

What does government want from the penal voluntary sector?

Mary Corcoran considers the problematic consequences of increased marketisation of detention services and the co-optation of voluntary sector agencies in delivery.

'What matters is what works, not the delivery mechanism.' (Tony Blair in ACEVO, 2003: preface)

The Offender Management Act, 2007, reflects some of the favoured themes of New Labour's penal reform project. To its advocates, it marks another step in creating the architecture for 'joining up' the services of public and private agencies to assist offenders' resettlement and even exit from crime, as envisaged in the Carter Report (2003). Moreover, it releases local statutory providers and regional offender managers (ROMs) from the grip of central government control by devolving to them powers to identify offenders' needs and commission services on the open market. The legislation liberates untapped reserves of voluntary social capital and resources by expanding the capacity of third sector agencies to become providers of correctional services. Additionally, the logic of localism is extended through the incorporation of voluntary and civic networks into crime control strategies. To the penal voluntary sector, it represents a long-awaited acknowledgement of their role in addressing the complex needs of offenders, which have not always been legitimately or adequately addressed by state bureaucracies.

On closer inspection, however, the Act presents a thinner recipe for radical reform. This might partially be explained by the opposition the Bill faced from Labour MPs and in

the Lords before its eventual narrow passage through parliament, as well as the successful campaign by the public sector unions to postpone the outsourcing of core services until 2010.

Despite these concessions, the legislation retains the hallmark levers of market discipline and managerialism for regulating performance, defining success in relation to narrow indices of 'reducing re-offending', and dispersing the mechanisms of contestability and value for money throughout the system. Thus, the voluntary sector's entry as one potential bidder among statutory and private competitors acts as an additional spur to the growth of internal and external penal service markets. Direct commissioning powers are to be removed from probation services, and vested with the Secretary of State, who in turn will devolve them to the ROMs. Probation trusts will be regarded, at least in the short term, as 'lead providers', although these highly technical and ambiguous provisions effectively by-pass local services and place decision-making responsibility with Ministers and regional managers. Finally, its housekeeping provisions, which bring the rules on security in private prisons and training centres in line with those in the public estate, presages the increased role of non-state sources of investment in the future expansion of the prison estate.

Mainstreaming

Since 1997, the status of the voluntary sector as a force in policy making has risen on the tide of its apparent 'fit' with New Labour's agenda for strengthening communitarian structures, modernising government, and by offering a route to 'Third Way' political reforms which are ostensibly neither entrenched in statist or market ideologies. The political mainstreaming of the voluntary sector was consolidated with the joint policy reviews by the Treasury and Cabinet Office, which laid out its strategic place in policy responses to the complex causes of crime and social exclusion (Cabinet Office, 2006). The importance of the sector has since been marked by the creation of an Office of the Third Sector with a designated Minister, while its lobbying power is exemplified by the appointment of advisers to the cabinet and sectoral 'champions' to advise regional offender managers.

Additionally, government and charities have signed 'compacts' which set out agreed principles relating to sustainable funding systems, recognition of the sector's independence, and governmental commitments to overhaul fiscal and legal restrictions on charitable activity and recognising new forms of social businesses as charities. The Charities Act (2006) subsequently followed, while the Third Sector Review (2007) and the Comprehensive Spending Review (2008–2011) have committed £515 million to promoting 'partnership between the government and the third sector'. Gordon Brown, both as Chancellor and as Prime Minister, has personally sponsored this ascent, equating voluntary participation with a renewal of national purpose and an inclusive sense of 'Britishness' (Brown, 2007).

Sustainability

However, the ability to realise some of the good intentions behind partnerships has been called into question by the failure of policy makers to grasp the effects which contestability and managerialism pose for aggravating structural

inequalities within the sector. The voluntary sector is bifurcated between the few 'Big Players' who hold three-fifths of the public service delivery contracts delivered by charities, and the vast majority of small-scale and local organisations. The former are structurally advantaged in their capacity to compete in national and regional markets, may be more oriented towards a corporate model of doing business, have a greater number of paid staff with marketing, financing, and contracting expertise, and have superior capacity to raise capital funding and optimise economies of scale. These factors may prove more amenable to procurement processes where risk aversion and cost efficiencies overrule strategies for commissioning from smaller-scale or pioneering agencies.

