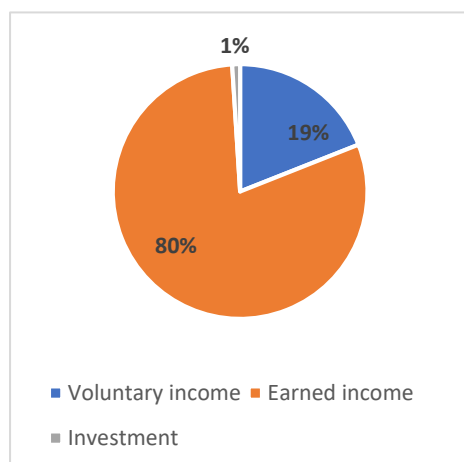


Figure 1 – Percentage of Income for Specialist Charities¹⁴

(Data taken from Clinks, *The state of the sector* [2019])

⁸ G. Wyld and J. Noble, *NPC*, ‘Beyond Bars: Maximising the Voluntary Sector’s Contribution in Criminal Justice’ (2017), p.15

⁹ Clinks, *The state of the sector*, p.39

¹⁰ G. Wyld, T. Clay and S. Bagwell, *NPC*, ‘How are charities influencing change in the prison system?’ (2019), p.6

¹¹ R. Garside and M. Ford, *Centre for Crime and Justice Studies*, ‘UK Justice Policy Review: Volume 5’ (2016), p.22

¹² D. Kane, *360 Giving*, ‘How much does the UK government give in grants?’ (2019). Available at: <https://www.threesixtygiving.org/2019/09/09/how-much-does-the-uk-government-give-in-grants/> [accessed 17/02/20]

¹³ N. Aldridge and S. Bubb, ‘From ashtrays to enterprises? Third sector involvement in the criminal justice system’, *Returning to its roots? A new role for the Third Sector in Probation*, ed. N. Tarry (London: The Social Market Foundation, 2006), pp.44-52

¹⁴ Clinks, *The state of the sector*, p.52

Cost recovery, however, is an issue for many organisations. Only 28% of those surveyed by Clinks reported that they always achieve full cost recovery, compared to 50% who sometimes do and 16% who never do.¹⁵ The Charity Commission does not require full cost recovery as a quality standard in public service contracts. The options for charities who cannot achieve full cost recovery, as advised by the Commission, are as follows:

- Negotiate for more funding
- Offer an appropriate lower level of service
- Make up the shortfall with the charity's other funds
- Reject the funding agreement and not deliver the service.¹⁶

Many charities are thus faced with the unenviable conundrum – they can deliver a service that directly fits their mission by subsidising it with other funds if possible, or refuse to deliver their service to people in need.

This has an adverse effect on organisations. It can result in reductions in overhead costs, such as staffing, which then affects the flexibility and effectiveness of services provided. Gregory and Howard (2009) identify a 'non-profit starvation cycle' whereby charities fail to secure sufficient funding for their overhead costs. This is caused by unrealistic funder expectations to which non-profits feel pressure to conform and so spend too little on overhead and underreport their expenditure. Over time, funders expect charities to do more with less.¹⁷ The funding environment for voluntary organisations, therefore, is increasingly challenging.

Alongside this, the volatile political environment since 2010 has brought further challenges to criminal justice organisations. Frequent turnover of government ministers has brought greater instability to an already unstable environment. There have been seven Secretaries of State for Justice and seven Ministers of State for Prisons since the beginning of the coalition government in 2010. It is difficult for charities to influence policy and advocate reform when leadership is continually changing.¹⁸

