



**CLiNKs**

supporting voluntary organisations that  
work with offenders and their families



# MORE THAN A PROVIDER

The role of the voluntary sector in the commissioning of offender services

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# CLINKS

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# MORE THAN A PROVIDER

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# Foreword

Clive Martin | Director, Clinks

> Voluntary sector organisations are advocates, campaigners, sources of vital information on service user need, a critical eye on existing services, and innovators that drive service change. <



**C**ommissioners and the services they design have the chance to radically reform provision and help people desist from crime. The commissioning process provides an opportunity to bring together the expertise of different providers, policy makers, service users, and other interests to shape what we do, and constantly assess whether we are getting it right. Irrespective of who provides a service, if we are to improve and transform our justice system, we need a high quality process, with strong ethics and decision making driving positive system change.

One way of achieving this is to recognise that the voluntary sector is more than a provider. Voluntary sector organisations have a diverse range of assets that set them apart from other sectors. They are advocates, campaigners, sources of vital information on service user need, a critical eye on existing services, and innovators that drive service change.

This report brings together the experience of a carefully selected range of voluntary sector organisations to better understand how they experience commissioning and procurement. Over the course of two years we have assembled a vision of what good commissioning looks like, based on these organisations' experiences and conversations with commissioners themselves.

We know there is a gap between the intentions of commissioning and the lived experience. We have heard examples of good practice from voluntary sector organisations, and we also documented instances where they are excluded from strategic decision making. The same is true of service user involvement, where promising practice is emerging yet sparse.



Commissioning the right services for people in the criminal justice system is no simple task and if it is to work well all providers need to put aside organisational interests. It requires services that respond to complex needs, joining together housing, employment, substance misuse, mental health, as well as the diverse needs of people with protected characteristics. A one-size-fits-all approach will not work, and we need the expertise, knowledge and innovation of the voluntary sector in local and national commissioning strategies if we are to develop long term solutions to crime and re-offending.

We hope that this report, and our vision for good commissioning, will support a steady and continuous improvement in local and national commissioning practice.

**V**oluntary sector organisations have played an active and vital role in criminal justice and the rehabilitation of offenders for over a century. This role includes both provision of services and advocating and campaigning for improvements to the Criminal Justice System.

The past two decades have seen a steep increase in the amount of public services that are outsourced, including in criminal justice. The most significant recent development is the imminent outsourcing of probation services through the Transforming Rehabilitation programme. A key principle of this programme is that “the voluntary sector has an important contribution to make in mentoring and turning offenders lives around.” [1] However, for voluntary sector organisations, the reality of commissioning and contracting is often very different from high level policy intentions.

Clinks explored the reality for voluntary sector organisations trying to engage in the whole cycle of commissioning, that starts with assessing needs, followed by designing services and purchasing them (procurement), before reviewing and evaluating impact. We have used a longitudinal approach, following the progress of nine organisations over the course of a year, and held a discussion workshop with commissioners and voluntary sector leaders.

This report illustrates a vision of good commissioning for rehabilitation and desistance, and sits alongside many other Clinks resources on commissioning. [2] See Further resources. [58]

## Key findings and recommendations

This project has identified many examples of good practice in commissioning services for offenders and their families, including:

- Use of expertise and intelligence from voluntary sector organisations to assess service user need, identify emerging issues and review existing services.
- Involvement of service users in decision making processes, including commissioners meeting directly with service users to review services and assess needs.
- Clear information about tendering processes, with support such as provider days targeted at voluntary sector organisations to enable them to participate and compete with larger providers.
- Grants for innovative service development and partnership formation.

Our conversations with the sector also pointed to several problems with current commissioning practice, including:

- Under-resourcing of commissioning and procurement teams, resulting in

key decision makers not having enough information about service user need.

- Commissioners balancing competing drivers and a perceived tension between reducing unit cost and involving small providers.
- Increasing contract size and not enough emphasis on developing the market and engaging a wide range of voluntary sector providers, resulting in the risk of monopolies.
- Insufficient measures to prevent the loss of high quality locally rooted organisations, especially those working with marginalised groups of offenders such as people from Black, Asian and minority ethnic (BAME) communities.
- A lack of joint commissioning across departmental boundaries that negatively impacts on people with multiple and complex needs.
- Excessively bureaucratic tendering processes which are often disproportionate to the size of the contract, creating unnecessary costs for the commissioning agency and bidders alike.
- Inadequate scrutiny of the quality of subcontracting and the supply chain, either during bid selection or service delivery and review.

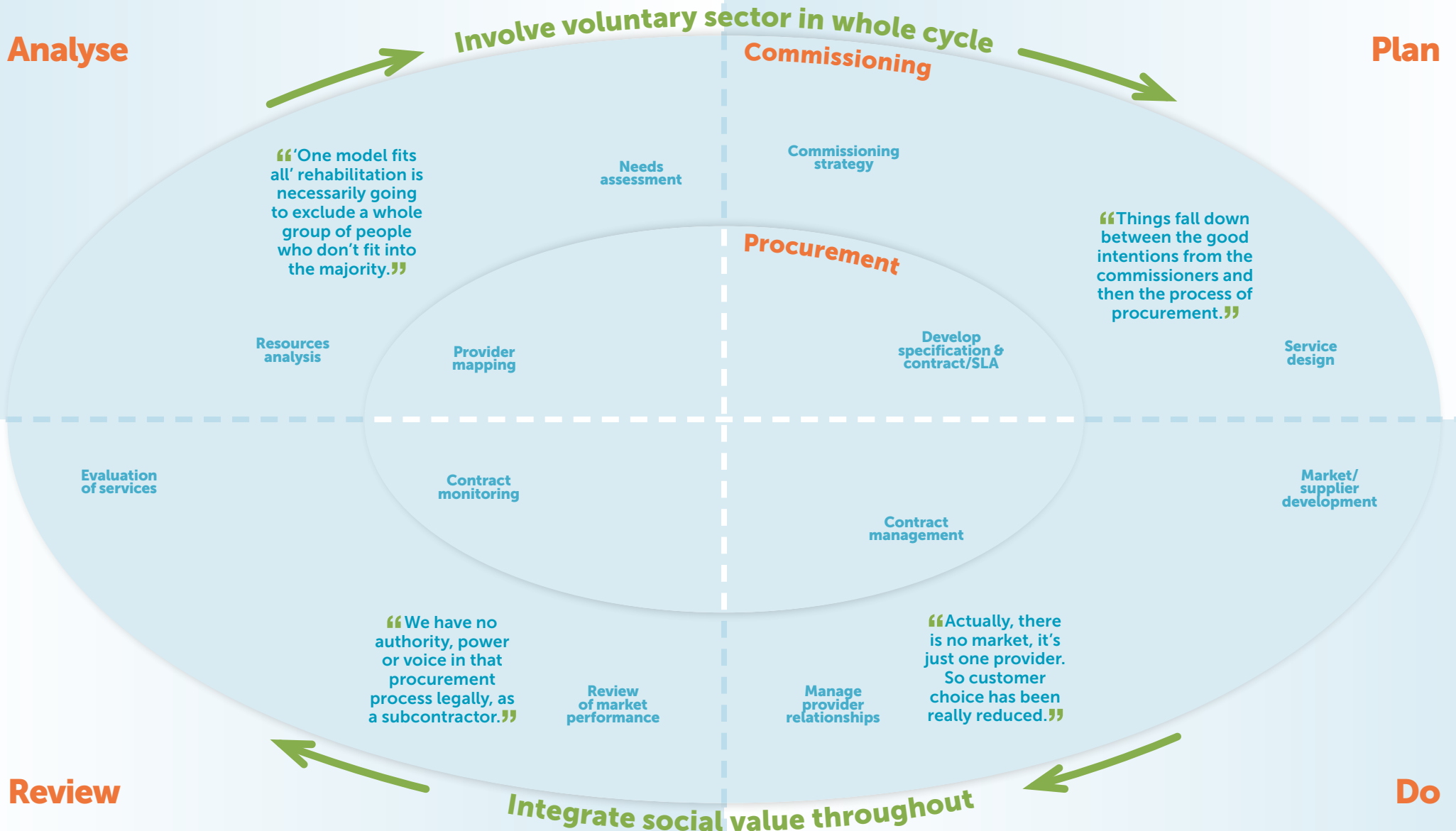
## Good commissioning for rehabilitation and desistance: Recommendations

- ✓ Provide flexible but systematic routes for all voluntary sector organisations (not just service providers) to share intelligence about emerging needs, pitch ideas and advocate for service improvements.
- ✓ Involve service users throughout the commissioning cycle, and provide commissioning and procurement teams with the opportunity to meet directly with service users.
- ✓ Commissioners from different departments and agencies should meet regularly to share what they are commissioning, collaborate on needs assessments, and develop opportunities to co-commission; and voluntary sector organisations should be proactive in proposing new and more collaborative commissioning models.
- ✓ Involve service users and voluntary sector organisations in equality impact assessments for people with protected characteristics under the Equality Act, throughout the whole commissioning cycle.
- ✓ Carefully consider the impact of contract size on market diversity, and wherever possible break large contracts into smaller lots.
- ✓ Ensure that the procurement process is proportionate to the scale of the service being commissioned.
- ✓ Integrate social value into commissioning decisions, for example by purchasing from organisations that improve reintegration of ex-offenders by tackling the stigma of criminal convictions.
- ✓ Always consider both grants and contracts in the procurement of services, rather than using contracts as a default position. Use grants to support innovation and invest in the capacity of organisations to deliver services in the future.
- ✓ Ensure all potential providers have clear information about procurement processes and reasons for decision making, give advance notice of intentions to tender, and hold 'provider days' to facilitate partnership development and inform the specification.
- ✓ Carefully consider the effects of competitive tendering processes on local relationships, referral pathways and sharing of good practice.
- ✓ Where subcontracting is desired by commissioners, it should be made clear that bids will be selected and performance managed on the basis of a good supply chain, and how that will be measured.
- ✓ Maintain dialogue with subcontractors to ensure a direct line of communication with smaller providers.
- ✓ Support the development of formal and informal partnerships by providing technical support and capacity building grants.
- ✓ Ensure that decommissioning processes are carried out with good advance notice and that bidders, providers, service users and communities are provided with clear information about re-tendering and decommissioning decisions.

# The commissioning cycle at a glance

Hover over a blue box for a description. Click to read more.

Commissioning cycle based on the Institute of Public Care's model [\[2\]](#)



# Introduction



## > This report explores the on-the-ground experience of voluntary sector organisations trying to engage in commissioning and procurement. <

**T**his report explores the on-the-ground experience of voluntary sector organisations trying to engage in commissioning and procurement, and uses a longitudinal approach following the progress of nine organisations over the course of a year. In addition, a discussion workshop was held with commissioners and voluntary sector leaders to explore the initial findings in more depth.

It is increasingly understood that commissioning is not just the purchasing of services (procurement) but the whole process of reviewing current provision, assessing what is needed, ensuring that there is a good range of potential providers of services, selecting the best mechanism to buy services, and then procuring and managing the delivery of the services to meet the identified need. This project explored the involvement of voluntary sector organisations in all phases of this cycle.

This report illustrates many examples of good practice in commissioning of services for offenders by a range of public agencies, as well as areas that need improving. It is not a guide to commissioning and procurement, but it sets out a vision for good commissioning for rehabilitation and desistance, and sits alongside many other Clinks resources on commissioning. <sup>3</sup>

### Who is this report for?

This report is aimed at commissioners and procurement managers who wish to understand the voluntary sector's experience of commissioning and increase the sector's involvement in all stages of the commissioning cycle. It will be useful to commissioners of criminal justice, health, housing and other services that are used by offenders and ex-offenders, including those in:

- Offices of Police and Crime Commissioners
- Local authorities
- Clinical Commissioning Groups and Health and Wellbeing Boards
- Community Rehabilitation Companies managing and delivering probation services
- National Probation Service
- Ministry of Justice
- National Offender Management Service (NOMS)
- Home Office
- Department of Work and Pensions.

It will be of interest to policy makers, politicians and think tanks with a focus on public service reform, the voluntary sector and criminal justice. This report will also be useful for trustees, chief executives and senior managers of voluntary sector organisations to help them understand the

challenges and opportunities for their organisation when engaging in commissioning and contracting.

## Context

### Voluntary sector involvement in rehabilitation and desistance

Voluntary sector organisations have played an active and vital role in criminal justice and the rehabilitation of offenders for over a century. This role includes both provision of services and advocating and campaigning for improvements to the Criminal Justice System (CJS). The sector delivers a wide range of successful interventions which complement statutory services, but are distinct from them, including joining up fragmented services or acting as a safety net for people who have ineffective access to statutory services. Many voluntary sector organisations are successful because they were set up by or involve ex-offenders at all levels in the organisation, and the sector is in many ways an embodiment of the reintegration of ex-offenders back into society and local communities. The sector has been particularly effective at developing tailored services and advocating on behalf of minority and marginalised groups of offenders, such as



## > Voluntary sector organisations have an important role in scrutinising criminal justice services, whether or not they are providers of those services. <

women, people from Black, Asian and minority ethnic (BAME) communities and older people.

