What does government want from the penal voluntary sector?

Mary Corcoran considers the problematic consequences of increased marketisation of detention services and the co-option 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 ‘compact’ 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 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.

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.

Mary Corcoran is Lecturer in Criminology, Keele University.

CJM No 71 Spring 2008

37
References
ACEVO (2003), Replacing the State? London: ACEVO.
Home Office Communications Directorate.

New from WILLAN PUBLISHING
CRIMINOLOGY
TIM NEWBURN (LSE)
This is a comprehensive text covering all the areas found in ‘criminology’ and ‘criminal justice’ courses. It provides the basis of study for undergraduate students of criminology and others who need a foundation knowledge of criminology. Written by one of the UK’s leading criminologists, it is set to become the essential book on this subject.

‘There is no other text which addresses the market anywhere near as effectively as this one. I for one would expect to use it extensively and am sure that this will be so for the great majority of those teaching criminology at this level.’

— Dave Edwards London South Bank University

I have little doubt that Newburn’s proposed work will quickly supplant all rivals as our principally recommended text for first-year undergraduate students. . . I can easily imagine it becoming the new ‘bible’ for students of criminology.’

— Dave Waddington Sheffield Hallam University

Also available

Handbooks Series

Each of these Handbooks provides a comprehensive and authoritative reference book to major aspects of criminology and criminal justice.

• Provides in-depth analysis of the background, theory and practice of each subject.
• Contributors to the books are drawn from both practitioners in the field and academics.
• Fundamental reading for practitioners, academics and students studying the particular aspect of criminal justice.

Dictionaries Series

These dictionaries cover every key field of criminal justice and the criminal justice system, designed to meet the needs of both students and practitioners.

• Covers essential terms, concepts, ideas, institutions, legal and organizational arrangements, methods and practices and relevant legislative provisions.
• Essential source of reference for changes introduced with the National Offender Management Service (NOMS).
• Entries contributed by both academics and practitioners.
• Edited by leading authorities in each field.

To find out more about all of our titles or to place an order please visit - www.willanpublishing.co.uk
Alternatively contact us by - Email: info@willanpublishing.com Telephone: 01884 849085 Fax: 01884 840251.
Post: Willan Publishing, Culmcott House, Mill Street, Uffculme, Devon EX15 3AT.