

Commissioning Criminal Justice Services

Christine Knott on how the National Offender Management Service will open the provision of criminal justice services to competition.

Last year, concerned that the criminal justice system was not delivering value for money results, the Home Secretary asked Patrick Carter (now Lord Carter of Coles) to conduct a review of criminal justice services. In his report *Managing Offenders, Reducing Crime* (Carter 2003), Lord Carter looked at the end-to-end process of criminal justice from the courts through to the delivery of sentences. He came to the conclusion that there should be a fully effective range of sentences in both custody and the community and that, in order to achieve value for money, "more effective service delivery can be achieved through greater contestability, using providers of prison and probation services from across the public, private and voluntary sectors".

The Home Office set out its response to Lord Carter's recommendations in *Reducing Crime – Changing Lives* (Blunket 2004) launched in January this year. The Home Secretary fully endorsed the emphasis on contestability: "We want the most cost effective custodial and community sentences no matter who delivers them" and "we want to encourage partnerships between public and private sector providers and the voluntary and community sectors which harness their respective strengths".

Previously the only prisons that were likely to be considered for market testing were those that were under-performing.

The National Offender Management Service (NOMS), led by the Chief Executive, Martin Narey and by me as the National Offender Manager, has been set up as a result of these reports and we are actively addressing their recommendations. We are considering how contestability can be used to deliver the most productive outcomes.

It might be helpful firstly to try and define contestability. The following definition is the one which we believe most accurately describes it in the context of NOMS:

"Contestability is the principle that best quality and best value for money in the supervision, punishment and care of offenders will be achieved through ensuring that all services are opened up to competition."

Commissioning services will therefore involve competitions for which all sectors (public, private and the voluntary and community sector) will be eligible and encouraged to bid. This covers the whole range of services delivered by NOMS; not just

custodial establishments and community interventions, but also offender management itself.

A little history indicates how far the sectors have evolved. The private sector has been running prisons since Wolds opened in 1992; it also manages prisoner escort services and electronic monitoring but has only recently engaged with services in the community through a pilot scheme of managing accommodation projects for persistent offenders. The voluntary sector has a long association with the probation service but recently has become more involved with delivering services in prisons.

The sectors are therefore already all active in delivering services – this provides a solid base for developing their contributions not only in competition with each other but also in partnership and joint ventures.

One of the main strands of contestability is market testing, a competition with a bidder from the public sector (traditionally known as the 'in-house bid') and bids from the private sector and the voluntary and community sector. The essence of a market test is that all bidders know that their bid has to be cost effective to stand a chance of success. But bidders also know that a low cost bid that is undeliverable because it is under-resourced will not be selected. The winning

bidder will produce the optimum combination of low costs and high quality services.

We want to build on the success of the market test programme carried out in the Prison Service from 1999-2001 to introduce greater competition for all services to offenders. In the prisons' market testing programme, management of some prisons changed hands from the private to the public sector, but none have yet transferred from the public sector to the private. The principle of contestability means that this situation will almost certainly change in the future; the consequence is that the management of a prison that has been publicly managed in the past will be market tested in the future. Previously the only prisons that were likely to be considered for market testing were those that were under-performing. In the NOMS world of full contestability, it is likely that prisons performing well will also be subject to competition. This will be a significant and challenging development.

Market testing has not previously been used by

the probation service in delivering community sentences – hitherto each sector has had its allotted role and competition within a sector has been fairly limited. How contestability can be effectively introduced in this area is being actively explored. The market testing of community interventions is the likeliest prospect in the short to medium term but the market testing of offender management, that is, the central supervisory function of a probation officer, cannot be ruled out. All services are seen as potentially contestable.

It is also important to understand that contestability means competitiveness not only between sectors but within sectors. The success of the prison market tests was ensured because the private sector tenders were submitted in the knowledge that they were competing not just against the in-house bid but also against each other. This also ensured that the in-house bid was aware that the private sector would produce the most cost effective bids they could mount. A further welcome consequence was that bidders were stimulated to devise innovative solutions to service delivery.

An integral part of the organisation of NOMS is the appointment of 10 Regional Offender Managers (ROMs), who will work to me, as the National Offender Manager. A ROM will head one of the nine English regions and Wales. One of the most important functions of a ROM will be commissioning services. In the regional context, commissioning is a process which involves identifying the level of supply needed to match the likely demand for prison places and community interventions within the region, identifying sources of supply and ensuring arrangements are in place for matching supply and demand. In due course funding will flow through the ROM from the Chief Executive/NOM for these purposes.

It follows that contestability will be part of the process of ensuring arrangements are in place for matching supply and demand. We do not yet envisage regional organised competitions until the ROM structure is properly embedded with, for instance, clear service level agreements between a ROM and the current providers in the region, such as the Prison Service, private sector prisons, area probation boards and the array of voluntary and community sector (VCS) organisations.

We are also looking at ways to ensure that the mixed economy provision is vibrant and able to engage in vigorous bidding. We need to widen the private market (currently limited to five companies) but we recognise that each competent bidder needs to be rewarded if that company is to maintain its interest in the market. We also need to engage with small and medium-sized companies and encourage larger companies to do so as well.

I am conscious that private companies have access to commercial backing and that the voluntary sector has traditionally been dependent on grant-givers to provide them with funds not only for service delivery but also for organisational infrastructure. Traditional funding has been time limited and therefore inevitably short-term. The publishing this year of the good practice guidance on procurement of services from the VCS, *think smart...think voluntary sector* (OGC/HO 2004), is timely. We are looking carefully at what more we can do to remove or minimise some of the 'barriers to entry' that often inhibit smaller organisations, and particularly many from the VCS, from bidding to provide services to Governments.

The formation of Futurebuilders is very encouraging. Futurebuilders is a fund which aims to improve public service delivery through long-term investment in the VCS. Such

developments as these are bound to make the VCS better placed to compete with public and private sector bidders. They will provide NOMS with a much wider range of providers delivering cost effective and value for money services to offenders, which will contribute towards NOMS' main aim of reducing re-offending.

Christine Knott is National Offender Manager, NOMS.

References

Carter, P. (December 2003), *Managing Offenders, Reducing Crime: a new approach*. London: Home Office. Accessible on the Home Office website (www.homeoffice.gov.uk)

Blunkett, D (2004), *Reducing Crime – Changing Lives: the Government's plans for transforming the management of offenders*. London: Home Office. Accessible on the Home Office website (www.homeoffice.gov.uk)

OGC/HO (2004) *think smart...think voluntary sector! Good practice Guidance on the Procurement of Services from the Voluntary and Community Sector*. London: Office of Government Commerce/Home Office. Accessible on the OGC website (www.ogc.gov.uk)

VIOLENCE AND SOCIETY MAKING SENSE OF MADNESS AND BADNESS ELIE GODSI

ISBN 1 898059 62 4 ~~£17.00~~ £16.15 (see below)

Elie Godsi examines the lives of the perpetrators of violence, the roots of violence in personal experience and offers a challenging exploration of the way in which society tries to make sense of madness and badness. He is critical of current cultural and medical perspectives that overstate biological, genetic and psychological explanations and marginalise the contribution of brutalising social and environmental influences. This challenging, and at times disturbing book discusses the issues without exaggeration, encouraging the reader to re-examine the reality behind violence in our society.

'... the book goes on to deconstruct individual violent acts and symptomology, and places them within a wider context in a thought provoking and accessible way.'

Annie Turner, *Relate*.

order on-line at www.pccs-books.co.uk
or by phone 01989 770 707
for discount price and free UK delivery