The voluntary sector's approach is often particularly suited to supporting the desistance journey; the gradual process of ceasing and refraining from offending, which often leads to the person's integration back into the community. <sup>4</sup> Desistance theories emphasise the need for a holistic, flexible and person-centred approach to supporting people who have offended and who wish to stop. <sup>5</sup> Researchers have suggested that desistance is best served by an individual, contextualised approach, which recognises the offender's own needs and aspirations and preserves their personal sense of agency, with the worker acting as a 'guide' or supporter. <sup>6</sup> Because voluntary sector organisations' relationships with their service users are usually voluntary, needs-based, and often involve peer support, they can be particularly effective at supporting this very individualised process of desistance. The Centre for Social Justice has identified four key strengths of voluntary sector organisations in their work with offenders: strong links with the local community; harnessing the power of volunteers; providing tailored support for each client; and innovating in service delivery. <sup>7</sup>

The independence of the voluntary sector is another important feature in its contribution to criminal justice.

Voluntary sector organisations have an important role in scrutinising the Criminal Justice System and related public services, whether or not they are providers or potential providers of those services.

### Scale and funding of the voluntary sector in criminal justice

The Third Sector Research Council (TSRC) estimates that there are over 18,000 voluntary sector organisations (11% of all organisations) that have offenders, ex-offenders and their families as one of their beneficiary groups; and of these 1,743 state that offenders are their main beneficiary group (1% of the total). <sup>8</sup> It found that voluntary sector organisations that work with offenders are on the whole very small; almost two thirds have an income of under £100,000 and just 9% have an income of over £1m. TSRC looked at income levels and sources and found that organisations working with offenders are more reliant on grants and contracts, and therefore more reliant on public sector funding sources, than voluntary sector organisations generally. They also found that 13% of organisations working with offenders received income from contracts, double that of voluntary sector organisations as a whole (using data from the 2008 National Survey of Third Sector Organisations).

A more recent study by the Centre for Social Justice based on the 2010 National Survey of Charities and

Social Enterprises gave a lower estimate of 13,596 organisations working with offenders as part of a wider remit (for example providing training to a range of unemployed people including some ex-offenders), and 1,475 with offenders, ex-offenders and their families as their primary beneficiaries. <sup>9</sup> Most have few employees and a quarter have no staff, while only 4% have more than 100 staff. The majority are locally based, with 61% working at county level or smaller. The voluntary sector working in criminal justice is thought to be polarised between a large number of very small organisations, and minority of large national or regional organisations, with fewer in the middle income bracket. <sup>10</sup>

### Commissioning of services for offenders

The outsourcing of significant delivery of offender services has been happening since 1992, when HMP Wolds was the first UK prison to be run by a private sector company. The establishment of NOMS in 2004 introduced the concept of 'contestability' into both the prison and probation services, with a vision of developing a market of providers that would compete to deliver services. <sup>11</sup>

The past two decades have seen a steep increase in the amount of public services that are outsourced, including in criminal justice. Today, one third of government spending is on services procured from

## > Implementing the Social Value Act involves engaging with the market before procurement processes begin. <

external providers. <sup>12</sup> The voluntary sector has often been at the heart of discourse on the outsourcing of public services. The Open Public Services White Paper, <sup>13</sup> for example, set out the Government's vision for opening out delivery of public services to private and voluntary sector providers (in competition with public sector bidders). It has been suggested that the purchasing of criminal justice services from voluntary sector organisations may be appealing as a way to address controversy over private sector delivery of justice services, through "privatising' criminal justice in a more 'publicly acceptable way.'" <sup>14</sup>

While government funding (grants or contracts) makes up approximately a third of many voluntary sector organisations' income, <sup>15</sup> only 2% of public sector expenditure goes to the voluntary sector. <sup>16</sup> The systems and processes for procuring public services from external providers are often more suited to private sector providers, particularly large companies, than to many voluntary sector organisations. Contracts for criminal justice services are out of the reach of the majority of the sector, but nevertheless a sizable minority of voluntary sector organisations working with offenders are successful in winning public sector contracts.

Outsourcing of probation services proceeded slowly during the early 2000s, with an introduction

of a target for Probation Trusts to outsource 10% of services by March 2008. By 2010 there was still very limited delivery of probation services by voluntary sector organisations, with "almost no evidence of the involvement of the third sector in the probation service." <sup>17</sup>

In 2011 the Government set a target that 25% of central government departments' procurement spend would be from Small and Medium Enterprises (SMEs) by 2015, and in 2011/12 it had reached an estimated 13.7%, or 14.5% when taking account of subcontracting. <sup>18</sup> The Ministry of Justice was the second best performing central government department in terms of procurement spend on SMEs, with £1.2bn or 33% of its procurement going to small businesses (which includes voluntary sector organisations). <sup>19</sup>

When the Social Value Act came into force in 2013 it introduced a requirement that public agencies consider how services they commission bring added economic, environmental and social benefits, and whether they need to consult on those benefits before contracting. Implementing the Act involves engaging with the market before procurement processes begin, and selecting and performance managing suppliers based on their whole social impact, not just how they

meet specific contracted outcomes. The Cabinet Office has reported on progress in implementing the Act, and shares case studies including an Environment Agency river management contract with a social enterprise providing training and employment for young offenders. <sup>20</sup>

The most significant recent development in the commissioning of services for offenders is the outsourcing of probation services through Transforming Rehabilitation, announced in 2013. Under this programme, supervision of low to medium risk offenders is planned to be carried out by non-government providers selected through a competitive tendering process. A key principle of this programme is that "the voluntary sector has an important contribution to make in mentoring and turning offenders' lives around." <sup>21</sup>

Offenders and ex-offenders do not just access services from central government or criminal justice agencies, but from local authorities, the NHS, Jobcentre Plus, housing services and many other agencies. Similarly, voluntary sector organisations working with offenders receive funding from all these agencies, with key commissioning streams including those for mental health, substance misuse, housing, domestic violence, youth and education services.

## > Local authorities are over-zealous in their application of EU procurement rules, making procurement in the UK more costly than elsewhere. <

### Commissioning and the voluntary sector

There have been many initiatives to improve the engagement of voluntary sector organisations in commissioning across government services, including the Compact,<sup>22</sup> the National Programme for Third Sector Commissioning<sup>23</sup> and more recently the Academy for Justice Commissioning<sup>24</sup> and the Commissioning Academy.<sup>25</sup> The Cabinet Office 'mystery shopper' initiative was launched in 2011 to provide a route for providers of services to report any poor practice in procurement.<sup>26</sup> It has recently expanded to include the practice of prime providers working on government contracts to address supply chain issues, and started to carry out spot checks of procurement practice rather than relying solely on reporting.

The Centre for Social Justice carried out a survey on the probation reforms, with 173 voluntary sector organisations. It focused on the role of the sector as potential service providers, including through subcontracting.<sup>27</sup> It reported that many small organisations were concerned that they would be left out of probation reforms, quoting one that expected "bigger players to Hoover up opportunities."<sup>28</sup> The Centre for Social Justice called for the inclusion of small voluntary sector organisations in the probation supply chain, saying that: "success in the probation reforms requires

not only that voluntary organisations are included on the basis of merit, but also that they are not excluded simply because they are too small."<sup>29</sup>

Though not focused on commissioning from the voluntary sector specifically, the Institute of Government's report on public service markets emphasises the need for better market stewardship.<sup>30</sup> It sees the market as a complex and dynamic system which the commissioner cannot completely control but has the ultimate responsibility to ensure the market performs and functions well. Looking at the example of probation commissioning (before Transforming Rehabilitation), the report concluded that there was considerable innovation but little confidence in effectiveness or value for money.

There has been increasing focus on the commissioning function of public agencies and concern about its efficiency. A recent report of the Communities and Local Government Committee found that local authorities are 'over-zealous' in their application of European Union (EU) procurement rules, making procurement in the UK more costly for tenderers than in other EU countries.<sup>31</sup> A review of payment by results (PbR) mechanisms by NCVO expresses concerns that the way that PbR is currently being used is hampering innovation.<sup>32</sup> Commissioning is not just the awarding of contracts

or grants, but the whole cycle that starts with assessing the needs and preferences of people and communities in a local area, analysing how demand may change, followed by designing services, and then securing or purchasing them (procurement), before reviewing and evaluating impact.<sup>33</sup>

Commissioning and procurement are often used interchangeably to refer to the awarding of contracts or grants, but in fact they are different processes and effective commissioning is a multi-disciplinary process involving a team of commissioners and procurement officers. Commissioning is a dynamic process, which the Academy for Justice Commissioning likens to a spiders web, describing the commissioner as "the spider at the centre of a web of service delivery – as such the Commissioner builds the web of provision and responds to the day to day activities that ensure that as the web changes shape – the Commissioner at the centre redesigns the web of provision appropriately."<sup>34</sup> Commissioning is also a rapidly changing field, as public spending reduces while service user need is becoming more complex. A recent report by Institute for Government and Collaborate argues that in order to meet these challenges, commissioners and providers need to develop new skills to undertake a new 'complex commissioning' approach, characterised by greater collaboration.<sup>35</sup>

## > Offenders and their families are often marginalised within local communities and their needs may not be readily identified in local assessments. <

There has sometimes been a misperception that as a potential provider the voluntary sector should not be involved in needs assessment or service design because of a potential conflict of interest. <sup>36</sup> However, it is increasingly acknowledged that voluntary sector organisations have useful expertise and community links that can and should inform design and development of services, whether or not they may provide them. This is particularly the case in criminal justice as offenders and their families are often marginalised within local communities and their needs may not be readily identified and included in local data and assessments. <sup>37</sup>

## Why did Clinks carry out this project?

As we have seen, there is a strongly stated desire to increase the amount of public services for offenders provided by the voluntary sector, so we wanted to find out what it is like for voluntary sector organisations navigating the world of commissioning and contracting to fund their work with offenders and ex-offenders.

The aim of the project was to identify and share the experiences of local voluntary sector organisations trying to engage in the commissioning of services

in criminal justice and community safety. It looked at the whole commissioning cycle, from needs assessment and service design, through procurement and on to service delivery, review and decommissioning. The project aimed to identify good practice by commissioners and prime contractors (from the perspective of the voluntary sector) and successful strategies by the sector in influencing commissioning, winning contracts (or sub-contracts) and delivering services.

# Methods



> **Effective commissioning is a multi-disciplinary process involving a team of commissioners and procurement officers working closely together.** <

**T**his project explored the on-the-ground experience of voluntary sector organisations trying to engage in commissioning and procurement through a series of three interviews over the course of a year with nine chief executives and senior managers. In addition, a discussion workshop was held with commissioners and voluntary leaders to explore the initial findings in more depth.

## Our understanding of 'commissioning'

For the purpose of this project Clinks understands 'commissioning' to refer to the whole commissioning cycle, including needs assessment, market development, procurement, service delivery, and review and decommissioning. Although procurement is often contrasted with grants, the procurement phase can, in fact, involve investing in services using grants rather than contracts. For this reason we asked interviewees about all public sector funding whether in the form of grants, service level agreements, contracts or subcontracting arrangements.

This report often refers to 'commissioning and procurement teams' because we believe that

effective commissioning is a multi-disciplinary process involving a team of commissioners and procurement officers working closely together. This is illustrated in our commissioning cycle diagram [6](#), which is based upon the Institute of Public Care model of the commissioning cycle. [38](#)

Most of the commissioning referred to in this report is at a local level; at which these interviewees operate (as do the majority of voluntary sector organisations). The same principles apply at whatever level a service is commissioned (national, regional, local or neighbourhood), but the methods used may differ, such as how service users are involved or how commissioning by different departments is joined up. Where relevant we have commented on how these findings may apply at a national level.

## Interviews

Nine voluntary sector organisations were selected for interview based on a purposive sampling framework which took into account organisation size, experience of commissioning, specialism, and equality group. The sample was not intended to be representative of the voluntary sector working with offenders, rather it provided a wide variety of organisations to

reflect the diversity that exists in the sector. Three sets of interviews were carried out between 2012 and 2014. The interviews were carried out by Clinks' Local Development Team, and were recorded and transcribed. The interviews were semi-structured, and focused on exploring experiences of commissioning, including all phases of the commissioning cycle.

We reimbursed the organisations to enable them to participate in the project. Information about the organisations that took part is covered in the Appendix [56](#), but organisations are not identified. All material is presented anonymously to allow for frank discussion of what can be sensitive issues. The interview data has been analysed using Framework Analysis, a method used in applied policy research because it allows analysis to meet specific information needs within a short timescale. [59](#)

## Discussion workshop

A discussion workshop was held in June 2013 that brought together commissioners and voluntary sector organisations to explore the initial themes arising from the project. [40](#) The event was led by experienced facilitators using a 'goldfish bowl' format whereby public and voluntary sector

> The 'goldfish bowl' created a safe and professional way of hearing a range of views and insights. <

organisations took turns to have a roundtable discussion while the other group observed, then both come together to reflect on the experience and what they had learnt. There were eight attendees from the public sector, most from local agencies including local authorities, probation and police and crime commissioner offices and two from central government departments. There were eleven voluntary sector participants.

As well as exploring the themes from the interviews in greater depth from both a public and voluntary sector perspective, the workshop was also a valuable exercise for the participants themselves. They enjoyed hearing the 'other' perspective, and one participant commented "the goldfish bowl created a safe and professional way of hearing a range of views and insights". Discussion at the workshop was broad-ranging, and some of the issues raised are presented in this report alongside the interview data.