In May 2016, Dame Sally Coates published her prominent review of education within prisons and highlighted areas of reform, including greater autonomy for prison governors. Following this, the government published a White Paper ('Prison Safety and Reform') later that year which addressed the issues within the prison estate and promised to deliver a number of reforms as set out in the Coates review. Amongst other areas, governors would be given "greater power over service provision in their prison, devolving control over education, work, family ties, offender behaviour and resettlement programmes".¹⁹ In April 2019, the education system within prisons completely changed. Previously under OLASS (Offender Learning and Skills Service), voluntary organisations were commissioned by education providers to run programmes and provide educational services for people in prison. This system was replaced by the formation of the Prison Education Framework (PEF) and the Dynamic Purchasing System (DPS). The PEF provides a core curriculum in prisons, including English, Maths, ICT, ESOL (English for Speakers of Other Languages). Alongside this, the DPS enables prison governors to recruit smaller providers and voluntary organisations to provide their services through a bidding

¹⁵ Ibid, p.55

¹⁶ The Charity Commission, 'Public service delivery: rules for charities' (2013). Available at: <https://www.gov.uk/guidance/public-service-delivery-rules-for-charities> [accessed 27/03/2020]

¹⁷ A. Goggins Gregory and D. Howard, *Stanford Social Innovation Review*, 'The Nonprofit Starvation Cycle' (2009). Available at: https://ssir.org/articles/entry/the_nonprofit_starvation_cycle [accessed 06/03/20]

¹⁸ G. Wyld et al., 'How are charities influencing change?', p.19

¹⁹ Ministry of Justice, 'Prison Safety and Reform' (2016), p.9

process. In essence, governors “commission the providers and manage its delivery”.²⁰ This grants greater autonomy to governors and so localises control over prison education. According to the Coates report, this was intended to create a more individualistic approach to prison education which would yield longer-lasting benefits for people leaving prison.²¹

Even before its introduction in April 2019, however, the risks of moving contract management from independent education providers to prison governors were identified. In January 2019, the Criminal Justice Alliance pointed out that those who manage prisons do not always have experience in managing contracts and have little time to do this on top of their other responsibilities.²² Furthermore, current pressures on the prison system have prevented effective progress in implementing the White Paper’s proposals. The thinktank *Reform* identified prison staff shortages and reduced investment (real-terms spending on prisons fell in 2016-17 and 2017-18) as hindering the success of the new policies.²³ Those involved in prison management have also expressed doubt about the effectiveness of the reforms. According to the Justice Committee, the Prison Governors’ Association is “firmly of the belief that Prison Safety and Reform [the 2016 White Paper] has in the main been a damp squib. The White Paper promised much change for the better, but the reality is that for the Governor running their prison, the promised reform has been minimal.”²⁴ The Committee requested a government evaluation on the impact of granting greater autonomy to governors, but no such thing had been published at the time of their report’s writing in October 2019.²⁵ It can be difficult, therefore, to assess how the PEF and DPS have affected prisons and those who manage them, whereas the impact upon service providers is perhaps easier to witness.

Safe Ground is a small, specialist charity which provides family-orientated programmes to those in prison, combining drama, artistic and therapeutic approaches. Established in 1993, the charity has increased its reach to operate on a national level across England and Wales. In 2010/11, 38 programmes were delivered across 19 institutions, with 1431 qualifications awarded.²⁶ These figures have reduced in the nine years to date; only 25 programmes ran in 2019/20. This has impacted upon Safe Ground’s income and like many other small charities, we are facing financial uncertainty. Demand for our programmes has decreased, despite government data demonstrating their effectiveness. In December 2016, the Ministry of Justice Data Lab analysed the reoffending behaviour of 51 adult men who completed Fathers Inside (one of our trademark programmes) and found that 24% of men who completed the programme reoffended within a one-year period, compared to 40% of men in the control group.²⁷ Evidence shows that our programmes work. Amid the current crisis of violence and tensions within prisons, this feels more significant than ever, especially as HMPPS has declared reduced reoffending and partnerships with the voluntary sector as key strategic aims.²⁸

²⁰ Ministry of Justice, ‘Education and Employment Strategy’ (2016), p.13

²¹ Dame S. Coates, *Ministry of Justice*, ‘Unlocking Potential: A review of education in prison’ (2016), p.5