Similarly, the Charity Commission (2007) has also warned of the potential fragmentation of the sector from the margins as smaller projects become deterred by complex and costly procurement frameworks. As things stand, these already suffer disproportionately from intermittent funding and chronic contractual insecurity. Other groups have sprung up in response to sensitive local contexts or exclusion from governing or 'community' forums. Their reticence or scepticism about entering 'mainstream' partnerships is related to the need to maintain legitimacy among alienated and wary communities. A pressing requirement here, then, is to understand the relationship between these exclusionary dynamics and capacity-building and mentoring strategies for 'minority' and 'hard-to-reach' groups.

Responsibilities

Policy discourse still tends to be characterised by a lack of proportionality and rigour in defining the responsibilities of the voluntary sector. There is a need to address the sector's disquiet with all-encompassing, contradictory, and loosely defined policy objectives. Currently, voluntary participation in offender management is expected to 'contribute to reducing crime, enhance public confidence in the

criminal justice system as a whole'; meet 'the varied needs of victims'; deliver better, more 'efficient' and more diverse programmes for supporting offenders; introduce new thinking into current probation practice; enhance citizen involvement, especially among marginalised and unrepresented communities; and strengthen civic ties through voluntary participation (NOMS, 2006:4). Not without contradiction, the managerialist emphasis on auditable performance and 'what works' approaches have underpinned a rigid adherence to prescriptive targets for 'reducing offending'. These ignore the protracted and subtler processes associated with supporting desistance which are closer to the organisational priorities of voluntary groups. Nonetheless, it is evident from the vague radicalism and mismatched goals of mainstreaming policy that government does not seem to know what it wants from the penal voluntary sector.

More concretely, voluntary-penal sector partnerships can founder on practical difficulties arising from conflicting interpretations of their respective legal duties and duties of care. An example might be a charity working with distressed or suicidal prisoners, where the charity emphasises the primacy of confidentiality between clients and volunteers, but where prison staff equate disclosure of information regarding a prisoner's state of mind as essential to their statutory obligations. Some voluntary groups have questioned the retributive connotations of community payback projects which require 'high levels of visibility for unpaid work' (Ibid: 21). Others are reluctant to report offenders doing voluntary work for non-attendance or non-compliance if these are treated as breaches of probation conditions (Women in Prison, 2006:4).

Finally, what are the implications of statutory and voluntary partnerships for those at the end of the line of stakeholding strategies? There is very little in offender resettlement plans which encourages the active inclusion of clients in shaping the services they receive.

Rather, citizen power is vested in 'communities' and volunteers (who by this definition do not include 'offenders') while those being managed are still conceived of as passive beneficiaries who must be professionally guided against exercising doubtful choices (Home Office, 2004).

The tacit exclusion of offenders from the sphere of 'citizenship' is not new (Crawford, 1999), but it creates deep dilemmas for welfare activists, given that neo-liberal penal reform has been partly justified as a response to their often well-founded critique of the dehumanising effects of statutory regimes of treatment. To be sure, many individual charities will continue to work according to their original principles, but the extent to which authoritarian interventionist logics may overrule 'client-centredness' has yet to be tested.

Conclusion

At the time of writing, the future of the National Offender Management Service (NOMS) is contingent on the Brennan organisational review of the Ministry of Justice. Yet, this might present a timely opportunity to realise some of the progressive aspects of partnerships by checking the centralising impulses which undermine mutuality and collaboration; rebalancing power in favour of stronger regional structures and a weaker NOMS; giving commissioners clearer remits to respond to local circumstances; and enabling 'social justice' criteria to override 'value for money' tests in the procurement process where appropriate.

Of course, the ultimate back-story to the current climate of uncertainty relates to whether community and charitable involvement will merely supplement penal expansionism or provide alternatives to prison. Carter's second report (2007) and the subsequent announcement of three new 'Titan' prisons does not bode well for the latter. The voluntary sector stands at that crossroad. ■

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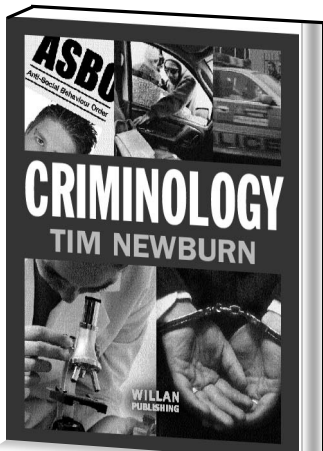
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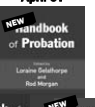
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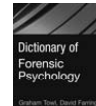
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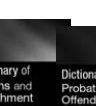
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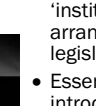
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