August, the surveys cover many areas including commissioning and procurement and financial stability. In order to triangulate the findings from the interviews with voluntary sector organisations, this report compares the interviewees' comments with

findings from the latest State of the Sector survey on income, staffing and redundancies, revenue streams including income from statutory sources, collaboration, contracting and resilience. These comparisons are included in the findings section below. Unless otherwise stated, results are from findings of the latest survey in October 2013. <sup>41</sup>

## State of the Sector survey

Every six months since 2010, Clinks has surveyed voluntary sector organisations working in criminal justice and community safety about the impact of the economic downturn on their organisations and service users. Taking place in February and

# Findings: Overview of finances and contracting experience





> Almost half the organisations interviewed had reductions in income. Two of these were reductions of 85% and 50%. <

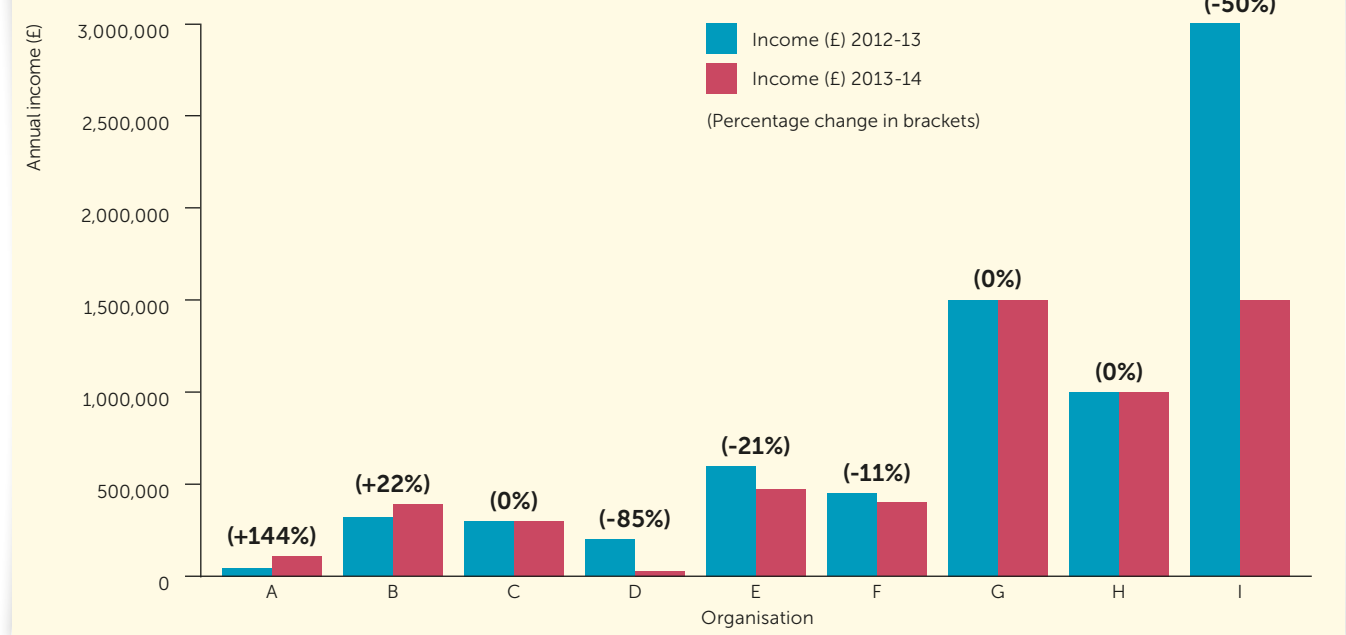
The interviews revealed a detailed picture of the financial situation for these voluntary sector organisations working with offenders. This section gives an overview of the size, activities and contracting experience of the organisations interviewed.

A description of each organisation's activities and changing financial situation over the course of the project is found in the Appendix. [56](#)

**Specialism:** The interviewees include one organisation working specifically with women, one with Black Asian and minority ethnic (BAME) communities, one with older people, and one with children and young people (up to age 19). They provide a range of specialist services including drug and alcohol, sports, arts, housing/homelessness, and mental health/wellbeing. Two organisations work only in prisons, three only in the community, and the remaining four work in both custody and the community.

**Size and staffing:** The nine organisations range in size from two full-time equivalent staff members to 100 full-time equivalent (three organisations had less than 10 staff, three had 10-20 staff, and three had 40 or more). In having less than 250 employees, all of the interviewees come into the category of small and medium-sized enterprise (SME). [42](#) Income ranged from £45,000 to £3m in 2012-13 (and from

Graph 1: Income levels across two years



£30,000 to £1.5m in 2013-14). All worked mainly locally or across a few local authorities, with two having some national reach. In 2013-14 the nine interviewees employed 187 full-time equivalent staff and had 433 volunteers (with staff numbers down from 206, and volunteers up from 423 in 2012-13).

**Changes in financial situation:** Shown in Graph 1 above, three of the interviewees had no significant change between 2012-13 and 2013-14,

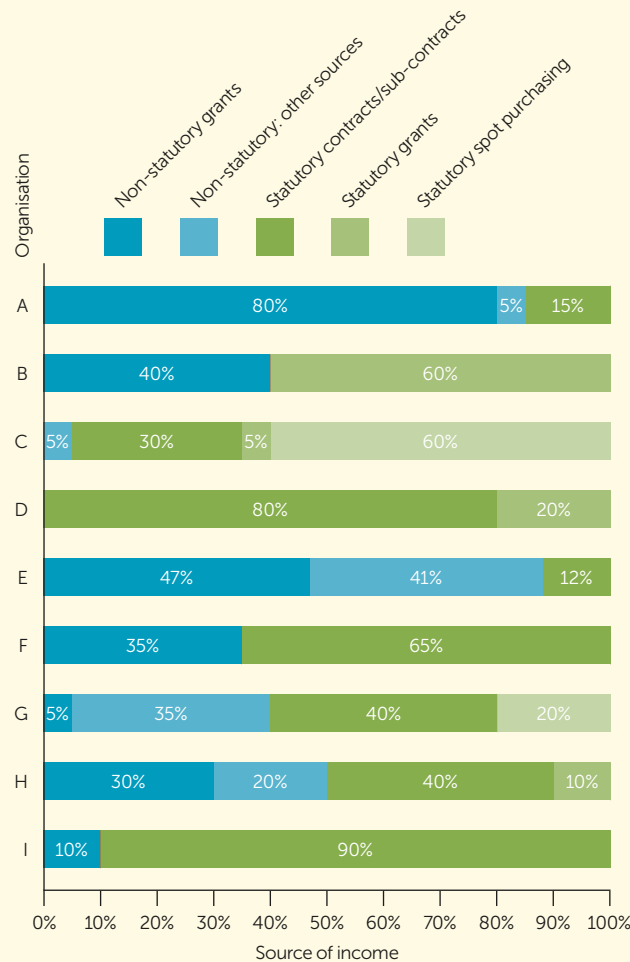
two had increases in their income and four had reductions, two of these being very significant reductions of 85% and 50% through loss of major contracts following re-tendering. Two organisations were in discussions about or had agreed mergers; one with a larger organisation and one with a smaller partner. In neither case was the interviewed organisation required to merge due to financial problems, although one was acquiring a smaller organisation at risk of closure.

> **Contracts (including through subcontracting) were the main mechanism for statutory income for these organisations.** <

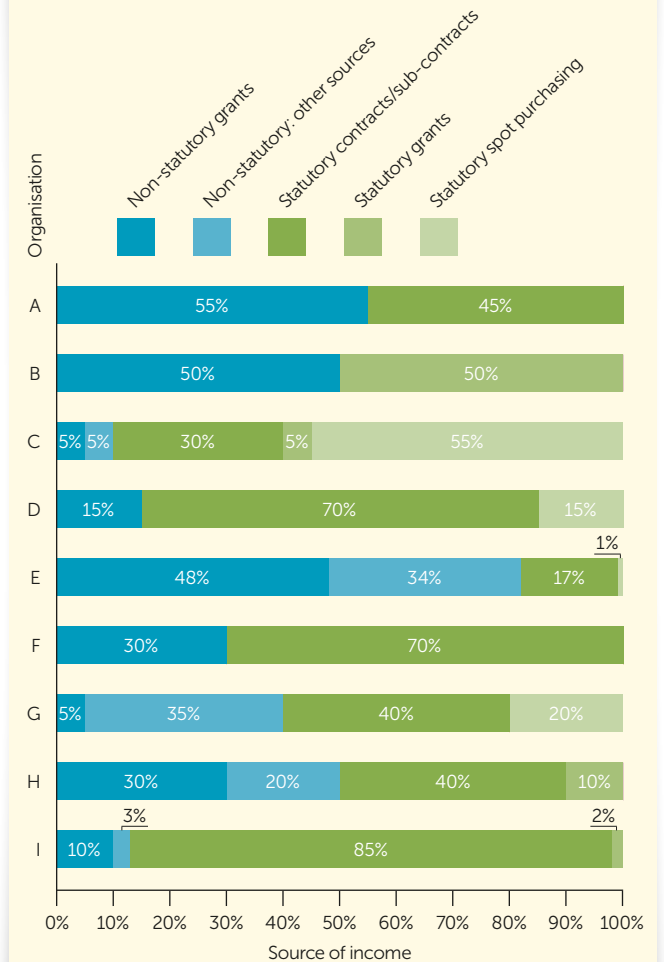
**Funding sources:** The interviewees have funding relationships with a wide range of agencies, including local authorities, probation trusts, prisons, schools and primary care trusts. Two have relationships with just one agency type (e.g. prison or local authority) but most receive funding from a range of sources. The proportion of income from statutory sources ranged from 18% to 90% in 2013-14 (Graph 3) and 12% to 100% in 2012-13 (Graph 2). Three organisations had over 85% of their income from statutory sources including one with all its funding from statutory sources in 2012-13. All organisations had previously received non-statutory funding from trusts and foundations.

**Contracting experience:** Contracts (including through subcontracting) were the main mechanism for statutory income for these organisations, with just one organisation receiving their income from public sector sources as grants rather than contracts. Five had only contracts and no public sector grants, and three had mainly contracts with a small proportion of grants. One organisation was funded mainly through spot purchasing. Four have experience of being subcontracted, including with the private sector; and all but two have experience of working (or bidding) as members of consortia. Only one organisation had no experience of contracts, just grants. All expressed an interest in increasing their engagement in commissioned work.

**Graph 2: Sources of income 2012-13**



**Graph 3: Sources of income 2013-14**



# Findings: What does good commissioning look like?



## 1 / Involving the voluntary sector as more than a provider

**T**his project has identified many examples of good practice in commissioning and procurement of services for offenders by a range of public sector agencies, as well as areas that need improving. We have organised the findings into themes, based on the vision for good commissioning that emerged from the interviews. These themes are:

- 1 Involving the voluntary sector as more than a provider, in all phases of the commissioning cycle
- 2 Involving service users and ex-offenders in commissioning
- 3 Addressing complex needs holistically
- 4 Commissioning services for equality groups
- 5 Maximising market diversity
- 6 Facilitating collaboration
- 7 Encouraging subcontracting
- 8 Enabling innovation and measuring the right results
- 9 Using grants as well as contracts
- 10 Re-tendering and decommissioning effectively

Each theme is explored using issues raised at the workshop discussion between commissioners and voluntary sector organisations, and through comparison with findings from Clinks' State of the Sector survey, where relevant.

**“I was able to contribute by doing a report to the local authority on autism and Asperger's. That information is then taken forward to higher level decision-making within the council and then on to possible commissioning of a service to meet that need.”**



Commissioning is not just the purchasing of services but the whole process of reviewing current provision, assessing what is needed, ensuring that there is a good range of potential providers of services, selecting the best mechanism to buy services, and then procuring and managing the delivery of the services to meet the identified need. For this project we wanted to explore the involvement of voluntary sector organisations in all phases of that cycle. Interviewees were shown a diagram of the different phases of the commissioning cycle, <sup>43</sup> and most interviewees were able to describe their involvement in all the phases, although their experience was not always positive. We also looked at the organisations' ability to advocate for service improvements outside the formal commissioning processes.

### All phases of the commissioning cycle

The issue of involvement of the voluntary sector at all stages of the commissioning cycle, not just service provision, was raised at the discussion workshop with commissioners and voluntary sector leaders. It was felt that while there is an expectation on commissioners to have a good understanding of local needs, in fact there are often minority groups or local issues of which they are unaware. This requires a flexible but systematic route through which this information can be fed into the commissioning system by a variety of voluntary sector organisations.

> **One organisation had received a grant for research into women offenders' needs. Three years later this resulted in a new service being commissioned.** <

Participants also cautioned against consultation that “doesn’t lead anywhere, thereby creating fatigue in the sector and eroding trust between the sector and commissioners” (Discussion workshop, public sector participant). It was acknowledged that this is a difficult balance for commissioners. It was agreed that local voluntary sector organisations had an important role in alerting commissioners to any problems in a service once it is being delivered by a provider.

“The sector is often involved in the needs analysis part of commissioning but not necessarily involved in any aspects of when things start to go wrong. How can you work together to find solutions once the service is being delivered?”