²² F. Cooney, *Criminal Justice Alliance*, ‘New prison education contracts create challenges and opportunities’ (2019). Available at: <http://criminaljusticealliance.org/blog/new-prison-education-contracts-create-challenges-opportunities/> [accessed 24/02/20]

²³ A. Shilson-Thomas, *Reform*, ‘The prison system: Priorities for investment’ (2020), p.5

²⁴ Justice Committee, *House of Commons*, ‘Prison Governance: First Report of Session 2019’ (2019), p.16

²⁵ *Ibid*, p.26

²⁶ Safe Ground, *Annual Review 2011/12*, p.12

²⁷ Justice Data Lab, *Ministry of Justice*, ‘Re-offending behaviour after participation in Safe Ground’s Fathers Inside programme’ (2016), p.2

²⁸ HM Prison and Probation Service, ‘HMPPS Business Strategy: Shaping Our Future’ (2019), p.5

The total budget for the DPS is around £16 million.²⁹ Contracts have recently been extended from one to two years in an attempt to increase financial security for providers. HMPPS argues that the short-term contracts “provide an opportunity for further competition. We believe this maintains a competitive element that enables smaller suppliers (which have been requested by governors) to engage, as well as driving up the quality, flexibility and value of the work.”³⁰ Among other organisations, however, Safe Ground challenges the fundamental nature of the DPS; extending contract length does not solve its underlying issues surrounding commissioning and delivery.

The Justice Committee reports their concern that the DPS, which was intended to widen prison access to education and service providers, acts as a disincentive both for governors to seek services and for services to apply for commission.³¹ In addition, where DPS contracts are granted, these tend to be for IAG (Information, Advice and Guidance). These services, which aim to increase employability for people in prison, have received over half of the total DPS funding while bespoke arts provision has received just 3% of the total funding so far.³² This is disappointing and reveals how prison management are not prioritising the vital arts provision which has shown to transform the lives of those in prison.³³

The new system has negatively impacted many organisations which provide specialised and tailored programmes. This has impacted upon the quality of education delivered in prisons as arts and family courses tend to be side-lined for the more traditional Maths and English courses covered by the PEF, or for IAG services which dominate the DPS’ budget. It has also had repercussions for the way in which smaller organisations are commissioned, often leading to financial instability and insecurity when demand for services decreases. Safe Ground is only one such example; while some broader organisations may have benefitted from the new policy, many small criminal justice charities across the UK are struggling to adapt and survive.

Safe Ground remains in discussion with representatives from the MoJ and a number of charitable organisations. We aim to establish how the quality of education provided by the DPS is being measured, how many small, specialist organisations can continue to deliver evidence-based impact like that of our programmes, and to what extent the DPS improves services for people in prison.

We look forward to the Ministry of Justice publishing impact data on these issues.

²⁹ Prisoner Learning Alliance and Clinks, ‘Voluntary Sector Roundtable on Learning from the Prison Education Dynamic Purchasing System’ (2019). Available at: <https://prisonerlearningalliance.org.uk/wp-content/uploads/2019/08/Minutes-of-the-voluntary-sector-roundtable-on-the-DPS-10th-July-2019.pdf> [accessed 17/03/20]

³⁰ P. Copple, *HMPPS* (2020). Letter to C. Weinberg, 4 March

³¹ Justice Committee, ‘Prison Governance’, p.48

³² F. Cooney, *Prisoner Learning Alliance*, ‘One year on – what’s happening with the DPS?’ (2019). Available at: <https://prisonerlearningalliance.org.uk/2019/12/one-year-on-whats-happening-with-the-dps/> [accessed 17/03/20]

³³ L. Brewster, ‘The Impact of Prison Arts Programs on Inmate Attitudes and Behavior: A Quantitative Evaluation’, *Justice Policy Journal* 11 (2), (2014); L. M. Johnson, ‘A Place for Art in Prison: Art as a Tool for Rehabilitation and Management’, *The Southwest Journal of Criminal Justice*, 5 (2), (2008) pp.100-120

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