Discussion workshop, voluntary sector participant

### **Involvement in needs assessment and service design**

Interviewees’ experiences of needs assessment were mixed, though most could give examples of either being consulted on needs directly, or having influenced the development of new services by submitting evidence. One positive example is an organisation that had received a grant from NOMS for research into the needs of women offenders. Three years later, this had resulted in a new women’s accommodation service

being commissioned (and building acquired), and the organisation was now delivering that service. Similarly, there was an example of submitting information via a multi-sector partnership that was fed up to higher levels within the council to inform commissioning.

“I was able to contribute by doing a report to the local authority, and those needs are analysed along with forensics reporting on the high numbers of people with autism and Asperger’s that are part of the offending cycle. That information is then taken forward to higher level decision-making within the Council and then on to possible commissioning of a service to meet that need.”

Organisation G

However, some organisations had minimal involvement in needs assessment or analysis stages of the commissioning cycle, a trend also reflected in Clinks’ State of the Sector survey, which asked organisations if they were “involved at design stage” in contracting, and very few organisations responded positively.<sup>44</sup> Of these, involvement was mainly in ‘how to meet need’ as opposed to ‘identifying need’ or ‘what the contract should look like’. Many organisations said that they are

not consulted or do not have the time or ability to be involved because of limited capacity.

Some of the interviewees had only become involved once procurement had commenced, leaving no room for them to provide insight into local need or influence the service specification; this was more commonly reported by the smaller organisations in our sample. One organisation described having to be very pro-active in getting involved, saying that their involvement “has been totally self-driven” and that they had to initiate discussions around needs assessment, rather than being invited to participate (Organisation A). Another was invited to consultations on needs assessments, but said “I usually come away feeling it’s been a tick box exercise” (Organisation C). Similarly, a BAME-led organisation described how although they were consulted, they did not feel that this consultation changed anything:

“You go to all the consultations, and almost feel quite used and abused as it doesn’t feel as if it comes to anything at the end of the day. They make promises, but there’s only so many times that you can go and meet in big offices, sitting round the table, and they all tend to be white males and all nodding and

> **A primary care trust commissioned a local mental health charity to carry out needs assessment and review local service provision.** <

sometimes grimacing about things that you say. But it doesn't feel as if it comes to anything at the end of the day."

Organisation D

On the other hand, another interviewee commented that they felt that consultation on Transforming Rehabilitation commissioning processes and payment mechanisms in 2013 had been a "really good model", in terms of involvement in the contracting process and responding to people's views.

"They have involved a range of statutory and non-statutory organisations in drawing up content of the contract, in its themes, focus and outcomes. They've had a regional approach – to allow for regional variation they've had consultations in different regions. [...] And they've continued with that with the draft papers and response papers and discussion documents. They've made them real and meaningful in terms of taking on board comments and changing things."

Organisation G

Interviewees described how commissioners were increasingly using the tendering phase to gather

information on needs. Organisations are asked to demonstrate need and propose new models of working in their tender submissions, so that these can all be assessed by the commissioners as part of their needs analysis. Whilst this may be intentional and considered good practice, by allowing the market to develop new methods of delivery, there was a suggestion by one interviewee that it was as a result of resource constraints in

commissioning teams meaning the service design process was compressed into the tender phase.

"They just do not have the capacity or the knowledge base to design those models themselves so what they're saying to competing organisations is: 'you design the model for us as part of your bid'."

Organisation G

### ✓ **Good practice: Involvement in service design and review**

There were several examples of good practice of involving the voluntary sector in needs assessment and service design and review, including:

- Commissioners getting feedback from service managers on crime trends, emerging service user needs, and new criminal justice legislation and policy developments
- A primary care trust commissioning a local mental health charity to carry out needs assessment and review local service provision, making recommendations on reorganisation of the service

- Good involvement of existing providers and other stakeholders in development of a new tender. The interviewee commented:

"In terms of involving all of the partners who currently provide – the communities, stakeholders and everything else – and being very transparent about everything that went on; that was a very good quality piece of work, I thought."

Organisation I

> **The larger organisations tended to view their relationship and ability to influence statutory agencies more positively.** <

### Advocating for service improvements

Voluntary sector organisations also have an important role in scrutinising public services for offenders, whether or not they are providers or potential providers. We asked interviewees about their experience of advocating on behalf of their service users, and many spoke about changes to services that had been achieved outside of the usual needs assessment and consultation processes. One organisation described their role as “being the voice of the women” (Organisation E), and another described how their service users were the focus for the whole organisation, over and above winning contracts.

“We’re here for our target group, our service users; and just collecting a salary is not an option.”

Organisation D

Another had found that their work and views on service improvements were taken more seriously by prisons they worked in once the prisons were contributing financially to the service. This was an unanticipated positive benefit to a matched funding requirement from their charitable trust funder, which insisted on an equal contribution from the prison to the cost of the project.

All interviewees could give examples of ways in which they had advocated on behalf of service users, though some did more of this or found it easier than others. Within our small sample, the larger organisations tended to view their relationship and ability to influence statutory agencies more positively. One of the interviewees described having strong “grown up” relationships with local statutory agencies, where they met with senior staff regularly and could raise any problems informally and act as a “critical friend” (Organisation H). Others expressed frustration at the lack of change following issues they had raised, with one particular example being poor care of a prisoner self-harming, when the interviewee felt that “there is a council of despair within prisons, over and over I have hit that, and you don’t get a very warm welcome with criticisms and concerns.” (Organisation A).

When asked about the barriers to advocating on behalf of service users, interviewees’ responses included bureaucracy and lack of clarity on who to raise issues with, particularly when they are outsourced. One organisation had tried to influence Work Programme services that were ineffective for their clients, but said this was “unsuccessful” (Organisation I). Others described how change is slow within large public institutions, and that some prisons may be resistant to challenge or exposure of problems.

“Things are moving but it’s very slow when you are trying to deal with the big beast of criminal justice or the health authority – it can be like pushing water uphill!”

Organisation D

The common fear of ‘biting the hand that feeds you’ when raising issues with agencies from whom you receive funding was also cited.

However, some interviewees felt that if there were any barriers to advocacy, “you need to find a way to address that” (Organisation G). It was often felt that the role of voluntary sector organisations was to be persistent in raising issues on behalf of their service users, if necessary partnering up with other organisations.

“We’re only small so you get the feeling our view is not listened to as well as it should be. You have to partner up with others to have more of a voice.”

Organisation F

This emphasises the importance of networks of voluntary sector organisations working in criminal justice, at both national and local levels.

## ✓ Good practice: Influencing service improvements

Interviewees shared lots of examples of issues about which they have managed to achieve positive change to public services on behalf of their service users. These changes represent the added social value of purchasing services from these organisations. They included:

- Improving access to primary healthcare for people who have been banned from attending GP services.
- Better measurement of employment outcomes by Probation and NOMS, resulting in services better suited to clients' needs.
- Improved services for long term alcoholics who do not respond to short term interventions. One organisation is advocating on this issue in partnership with national organisations and local commissioners to identify resources to work with this group.
- Raising public sector awareness of the root causes that lead women to sex work, to address negative attitudes to sex workers.
- Changes to local statutory services based on an action plan developed through service user engagement (see Good Practice example [27](#)).
- Changing discriminatory policies and practice by employers and other non-criminal justice organisations that bar ex-offenders from taking up employment and leisure opportunities.
- Joining up pre- and post-release services. Often organisations work with individuals in prison and in the community, and can act as a bridge to ensure continuity of services such as mental health treatment or employment support during resettlement. "We make sure that the treatment that they have inside continues when they are released, so that there is handover and a resettlement process and everything is properly connected rather than everybody letting go and things starting to spiral out of control." (Organisation D).
- Whistleblowing on poor handling of self-harm in prison by raising the issue with senior staff and eventually the Governor.
- Helping a service user to make a complaint following excessive use of restraint that resulted in compensation being awarded.

Few of these changes are things that the organisations interviewed receive public funding directly to address, but they are often indirect consequences of investment in these organisations. These benefits make up part of the social value of voluntary sector organisations.



> **Voluntary sector organisations are manifestations of community involvement in the rehabilitation of offenders and mechanisms for their reintegration into society.** <

### **What needs to happen**

Voluntary sector organisations are more than providers of services, they are also manifestations of community involvement in the rehabilitation of offenders and mechanisms for their reintegration into society. Many also employ ex-offenders and ex-service users, so they represent a way for them to 'give something back' as well as developing their careers.

Commissioners need to ensure they have mechanisms for engaging with voluntary sector organisations in needs assessment, service design and review regardless of whether they are providers or potential providers. One important way to do this is through involving the voluntary sector in strategic needs assessments (such as Joint Strategic Needs Assessments, community safety needs assessments, police and crime plans, etc). This can be done through local voluntary sector networks including Safer Future Communities networks, where they exist (set up to engage with police and crime commissioners). <sup>45</sup>

Resource constraints are sometimes perceived to be a barrier to thorough engagement of voluntary sector organisations in needs assessment and service design. Not investing enough in this phase of the commissioning cycle can result in poorly designed specifications, measures and services that

do not achieve the desired outcomes and are more costly to recommission later. Guidance on the Social Value Act emphasises the need for consideration of social value at the pre-procurement stage. <sup>46</sup>

### **Recommendation**

- Provide flexible but systematic routes for all voluntary sector organisations (not just service providers) to share intelligence about emerging needs, pitch ideas and advocate for service improvements.

## **2 / Involving service users and ex-offenders in commissioning**

**“ We have consultancy processes with service users on efficacy and appropriateness of our services. But Probation don't have that. So we have included them in our service user consultation. ”**



> It was seen as particularly valuable for commissioners to visit projects and meet service users to review the service. <

Research on desistance (the process of stopping offending) shows us that it is an individual process, with the offender/ex-offender at the centre. <sup>47</sup> Offenders and ex-offenders' experience on what helps the process of rehabilitation is therefore essential to good commissioning of services. The interviews revealed many examples of good practice in the involvement of service users in commissioning. It was seen as particularly valuable for commissioners to visit projects and meet service users to review the service or assess needs for new services, and this practice was fairly common.

“We need service user involvement embedded in the process of performance management – things like site visits from commissioners and procurement teams would really open their eyes as to what is being delivered.”

Discussion workshop, voluntary sector participant

Whilst good practice was identified it was often commented that service user involvement needed to happen earlier in the decision making process so that it could contribute to the design and development of services.

It was felt that commissioners should have more opportunities (or requirements) to meet and speak

## Example: Good service user involvement, but too late

It is clear that good involvement of service users in the development of a service can bring many benefits, the design of new hostel accommodation was one example we found.

“They did some really good stuff. They had clients working with designers, architects, looking at models of buildings and asking where they want beds, sinks, and showers to be. That was a really good example of getting service users to contribute to the building.”

Organisation H

However, the interviewee felt that this involvement happened too late in the process and should have started before the decision to build a single 50-bed hostel was made. Service users should have

to service users, helping them to understand the people that they are commissioning services for. Examples were raised of commissioners meeting service users as part of an audit, which had a positive impact for the commissioner and the service users.

been asked what kind of bail accommodation should be provided, rather than how this particular accommodation service should be designed.

“There’s a question that should come before that, which is do you want a 50 bedded hostel? But it was a done deal. Why didn’t they ask, do you want a new 50 bedded hostel? If you asked clients this, what would they have said? I’ve got a gut feeling it wouldn’t have been that.”

The interviewee felt that smaller units were likely to be more effective than a large hostel, and this could have been picked up if service users were asked before that decision had been made.

Whilst this worked, there were countless missed opportunities for service user involvement, often because commissioners do not have the time to get out and meet service users, or because it is not considered to be part of a commissioner’s role.

> Consider service user involvement in the training of commissioning and procurement staff. <

“Commissioners have been invited to speak to the kids and they don’t do it. The kids want to know who pays for their £50,000 bed at the YOI and why this happens. I would love to see commissioners speak to the people we work with.”

Organisation F

### What needs to happen

The existing good practice in service user involvement needs to be shared so that it becomes much more widespread, and commissioning and procurement teams need to have enough time and resources to meet service users directly in order to effectively consult and involve them. Commissioners and procurement teams should have clear strategies for how they visit services and directly speak (and listen) to service users and their families within currently commissioned services, and involve them in future service design.

How this is done will differ at different levels (national or local), but it could include:

- Service user involvement in the training of commissioning and procurement staff
- Shadowing or visits to services
- Consultation with service user forums or user led organisations

## ✓ Good practice: Working together to increase user voice

One organisation’s quality assurance framework for a supported housing service requires them to carry out service user involvement in their service review. They have decided to involve statutory partners in the service user engagement as a way of influencing them and facilitating user voice.

“We have consultancy processes with service users on efficacy and appropriateness of our services. But Probation don’t have that. So

we have included them in our service user consultation.”

Organisation G

The organisation invites commissioners to a lunch with service users every six months, and they develop an action plan following their annual service review that they pass on to statutory agencies including Probation. This means that the service review is “more meaningful” and the dialogue between commissioners and service users enables service users to find out about service developments too.

- Service users and ex-service users involved in the direct design of service specifications
- Service users on tender assessment panels.

However it is achieved, it is important that staff who are writing service specifications and contracts are grounded in the reality of the day-to-day lives of the recipients of the service.

## Recommendation

- Involve service users throughout the commissioning cycle, and provide commissioning and procurement teams with the opportunity to meet directly with service users.

### 3 / Addressing complex needs holistically

**“The first commissioner I spoke to, which was the DAAT [drug and alcohol action team] commissioner, said ‘that’s a really good idea, but that would have to come out of the hospital budget.’ The hospital budget said ‘no, that’s the DAAT’. So it’s nothing to do with common sense, it’s to do with whose budget it comes out of.”**



Many people in the CJS have a range of complex problems that need to be addressed together, and those with multiple and complex needs often have ineffective contact with services. <sup>48</sup> Many voluntary sector organisations address these complex issues holistically. However, commissioning agencies are often interested in one aspect of a person’s life, such as drug use, mental ill health, housing issues, lack of employment or patterns of offending behaviour. The need for a holistic approach to the complexity of problems faced by services users was a strong theme across all of our interviews.

The commissioners and voluntary sector organisations we spoke to all had an interest in developing different models of commissioning for complex needs. This included personalisation or personal budgets <sup>49</sup> or commissioning on the basis of desistance by providing a range of smaller niche services rather than one generic service. It was acknowledged that “there is no such thing as a ‘magic bullet service’” (Discussion workshop) and because desistance from crime is such a personal and often long term process, individuals are likely to need a range of services in order to change their lives.

#### Pooled budgets

Pooled budgets were felt to be a very effective and desirable way to join up services, but often

#### ✓ Good practice: Pooled budgets

There are examples of good collaborative budgeting between different commissioning agencies, particularly in the substance misuse field, from which several of our interviewees had received funding. When asked about funding from criminal justice agencies, many received this via a pooled substance misuse budget where health, police, probation and the local authority would all contribute towards a pot to fund drug and alcohol services, which are recognised by the agencies to cut across many different fields of work.

challenging for commissioners to achieve due to time constraints and competing pressures and targets. It often requires a persistent and committed individual commissioner or agency to drive these innovations forward, sometimes prompted by a proposal from the voluntary sector.

There was a strong desire from the voluntary sector to see more collaboration between commissioners, and a recommendation from the

> I sometimes feel like I'm a member of a 'troubled family' myself, sat in the middle of a maelstrom of different complicated agencies and systems. <

commissioners at the discussion workshop that the voluntary sector become more proactive in making suggestions and proposals about how to join up different commissioned services.

### Commissioning in silos

Commissioning was described as 'siloed' or 'split' into separate areas in a way that was not in the interests of service users, whose rehabilitation depends upon many different interconnected aspects of their lives. Even for commissioners themselves the complexity can be confusing.

"I sometimes feel like I'm a member of a 'troubled family' myself, sat in the middle of a maelstrom of different complicated agencies and systems."

Discussion workshop, public sector participant

One interviewee had carried out a consultation with the service users of several organisations in a local area; the result was a strong message in support of joining up at service delivery level.

"What service users didn't like was the current service provision was often commissioned in a very siloed way. [...] We all know that good rehabilitation

or resettlement is not just about one element, is it? It's about housing, it's about health, employment, it's about a range of things. What service users were clearly saying to us is they wanted to see more end-to-end provision. So, a one-stop-shop hub where we could go in, we could have access to these pathways [...] without being bounced around the city."

Organisation H

Voluntary sector organisations often work with clients in a person-centred and holistic way, and the way in which services are commissioned, particularly

if specified very closely in contracts, can make this holistic service challenging. They described how some clients need very long term interventions, and commissioners often expect the organisation to be able to make a difference in a short space of time.

"If I've got a young person in custody, say I want to help them change their life, say they've had a whole load of history. They're 16 now, go back to when they're 8, there's loads of trauma going all through those 8 years. Then the funders only give me a 6-week-window to work with them."

Organisation F

### Example: Lack of clarity over which budget covers what

When pitching an idea to commissioners, one interviewee had experienced different departments in conflict over whose budget should cover which activity.

"The first commissioner I spoke to, which was the DAAT [drug and alcohol team] commissioner, said 'that's a

really good idea, but that would have to come out of the hospital budget.' The hospital budget said 'no, that's the DAAT'. So it's nothing to do with common sense, it's to do with whose budget it comes out of."

Organisation I

> **One organisation had identified an average of 52 staff working across 15 organisations for each person going through the CJS.** <

A large number of services will often be working with the same person, meeting one aspect of that person's need, or supporting one area of their life. One organisation we interviewed had undertaken an evaluation that identified an average of 52 staff working across 15 organisations for each person going through the CJS. This includes staff from the prison, probation service, housing, substance misuse, employers, legal advice, religious groups, and a range of other services that all have some influence over the re-offending outcome. The interviewee commented:

"My point to the commissioners is that they need to be aware of the complete picture, the fact that no one organisation has any more purpose on the positive influence of any one offender – all are required, and all are needed to naturally offer the complete support that ensures entry back into a pro-social purpose, in a pro-social society."

Organisation F

It is of course very difficult to resolve this problem, but another organisation had responded to the combination of siloed commissioning and person-centred service delivery by developing a theory of change to illustrate how their holistic work contributed to separate public sector agencies' priorities, as illustrated in the example opposite. <sup>50</sup>

## ✓ **Good practice: Theory of change to illustrate holistic work to siloed commissioners**

One organisation that is effective because it works very holistically has found it needs to split its work up for commissioners, to bid for different aspects separately. It has developed a theory of change to illustrate this to commissioners.

"We work across seven different areas: safety; health; life skills; family; criminal justice; housing & finance; and substance misuse. [...] We have just created the 'theory of change' again relating to all of those areas, because we understand that we are going to have to break all of our work apart, basically, and say 'we are applying for this health and wellbeing bit to you', 'we are going to criminal justice to you'."

Organisation E

However, the interviewee felt it would be far more effective if commissioners could join together and commission a holistic service.

"We are not a huge charity as it is, and then you break it down even more, it is quite a small chunk of work we are trying to put into these different siloed areas. I feel that commissioners could join up together and say, 'how could we commission a service that actually meets all of our needs?' That is what we do: it is a holistic service that works with women across so many differing needs."

## > Voluntary organisations should be proactive in proposing new and more collaborative commissioning models. <

Solutions to issues of complex needs and co-commissioning are being tested through government initiatives such as Youth Offending Teams, Integrated Offender Management, <sup>51</sup> 'Troubled Families', <sup>52</sup> as well as the Big Lottery funded 'Fulfilling Lives: supporting people with multiple needs'. <sup>53</sup> Whilst these will be important to test new approaches we also recognise that resources both within the voluntary sector and amongst public sector commissioners are stretched. Clinks' State of the Sector survey reported that reductions in staffing within commissioning as well as increasing need for crisis services were making it harder to engage with statutory staff, and leading commissioners to procure short term crisis interventions rather than longer term holistic approaches. <sup>54</sup> However, greater collaboration can also save resources, for example by avoiding the duplication of similar strategic needs assessments in separate departments.

### What needs to happen

Siloed commissioning and service delivery is a problem which has been increasingly recognised over the last few years, and addressed through the various initiatives discussed above. Commissioners pooling budgets can be a particularly effective way to address complex inter-related problems experienced by service users and overcome departmental boundaries in creative ways. If pooled budgets are not an option, for example at national level, then commissioners should look at other ways of aligning their outcomes and procurement processes.

Findings: What does good commissioning look like?

Increasingly, different commissioning agencies are contracting with the same providers, and this presents a good opportunity for better co-ordination between departments to join up services. Where possible, commissioners should collaborate on their contracting, performance management and service review when they have common providers, to avoid duplication and maximise opportunities for meeting complex needs holistically.

To meet the needs of people with the most complex problems, commissioners need to be willing to allow providers to take risks, rather than rigidly applying criteria that may exclude them from services.

### Recommendations

- Commissioners from different departments should meet on a regular basis to share what they are commissioning, collaborate on needs assessments, and develop opportunities to co-commission
- Voluntary sector organisations should be proactive in proposing new and more collaborative commissioning models.

## 4 / Commissioning services for equality groups

**“There are always going to be big groups of people, by whatever characteristics, for whom a mainstream rehabilitation service is going to be completely inappropriate.”**



We wanted to find out how current commissioning approaches address the specific needs of equality and marginalised groups of offenders, such as Black, Asian and minority ethnic (BAME) offenders, or women, throughout the commissioning cycle. We explored whether any organisations are disadvantaged within the commissioning process, and the impact of resource constraints on how equality and diversity is addressed.

### **Embedding equality in commissioned services – tick box or meaningful?**

We asked interviewees how well they thought equality and diversity was addressed in local commissioning, which prompted varied responses.

There was a particularly good example given by one interviewee of a local authority that had introduced an equality and diversity toolkit (see right). Another organisation said that they have to carry out equality impact assessments on their commissioned service delivery and felt that equality was taken seriously, adding, “if, for example, a provider brings up a case study or has some concerns and brings that to the review meeting, it’s taken seriously and further research is done into any access issues around diversity or equality” (Organisation G).

### **✓ Good practice: Equality toolkit**

One interviewee reported that a commissioner had identified that many organisations were failing the pre-qualification questionnaire (PQQ) stage of procurement because their equality and diversity policies or practice were poor. The commissioner supported the organisations to improve and resubmit their policies. To address the issue in the long term, the commissioner developed a good practice toolkit for potential providers on equality and diversity.

“They are trying to address it by bringing out this toolkit, and they’ve been inviting providers to lots of days where they’ve gone through the toolkit. They’re trying to raise the standard, in [the area] of equality and diversity.”

Organisation E

However, others felt that the way equality and diversity was addressed in commissioning was “tick box”, or “tokenistic”, highlighting that there is a mix of good and bad practice. Some commissioners took the initiative to be understanding of the issues while others paid little attention to the diverse needs of minority groups in the CJS.

“I think if, for example, 15-20% of this city is BAME, then something more needs to be done than just having a couple of sections on a spec to say just make sure you have a service that does this or touches upon that. It’s not enough.”

Organisation D

This raises the question of how to ensure that organisations being commissioned have the skills or reach to be able to work with minority groups such as people from BAME communities, women offenders, people with learning disabilities, or even young people.

A number of the organisations we interviewed were interested in how commissioners could become more proactive in assessing the track record and capability of organisations to



## > Bidders should have to submit evidence on how they have delivered services to diverse client groups, rather than just on policies they have. <

deliver the work they sought to commission. This could include bidders having to submit evidence on how they have delivered services to diverse client groups, rather than just on equality and diversity policies that they hold.

### Equality advantage/disadvantage in commissioning

We asked all interviewees that were from specialist equality organisations whether they felt they were treated differently in commissioning as a result, and here again the results were varied. Some felt there was no difference, one thought they were disadvantaged, and one felt that the introduction of the Equality Act had prompted commissioning of services in that organisation's area of expertise, so it had opened up opportunities for them.

Most notable was the experience of the BAME organisation interviewed, who felt that BAME organisations were treated unfairly because of a misperception about financial mismanagement:

“BAME-led organisations may be tagged with or linked with not spending funds appropriately... the BAME thing flags up in people's minds and we are treated unfairly.”

Organisation D

In addition, the interviewee felt that their organisation was viewed as a “trouble maker”, because they raised issues of race inequality and disproportionality in the CJS. They saw it as their responsibility to speak up for their service users and had attended many meetings and consultations for that purpose, but had to keep repeating the same message which rarely led to action being taken as a result.

The comment below is from a successful long-standing organisation that has several public sector contracts, but it was notable that this was the only interviewee that mentioned having been disadvantaged because of the type of organisation they were, or client group they supported (rather than just because of size or being from the voluntary sector).

“They do know of us as trouble makers. We're fighters, we're so passionate about the target group we are set up to serve, which is over-represented in mental health, over-represented in criminal justice and under-represented in drug and alcohol treatment provision. I feel that I'm always having to say that, and my colleagues have to say that constantly when they go to meetings,

and it's almost as though people are fed up of hearing it. But if we don't say it, then nothing will change. And they don't seem to see where we are coming from. So I see eyes roll, and people sigh, and it's almost like 'here they go again'. It's off-putting... I don't care, it doesn't put me off, but actually it still feels like we don't get anywhere. I start to sigh, and my eyes start to roll, because 'here I go again', and I'm still not sure it's going to come to anything.”

Organisation D

### Impact of resource constraints on equality

One organisation working with an equality group had said in the first interview in January 2013 that the needs of this group were being prioritised because of the Equality Act, and the interviewee felt that they had received funding as a result of this.

However, by the time of the second interview seven months later, the impact of cuts to public spending was being felt more strongly, and the organisation was finding it more difficult to get the needs of the group met by criminal justice agencies with reducing budgets.

“The cuts have got deeper and all of that has become more apparent. It does feel questionable as to how much cash will be put into it, but it is still definitely a live issue for them and they are definitely still thinking about it. I think the thinking really is: ‘how can we address this without having to spend any money?’”

Organisation B

The particular challenges faced by organisations working with equality groups raises a concern that organisations that work on issues that are “unpopular with commissioners and policy makers” (Discussion workshop, voluntary sector participant) can be at risk of closure because of a lack of priority given to the issue or service user group, resulting in difficulty accessing contracts or grants.

### What needs to happen

The importance of specialist services for equality groups is clear:

“One model fits all’ rehabilitation is necessarily going to exclude a whole group of people who don’t fit into the majority. There are always going to be big groups of people, by

whatever characteristics, for whom a mainstream rehabilitation service is going to be completely inappropriate. I think [good rehabilitation] is, first and foremost, about tailoring it to the needs of the individual rather than just a ‘one size fits all’ approach.”

Organisation B

Commissioners need to embed assessment of the different needs of marginalised groups into the whole commissioning process, from identifying needs through to monitoring and reviewing service delivery. We have identified good examples of this which could be shared and replicated. In addition procurement processes need to ensure they do not disadvantage organisations working with particular equality groups.

## Recommendations

- Involve service users and voluntary sector organisations in equality impact assessments for people with protected characteristics under the Equality Act, throughout the whole commissioning cycle
- Potential providers should be supported to reach high equality standards through toolkits and support from specialists
- Commissioners and procurement officers should make site visits during the tendering process to meet directly with marginalised groups of offenders to understand their needs and views. Where this is not possible, commissioners should work with local organisations to bring service users from equality groups together to input into the commissioning process.

## 5 / Maximising market diversity

**“Actually there’s no market, it’s just one [provider]. So customer choice has been really reduced.”**



A strong theme in all the interviews was the question of whether we can genuinely achieve a ‘level playing field’ between large, medium, and small organisations in the context of commissioned services. Interviewees frequently referred to ‘big nationals’ with ‘whole bidding teams’ and felt that they had an unfair advantage in the tendering process because of the resources (time and staff) that they could invest in bid-writing.

“Bigger London-based organisations... they’ve got these really very well-designed models that they can just adapt to each bid.”

Organisation G

Whilst these organisations are necessary for the voluntary sector to be able to compete and deliver services across larger geographical areas, they are sometimes seen as providing unwanted competition at a local level.

Interviewees spoke of the value of small organisations, one commenting: “it’s those small, specialist organisations – lots of them – that will actually deliver the best overall commissioning contracts, rather than one massive organisation that has no specialist knowledge in any particular area.” (Organisation B).

**> Competitive tendering favoured bid-writing skills over the quality of services, reputation, local connections and track record. <**

### Tenders favouring larger organisations

It was generally believed that procurement practices currently disadvantage small organisations. Competitive tendering favoured bid-writing skills over the quality of services, reputation, local connections and track record. The following comment was made by an organisation with an income of over £1million:

“It’s currently favouring the bigger boys. Whatever they tell me, it’s very price driven. We know that we cannot compete [...] if it comes down to price alone. I can’t reduce my central cost-contributions; they’re fairly low, I cannot say it’s a strategic decision for us to go and tender for that contract and make no money for a year, I can’t afford to do it.”

Organisation H

In some cases organisations expressed a fear about the possibility that larger organisations could undercut them on a price basis, meaning that they would become a less economically viable provider to, for example, a local authority, health commissioner, or probation provider. It was not always the case that the organisations we interviewed had concrete examples where this had

> Some said that the market was not being developed at all, and others felt that it was being developed "in the wrong way". <

happened, but it was common to see this as a real threat to business amongst smaller organisations.

"If there was somebody nameless out there, a larger organisation that decided it was worth undercutting the price in order to gain a service and they can afford to do that because they have a large organisation behind them, then we wouldn't stand a chance."

Organisation C

Commissioning on social value and value for money, rather than lowest price or unit cost would help to address this issue.

Market development is key to addressing the diversity of providers and enabling local voluntary sector organisations to compete alongside national charities and businesses. However, along with procurement, this stage of the commissioning cycle attracted the most negative comments from interviewees. Some said that the market was not being developed at all, and others felt it was being developed "in the wrong way" (Organisation H), being weighted towards larger national charities that had the capacity to win increasingly large contracts.

## ✓ Good practice: Clear procurement processes made accessible to small organisations

There were several examples of helpful steps taken by commissioners to inform small voluntary sector organisations about commissioning and procurement processes, including training or provider information days, clear specifications and information about the bidding process, clear timescales, early notification, support for smaller organisations to meet pre-qualification questionnaire standards, a clear assessment process for bids, and constructive feedback on unsuccessful bids. But perhaps the most important and simple measure is to have helpful

staff available that can answer any questions and guide organisations through the process if necessary, as one interviewee explained:

"There's no end of assistance, if you feel that you're struggling with the process, there are people you can talk to. I think they accept that it's very daunting for small organisations, and they're very helpful and understanding about that."

Organisation C

## Vulnerability to closure

Many organisations commented that the way in which commissioning favoured larger contracts that cover large areas, and focus on the aggregation of services, was having a detrimental impact upon sustainability. We have seen that small and medium sized voluntary sector organisations are facing a very real risk of closure.

The State of the Sector survey found that medium sized organisations (11-50 staff) appeared to have

been worst hit by the economic downturn, with these organisations experiencing a sharp drop in income, while smaller organisations (less than 10 staff) had a small increase in turnover, and larger organisations (50+ staff) reported a 15% increase in turnover over three years. Amongst our interviewees for this project, it was the smaller organisations that seemed to face the greatest volatility and uncertainty over their futures, with one facing a large drop in income (85%) and another reporting an increase between

> Many of the commissioners we have worked with don't always see the 'long game' as an option, as they have targets for the short term. This allows us to survive, but not thrive. <

## Example: Smaller contracts combined into one

One interviewee spoke about a recent local authority tender which had resulted from twelve existing contracts being combined into one, and awarded to a single provider. The combined contract had a value of £6million, requiring organisations to have an annual income of £18 million to pass the financial threshold in the pre-qualification stage. This put the contract beyond the reach of local providers.

“We’ve gone from eight providers to one. So actually there is no market, it’s just one. So customer choice has been really reduced.”

Organisation I

2012-13 and 2013-14 but expecting a significant drop next financial year (the remaining one had steady or slightly increased income). The other organisation with a significant drop in income of 50% was the largest organisation, but the interviewee felt that the organisation was stable. <sup>55</sup> See Graph 1 <sup>17</sup>.

This raises the question of what commissioners can do to support the long term sustainability of the voluntary sector, both to preserve good practice where it exists, and to ensure a diverse market that can deliver services to people in the CJS. A number of the interviewees commented on this:

“It doesn't feel as though the local commissioners see it from where we are in terms of 'that could be the end of any of us small providers' – it's very possible... I totally understand EU laws and the regulations around contracting, but it just feels as though there's something missing in terms of how they support smaller voluntary sector organisations.”

Organisation D

“We have skills and knowledge to bid for contracts, but I'm very aware that some smaller-scale organisations that I respect who are really delivering some very good quality services will not have this knowledge and skills and will be left behind. [...] Small-scale services will not be competitive in the market and I really fear for those organisations.”

Organisation G

Another interviewee commented that commissioning needs to focus on the 'long game' to ensure the sustainability of services:

“If all commissioners fully understood that all 'change' is a process and not an 'event', and that funding streams need to build sustainable approaches, as I know many do, then they could assist organisations to build sustainable income as part of their funding. Commissioners would see better practice and more research and evaluations for the next generation to learn from and improve on even further. Many of the commissioners we have worked with don't always see the 'long game' as an option, as they have targets that we need to help them meet for the short term. This allows us to survive, but not thrive.”

Organisation F

## Challenges faced by commissioners

Commissioners in many settings are having to cope with reduced staff teams and resources, trying to balance often competing drivers. The result of this is that sometimes resources are cut from developing market diversity and facilitating involvement of small organisations. One commissioner described this tricky balancing act, saying:

> Whilst short term savings can be made, the long term effect is less dynamic local services, and less market diversity with fewer suppliers to choose between. <

“There’s the mindset and textbook of commissioning, telling you to get best value from your resources, but then when you get to the specific commissioning, you’ve got some competing drivers: best value, the economic driver of getting the unit cost down; engaging the voluntary sector, the smaller the better; You think to yourself ‘I’m on the best value horse today’; ‘I’m on the outcomes horse today’; ‘I’m on the we need a small provider horse today’.”

Discussion workshop, public sector participant

The consequences of not developing the market can themselves be costly, so what feels like a choice between value for money and small providers is often just a choice between short term or long term costs and savings.

Another commissioner described the learning process in a European Social Fund contract which had initially resulted in the closure of some sub-contracted organisations:

“I saw a number of small providers go to the wall because of the payment mechanism being harsh and punitive. We’re on our third set of sub-contracted

providers for the programme. There has been a shift in the payment schedule becoming more flexible.”

Discussion workshop, public sector participant

### What needs to happen

There is a perception that commissioners do not fully understand the impact of aggregating contracts, or the increasing size of contracting opportunities, on the diversity of the local market. The driver to cut costs and reductions in commissioning staffing levels can both contribute to the challenges faced by commissioners in engaging with a wide range of small organisations. Whilst short term savings can be made in this way, the long term effect is less dynamic local services, and less market diversity with fewer suppliers to choose between. There are often also higher costs and reduced efficiencies if, for example, a contract has to be re-tendered because there are not enough bidders. Taking the time to engage with the market at an early stage can avoid this.

There was a strong message from interviewees that increasing contract size is a significant and sometimes insurmountable barrier to their participation in the delivery of local services. Commissioners need to carefully consider the impact of contract size on market diversity, and wherever possible break large contracts into smaller lots.

The issue of competition between small and large organisations is a well-known and complex problem, but there are other steps that can be taken to maximise market diversity and enable small specialist organisations to flourish. Track record and local reputation with service users should be taken into account in tenders. Support should be provided for smaller providers with less bid-writing capacity or experience, and we have seen lots of examples of good practice on this. These include: the early notification of intention to tender, allowing bidders to prepare; the provision of clear, concise, jargon-free information; and giving contact details for commissioners.

## Recommendation

- Commissioners need to carefully consider the impact of contract size on market diversity, and wherever possible break large contracts into smaller lots. If the commissioner is considering combining several existing contracts, an impact assessment should be carried out to assess the effect on market diversity.

## 6 / Facilitating collaboration

> All but one of the interviewees (the smallest) had experience of bidding or delivering in formal partnerships. <

“It’s like being part of a poker game, it’s really very unpleasant now.”



For several years there have been strong drivers encouraging voluntary sector organisations to collaborate, whilst competitive tendering of services has increased. It is well acknowledged that service providers need to collaborate more to ensure the best outcome for service users. Services that operate separately in silos can result in vulnerable people falling through the gaps, as discussed in Section 3. [23](#)

Voluntary sector organisations have been encouraged to form partnerships to bid for contracts that are increasing in size. Interviewees were asked about their experience of partnerships and of subcontracting, and their responses explored issues of competition and relationships between organisations. This highlighted the complexities of partnership development and collaboration.

### Formal and informal partnerships

“You can’t [form a consortium] on the back of a fag packet.”

Organisation I

All but one of the interviewees (the smallest) had experience of bidding or delivering in formal partnerships or consortia, although the depth of experience varied from being a member of a large partnership that had bid unsuccessfully

to being the lead provider for several contracts. Half had experience of negotiating with or being subcontracted to private sector organisations. Similarly, Clinks’ State of the Sector surveys have found a high level of collaboration and partnership working undertaken by responding organisations, and increasing opportunities for partnership working were cited by some as a positive benefit of the economic downturn.

Most interviewees saw value in partnership working, although often commented that it is time-consuming and hard work. One organisation was considering whether to “bother with consortia again because it takes so much time and we’re better off pitching for stuff ourselves” (Organisation I). Another explained that they had established a consortium as a way to address issues of competition between organisations: “In a sense, we’re natural competitors for those types of contracts but we worked together and formed a consortium, won that money and are delivering a service in partnership together” (Organisation G).

> Interviewees particularly valued meetings that brought together providers in a specific setting or area, such as the prison. <

## ✓ Good practice: More than the sum

There was high praise given for this initiative from the NOMS co-financing organisation, which provided capacity building grants and technical assistance to establish consortia of criminal justice service providers. <sup>56</sup>

The technical assistance was particularly valued by the interviewees. It involved several days' consultancy support provided by specialist organisations to each consortium on different topics including governance, finance and structures.

"It's amazing, if you got through the first selection they put shed loads of resources into working with consortia about dealing with the stuff where you're going to fall out."

Organisation I

## Competition

Interviewees described how competitive tendering was affecting relationships and communication between voluntary sector organisations locally. There were several examples of relationships between organisations changing when tenders came out. This caused previously high levels of trust and communication to disappear once tendering began.

"The horrible thing about the process is that local organisations that once worked well together are now playing cards close to their chest and communications have stopped. It's like being part of a poker game, it's really very unpleasant now."

Organisation D

Similarly, the State of the Sector survey also reported that the impact of funding cuts can make it more difficult to partner with each other as "competition prevails over partnership". <sup>57</sup>

One interviewee felt that the commissioning model needed to be changed to prevent this happening, and that a 'co-production' approach that brought local organisations together to design the service collaboratively might help avoid this.

## ✓ Good practice: Prison partnership meetings

Interviewees particularly valued meetings that brought together providers in a specific setting or area, such as the prison. They enabled providers to meet each other to facilitate collaboration and referrals between organisations, as well as enabling all the organisations to develop a stronger relationship with their public sector colleagues.

An example was given of a particularly useful prison partnership meeting, with the interviewee saying it was "excellent – really, really useful" (Organisation A). The meeting was attended by the Governor, indicating the high level of priority that partnership with the voluntary sector was given within the prison.

With many prisons having previously committed to voluntary sector engagement through local co-ordinator posts, it is positive to see practice such as this being maintained and led by senior management in the prison establishment.



> It is clear that if greater collaboration and partnership is desired, it needs an investment of time and specialist support to enable it to happen. <

## What needs to happen

The conflict between competition and collaboration is a difficult one to resolve, and interviewees struggled to come up with solutions. It is clear that if greater collaboration and partnership is desired, it needs an investment of time and specialist support to enable it to happen. The time-consuming nature of partnerships was referred to again and again, so it is important that voluntary sector organisations recognise this before entering into partnerships.

It may not matter if two different IT consultancy providers fail to communicate and share learning because they are competing for a tender, but if the same happens with two essential local offender service providers, the consequences can be much more serious. Commissioners and procurement teams need to carefully consider the effects of competitive tendering processes on local relationships, referral pathways and sharing of good practice. Furthermore, it is also important that commissioners understand and support collaboration when making it a requirement in tender specifications.

## Recommendation

- Commissioners should assess the potential impact of competitive tendering on the relationships between existing service providers when deciding whether a service needs to be put out to tender.
- Voluntary sector organisations that wish to enter into partnerships should be allowed time and resources to establish relationships, shared goals and agreements.
- Commissioners that wish to facilitate collaboration should provide capacity building grants to support the establishment of effective partnership models, and notify potential bidders of intention to tender as early as possible to allow time for partnerships to be developed.

## 7 / Encouraging subcontracting

“What was good recently was the [Troubled Families] contract we were awarded, it says in there there’s an expectation that we subcontract from voluntary sector organisations.”



> **Many interviewees felt that subcontracting only happened when it was required by commissioning organisations.** <

Increasing contract size is not inevitable, but when contracts are large, it is essential that subcontracting is encouraged, to ensure a diverse market of local providers and specialist services that are tailored to meet the varied needs of offenders. We asked interviewees about subcontracting, and many had considerable experience and expertise.

Four out of the nine organisations interviewed had experience of being a subcontractor, and two had been the prime provider subcontracting to others. Experience was mixed, with positive, neutral and negative perspectives. For most of those involved as a subcontractor it was seen as absolutely necessary, and the only way to engage in the delivery of contracts that would otherwise have been too large to lead on alone.

**Making sure that subcontracting happens**

Many interviewees felt that subcontracting only happened when it was required or strongly encouraged by commissioning organisations.

“What was good recently was the [Troubled Families] contract we were awarded, it says in there there’s an expectation that we subcontract from voluntary sector organisations. Part of

the monitoring will be: ‘OK, have we got a voluntary sector organisation you have commissioned?’”

Organisation I

Other practical steps can be taken to encourage and facilitate subcontracting. Hosting provider days, gathering information on the providers that currently work in an area, and sharing contact details of potential bidders were all described as particularly useful.

**Making subcontracting effective**

There was a sense that subcontracting was an effective way to engage many smaller organisations in the commissioning process, but also that much could be done to improve how it happens. The experiences of the organisations we interviewed were mixed, some describing the experience as positive and others describing difficult relationships with prime bidders or contractors.

Another organisation described themselves as being “at the mercy of” bigger providers (Organisation E). They had recently been approached by two organisations wishing to include them in their bids at very short notice, meaning that there was no time to negotiate what services would be delivered or the cost. They were left with a choice between accepting the terms that the provider was offering,

✓ **Good practice: Provider days**

Provider days – events organised by the commissioner for potential bidders – were frequently cited as good practice. They are useful for explaining the procurement process and facilitating subcontracting, particularly when contact details are shared.

“What I really liked was that all the email addresses of those in attendance or interested are made available to everyone. So the larger organisations who may be interested in tendering can contact the smaller agencies, and you can have those conversations early, rather than just going with the organisations you know, and also leaving it to a tight timescale. That’s been really, really useful.”

Organisation D

## Example: Experience of subcontracting to large lead providers

Some organisations had particularly negative experiences with large national prime providers. Two interviewees described different organisations (one charity and one private sector) as “aggressive”. For example:

“We had an experience with a private sector company which was far more aggressive than the others that approached us. It was absolutely horrendous. Initially they started fine, but as time went on, the way they were partnering with us wasn’t partnership at all. They were very clear what they wanted and they only wanted certain things from us. The service level agreement was about 200 pages long, and they said that we needed a legal team to read it.

“We wanted to pull out, after I’d done a bit of research on them, and then they got quite full-on and aggressive. They desperately wanted us to be a part of it, and the pressure was full on. I’d get emails to say, ‘do a costing for this’. The interventions were very short and were very ‘you will get so many in and you will work with them for that costing’. I felt that they were dealing with us as a company the same size as they are, and it was not pleasant at all. How they were dealing with us as a voluntary sector organisation was just awful, we were definitely second class, we were definitely convenient to tick their boxes.”

Organisation D

or walking away, without having the time to discuss it in detail. The interviewee felt that “proper partnership shouldn’t be like that” (Organisation E). Some organisations had also been told that they needed to sign exclusivity clauses, requiring them to contract only with that particular lead contractor.

Even when experience of the lead provider was much more positive, it was felt that the relationship between subcontractors and the commissioning organisation needed to be strengthened, with one interviewee commenting:

“We have no authority, power or voice in that [procurement] process legally. [...] Recently we lost a contract and we have no rights to any feedback because we’d had to go via the lead contractor”

Organisation I

There were other problems raised by another interviewee when the lead provider on a contract had gone into administration. The contract was taken over by a new provider which was reluctant to honour the subcontracting agreement. The interviewee (who was subcontracted) approached the commissioner but was told they would have to resolve the situation with the new provider. In the end the subcontract was maintained but at half the

value agreed with the original lead provider, and then the interviewee found it very difficult to get the lead contractor to agree the subcontract in writing.

### What needs to happen

The prime/subcontractor model is fast becoming the dominant model of commissioning public services. If it is to be effective, more thought needs to be given to the relationship between the subcontracted organisation and the commissioner.

Contact between the subcontractors and the commissioner is essential not only for market stewardship, but also for ongoing needs assessment and informing future service design. Commissioning bodies that are not familiar with the 'on the ground' reality of the service delivery that they procure will risk failing to identify both local success and problems with services or within subcontracting relationships. Furthermore, a distance between the commissioner and locally subcontracted providers might mean they don't find out about the emerging needs of service users.

Where subcontracting is desired, our interviewees felt it needs to be required or strongly encouraged by the commissioner in order to make sure that it happens. Some called for commissioners to set a minimum percentage of contract value that must be subcontracted to voluntary sector organisations.

## Recommendations

- Commissioners need to encourage subcontracting, otherwise it will not happen. Where subcontracting is desired by commissioners, it should be made clear that bids will be selected and performance managed on the basis of a good supply chain, and how that will be measured.
- Commissioners should maintain dialogue with subcontractors to ensure a direct line of communication with smaller providers. This could be done through provider forums that include subcontractors.
- Commissioners should support the development of formal and informal partnerships by providing technical support and capacity building grants.
- Commissioners should continue to emphasise that exclusivity clauses are not acceptable, and voluntary sector organisations wishing to subcontract should develop partnerships with as many prime providers as they choose to.

## 8 / Enabling innovation and measuring the right results

“Contracts are linear and therefore it's difficult to put innovation in there because innovations involve risk and contracts are completely risk averse.”



## > Interviewees expressed concern that excessive focus on the measurement of outcomes can detract from delivering the best and most personalised service. <

One of the most challenging aspects of commissioning is defining the outcomes that are to be achieved and identifying the best mechanism for measuring them. By its very nature desistance from crime is a gradual and dynamic process that involves relapses and is similar to (and often happening in tandem with) recovery from childhood abuse, mental ill health and addiction. This makes it particularly difficult to attribute cause and effect, and is why commissioners of services for offenders often use intermediate outcomes such as housing or employment as proxies for progress towards desistance.

There is also a tension between commissioning tried and tested approaches to achieving known outcomes and enabling innovation and development of new methods. Interviewees expressed concern that excessive focus on the definition and measurement of outcomes can detract from delivering the best and most personalised service. Payment by results (PbR) is one method of incentivising providers to achieve desired outcomes without necessarily specifying the method of delivery.

### Innovation

We asked interviewees about what opportunities there are for innovative ways of working within the commissioning landscape, and interviews explored the tension between innovation, risk and evidence.

Some very good examples were highlighted where contracts had broad outcomes and a lot of flexibility on how to deliver the service. However, it was generally felt that grants allow for more innovation than contracts, and were better suited to developing new services, or different approaches.

“We’ve just got £15,000 to do emotional wellbeing work with some employers and that’s total innovation. But if it had been a £1 million contract it would never have happened [...] Contracts are linear and therefore it’s difficult to put linear innovation in there because innovations involve risk, and contracts are completely risk averse.”

Organisation I

Another interviewee said that they had found commissioners do not always understand the difference between outputs (the products and services you deliver as part of your work) and outcomes (the changes, benefits and learning that happen as a result of your work). This often meant that contracts were too restrictive, over-specifying the delivery mechanism rather than focusing on the ultimate outcomes that the commissioner wants to achieve. For example, we

found contracts that specified the number of hours of engagement a client should receive, rather than what happened in the hours when people met.

Whilst the use of grants by agencies such as NOMS was positively received in that they allowed organisations to innovate in new service areas, there was concern that NOMS’ Commissioning Intentions <sup>58</sup> put too much emphasis on procuring services that are already ‘tried and tested’ and backed up by evidence, and did not allow enough opportunity for providers to innovate in new areas as part of the commissioning process.

There are no quick solutions; but good, flexible commissioning from voluntary sector organisations can be a good way to meet the complexity of client need. To be effective, contracting needs to be flexible enough to allow for services tailored to different service users’ needs.

“Once you become very contractual, you take your eye off the person. That’s the way it is but that’s something to do about the skill of the contract writing. If the commissioners are very contractual with contractors then we won’t have decent rehabilitation. It’s having the

flexibility in that contract that says right okay, you've done that, that and that which is your quantitative stuff, but now we need to look at the qualitative stuff."

Organisation I

Another described the frustration that "everything's measurement-led", focusing on short term outcomes over a matter of weeks, when the clients have problems often resulting from years of abuse and neglect (Organisation F). In addition, commissioners need to be willing to allow providers to take risks with clients facing complex inter-related problems, rather than rigidly applying criteria that may exclude them from services.

"Good commissioning/contract management would be about working with providers to work with high risk clients, who many organisations still use loopholes to exclude (arson, sex offenders, etc). When you take a risk with somebody, you seldom get recognition for it, unless it goes wrong, and then you will be slaughtered... there has to be a different approach to risk taking from the organisation, client and commissioner perspective."

Organisation H

## Payment by results (PbR)

PbR is sometimes used as a way to allow and incentivise innovation by specifying only the results to be achieved and allowing the provider to deliver whatever service they judge best to reach them. In practice, the PbR element is usually only a very small proportion of the payment for the service. Most organisations we interviewed did not have experience of an explicit PbR contract, but when asked about it, some felt that their contracts were actually PbR even if they were not officially referred to as such. For example one organisation had an adult learning contract which was paid 75% as monthly payments, and 25% at the end of the financial year based on qualifications achieved. For this organisation, the £50,000 'reconciliation payment' (the payment made subject to completion of targets) was "a significant amount for a small organisation like ours, cashflow is vital" (Organisation H).

Other contracts were paid quarterly in arrears and it was understood (either written into the contract or just assumed by both parties) that if targets were not being met, the contract would be pulled. One contract had a clause stating that the commissioner could end the contract at a month's notice if the Key Performance Indicators (KPI) were not being met, and these included that 50% of the service users did not re-offend within twelve months, which was measured by the local authority through 'St Andrews Reporting' (Organisation G). <sup>59</sup>

One organisation discussed a trend in the voluntary sector to employ staff on zero-hours contracts, prompted by PbR contracting:

"Several organisations that have been piloting payment by results use zero-hours contracts, where staff are employed on a sessional basis, providing support work. I think we're seeing changes. We might not be in a position necessarily to have paid staff, as we know them, but sessional-based workers coming in to support the service users. Maybe a manager and one or two people employed, but mostly, I think, we'll be looking more towards models of sessional working."

Organisation G

An example was given of a European Union PbR contract on worklessness affecting another organisation: they employed staff but referrals depended on the local authority identifying service users, which took a long time. Also service users could be pulled off the programme into the Work Programme at any time and funding would be lost. So the organisation pulled out of the contract, and no other organisation has been contracted to replace them.

> **The Social Value Act has potential to address some of the problems with defining and measuring progress towards desistance.** <

## **Social value – measuring the right results**

The Social Value Act, which came into force in 2013, introduced a new requirement on public sector agencies, when commissioning a public service, to consider how the service they are procuring could bring added economic, environmental and social benefits. <sup>60</sup> This means that commissioners need to select providers based on the full impact of their activities, rather than purely whether their services achieve specific defined outcomes. The Act has potential to address some of the problems with defining and measuring progress towards desistance from crime amongst people with multiple and complex problems. One of the interviewees emphasised how an ‘evidence based’ approach is not effective for people with long term alcohol addiction, because quick results (even over several years) are unlikely to be achieved.

“‘Evidence based practice’, and contracts, don’t work with the most needy people. For example, huge numbers of people die each year through alcohol related problems, and there’s no evidence that says any intervention works with them... it would be really helpful to try seeing it as a long term [health] condition, and try to manage it in a long term way – you try to manage the

long term condition, not the drinking. We think that would benefit offenders as well.”

Organisation I

Both commissioners and voluntary sector organisations emphasised the importance of the Social Value Act at the discussion workshop. It is still early days in its implementation, but the Act has particular potential to maximise the opportunities for the reintegration of offenders into the community by contracting with organisations that provide volunteering and employment opportunities for ex-offenders.

## **What needs to happen**

These examples illustrate how challenging it is for commissioners to get the balance right in risk-taking and encouraging innovation, whilst also funding ‘tried and tested’ services that are known to be effective. Grants play a very important role in enabling innovative new services, and if used well, contracts can also enable innovation by being outcomes-based and flexible on the detail of how something is delivered. Problems will occur when contracts are so prescriptive that there is no room to try new ideas, or respond to new needs that emerge over the course of a contract.

Commissioners need to give careful consideration on how outcomes are measured, using intermediate

outcomes to monitor progress towards the intended end result. For example, reducing re-offending itself cannot be measured until two years into the contract, so it is essential to identify the measurable intermediate outcomes that show that providers are progressing towards this result (such as securing accommodation, improving relationships, training or employment, etc).

## **Recommendations**

- Grants should be used to fund innovative, ‘untested’ services, to allow for continuous development of the evidence base.
- Contracted organisations should be assessed on qualitative as well as quantitative measures, and intermediate outcomes as well as the final desired result, to address the complexity of people’s lives.
- Commissioners should integrate social value into commissioning decisions, so that the full value of tenders and services is assessed, including issues such as the reintegration of ex-offenders into the community through their involvement as volunteers and employees of local organisations, and tackling the stigma of criminal convictions.

## 9 / Using grants as well as contracts

> Grants are an effective way of investing in organisations that carry out activity which achieves social outcomes that are desired by commissioners. <

**“Our services would not be possible [without grant funded projects], as the preparatory work with some clients to be ready to meet the contract requirements can take four years.”**



Although commissioning is usually associated with contracts, grants can often be an effective way of purchasing services, including new un-tested services. At the same time they are also an effective way of investing in organisations

that carry out activity which achieves social outcomes that are desired by commissioners, but which might be difficult to measure or define in a contract. Grants were seen by interviewees to be particularly valuable in enabling innovation.

### Example: Grants subsidising contract delivery

One organisation discussed the value of grants in supporting its contracted work, because grant income enabled them to work with their service users for longer, whereas the contracts tended to fund short term interventions, which were not considered to be effective for meeting the complex needs of their client group:

“As we are a transition project, the contracts ending is problematic. Our work exists anyway and we have the funding for that at present, so the contracts insert into the process of the project work, with us achieving their requirements as part of our overall work. It would not be possible otherwise, as the preparatory work with some clients

to be ready to meet the contract requirements can take four years.”

Organisation F

This example illustrates the ‘added value’ of procuring services from voluntary sector organisations that already have considerable assets. This is concerning, because the commissioner may be unaware that the full cost of the contract is being met through long term grant funding, without which the contract outcomes could not be fully achieved. This approach may prove to be unsustainable if the grant funding were to cease. It is also likely that the commissioner will fail to recognise the real cost of the service they are commissioning which could drive down the perceived market value of similar interventions in the future.



## > Some interviewees had received significant grant support from local authorities in the early years of their organisations' development. <

Many of the interviewees received public sector grants as well as contracts, and all of them had previously received grants from trusts or the Lottery. Interestingly interviewees sometimes found it difficult to determine whether their current funding was a grant or a contract, and there can be blurred boundaries between the two. <sup>61</sup> Some commented that grants were getting harder to secure, saying that "they've dried up considerably: a) There's less money for them to give out, and b) it's a lot more competitive," (Organisation C). This is supported by the State of the Sector Survey, which found that organisations reported a 6% drop in grant funding over the past year (and 9% over three years).

Some interviewees had received significant grant support from local authorities in the early years of their organisations' development, without which they would be unable to bid for the contracted services they now deliver. This indicates the need for commissioners to ensure that where necessary they are investing in organisations now so that they will be able to deliver services in the future.

We also found lots of examples of good practice in the use of grants, including from one commissioner who had started offering grants that supported organisations that had missed out on contracts.

"We're doing that, and some of the people bidding are ones that

have lost other contracts. Just by keeping those organisations going, they add value in other areas."

Discussion workshop, public sector participant

### What needs to happen

Commissioners should always consider both grants and contracts in the procurement of services, rather than using contracts as a default position.

### ✓ Good practice: Grant to identify need results in procurement of new service

One organisation had been awarded a grant from NOMS to research the needs of a specific group of offenders. The resulting consultation and research has led to the local authority recognising the need and commissioning a specialist accommodation service which is now being delivered by the organisation.

"The outcome of that, following on from the initial consultation and research process is that the local authority have been involved in identifying property for gender-specific accommodation for women, and that has just happened now. [...] So, the local authority has, first of all, had to be involved in that process and then took a lead in it, and now has passed that back

to us to deliver the service. So, they've been responsive once the information has been presented to them."

Organisation G

This example illustrates the importance of grant investment to help develop innovation, particularly on specialist services and particular groups of offenders, and the value of the voluntary sector in identifying new needs. Furthermore it indicates that grant investment by commissioners can lead to greater buy-in from other local commissioners who do not traditionally fund criminal justice related work.

> A grant programme may be more cost effective than contracting. <

It is encouraging that several police and crime commissioner offices are taking this approach. A grant programme may be more cost effective than contracting. Grants should be used for innovative, untested, or additional services, and for capacity building voluntary sector organisations to enable them to compete for services in the future.

## Recommendation

- Commissioners should always consider both grants and contracts in the procurement of services, rather than using contracts as a default position. Grants should be used to support innovation and invest in the capacity of organisations to deliver services in the future.

## 10 / Re-tendering and decommissioning effectively

“It was not an easy period and we appealed the decision, but the local authority gave clear grounds as to why they’d made the decision.”



Decommissioning is not only necessary but often indicative of success, and the ultimate long term aim of many services is to become redundant because underlying problems have been resolved or prevented. But the process of decommissioning can nevertheless be difficult, and we wanted to find out about voluntary sector organisations' experiences of re-tendering and decommissioning of services they were already delivering. Whilst some questions were raised about whether it was always necessary and cost-effective to re-tender an effective and successful service, there was also a strong understanding of the need to decommission services, be it for cost-saving reasons or because the need had changed or the service was not meeting that need.

### Good and poor practice in decommissioning

Several organisations had experience of their services being decommissioned, which is a particularly difficult time, and there were examples of good and poor practice. One organisation had appealed the decision and although the process was difficult they felt it was handled well by the commissioning organisation and decisions were transparent.

“It was not an easy period and we appealed the decision, but the local authority gave clear grounds as to why they’d made the decision.”

Organisation G

> The contract was £300,000, but the same procurement process was used as for multi-million pound contracts. <

## Example: Disproportionate procurement process

One interviewee had recently been successful in a tender for the recommissioning of a service they were already delivering. The contract was £300,000 over three years, but the same procurement process was used as for multi-million pound contracts, which was felt to be disproportionate and costly for the organisation.

“We had been running the project for nine years, so really I think we proved that we were capable of doing that. I understand in competitive tendering you have to prove yourself along with everyone else, but the level of the document was, for me, a bit over the top really. It took a very long time to put together. The thing itself was about 90 pages long and then that was just literally the basic questions. On top of that you had to provide a lot more information [...]

“There is no sliding scale. [...] We might as well have been ICI applying for this tender, the amount of policy and procedures. I’m not talking about safeguarding or anything like that, just a general business policy that we’re expected to have, the health and safety stuff.

“Given the size of our organisation, it really felt a little bit out of proportion for who we are. But that said, we were able to tick all their boxes and provide all that information, but at some cost to us. [...] We had sufficient [insurance] cover, something like £1,000,000. But the required level was £5,000,000 and that meant that we had to up our insurance policy to cover that, in order to bid. We had to undertake a health and safety assessment

from an outside organisation and get a certificate for that, which cost us money.

“There were quite a few things like that that if we weren’t in the relatively secure position that we’re in, we wouldn’t have been able to even attempt to apply for this tender. [...] I don’t think it would have been a level playing field for maybe another similar sized organisation that wouldn’t quite have all that in place, or the reserves that we’ve managed to build up over the years, which has carried us over this past five year period where things have been very lean.”

Organisation C)

> The voluntary sector has got to understand that the pressure is on us as commissioners: people lose their jobs over commissioning decisions. <

There was one particularly negative experience of decommissioning when the service was ended three months early giving less than a month's notice before closure. The interviewee felt that this should have been communicated by phone rather than by letter because it came as "a nasty shock", and there was a feeling that the commissioner was not putting the needs of service users first because the short notice prevented an effective handover to the new provider (Organisation H).

However, they reported that the recommissioning of another service had been carried out very well with a good handover period and staff transferred by TUPE to the new provider.

### Is recommissioning always necessary?

There were several examples of recommissioning of services that were already being delivered by the interviewees, as in the example above. Whilst it was recognised that competition can sometimes encourage useful review and innovation, it was also questioned whether wholesale recommissioning is always the most effective approach.

"You have a service running where there's been absolutely no issues with it, you've been providing the service that's been required of you, you've ticked every box,

you've exceeded expectation in some areas, there's absolutely no question that there's any problem with the service, and yet, it's going out to tender. Because they have to be transparent [...] I understand that on one level and I also think that it's a very good way of reviewing all your services. But I can't help feeling that once you've reviewed the service and found it to be excellent, why do we have to go through all this?"

Organisation C

### Risk averse procurement and EU rules

There was a sense that sometimes the bureaucracy associated with procurement, particularly the use of standardised detailed processes for all sizes of contract, was due to European Union procurement rules or the fear of falling foul of them.

"I think, for me, that says something else that just doesn't seem intuitively right at the moment, which is every commissioner in every commissioning department saying 'It's European rules.' It's a bit like saying 'Health and Safety' So nobody does anything because they

say 'it's European rules'. So it feels like no local commissioners have any autonomy because they're saying 'we have to do it like this because that's European Rules.' So currently another part of our services are going to tender. One of the commissioners I've got great respect for said that when they went for the meeting where it was decided, he said 'the legal department were in there and all the procurement experts.' They said 'we'd like to do it that way but this is what European Procurement Rules says.'"

Organisation I

At the discussion workshop, commissioners stressed that voluntary sector organisations often do not understand the legal constraints that commissioning operates within. One public sector participant commented:

"The voluntary sector has got to understand that the pressure is on us as commissioners: people lose their jobs over commissioning decisions. I brought a voluntary organisation to sit with me and see all the bureaucratic

> Consider using contracts with the option of extension, to avoid the need to re-tender if services are operating successfully after review. <

systems I need to go through, like Treasury checks, at every stage.”

Discussion workshop, public sector participant

There was a lot of discussion about the problems of excessive bureaucracy and how to avoid it at the workshop, and the importance of good links between commissioners and procurement teams was stressed. One participant commented: “things often fall down between good intentions from commissioners and then the process of procurement.” Another said: “when we get to that stage we suddenly find a series of ‘don’ts’ and things we can’t do; there’s an upskilling of procurement needed on market development.”

### What needs to happen

Procurement by competitive tender involves cost to the commissioning agency, current providers, successful and unsuccessful bidders. Commissioning agencies should weigh up the costs and benefits and ensure that the best option is taken in the interests of the service users and the taxpayer. Decommissioning an existing service will always have some fall-out and impact on both providers and their service users. However, it makes a big difference to carry it out with a clear process, good communication with providers and transparent decisions.

Commissioners could consider using contracts with the option of extension, to avoid the need to re-tender if services are operating successfully after review. This also encourages the provider to plan and invest for long term services, rather than delivering short term interventions that are expected to finish after two years.

We heard of several examples of commissioning processes becoming stuck at procurement stage, and to avoid this it is vital that procurement officers are involved early on in the commissioning process so that any regulatory or transparency issues can be identified and addressed.

Commissioning is a multi-disciplinary process involving a team of commissioners and procurement officers, and the process works much more smoothly for commissioning agencies and providers alike when procurement is involved from the outset.

## Recommendations

- The complexity of the procurement process should be proportionate to the scale of the service being commissioned.
- Where possible procurement officers need to be less risk averse in their interpretation of European Union procurement regulations.
- Commissioning teams should ensure that decommissioning processes are carried out with good advanced notice and that bidders, providers, service users and communities are provided with clear information about tendering and decommissioning processes and how decisions are made.

## Conclusion: Good commissioning for rehabilitation and desistance



**V**oluntary sector organisations are more than providers of services; they are also manifestations of community involvement in the rehabilitation of offenders and mechanisms for their reintegration in society. Many also employ ex-offenders and ex-service users, so they represent a way for ex-offenders to 'give something back' as well as developing their careers. This is why their involvement in all stages of commissioning of services for offenders is so valuable – from advocating for emerging needs, through to delivering services, and monitoring the quality of services from other providers.

These interviews have provided a rich tapestry of the voluntary sector's experiences of commissioning. Throughout the course of the project we were impressed by the resilience and positive attitude of the interviewees in the face of a great deal of uncertainty and change. Their commitment to their service users was evident, and they demonstrated a mature understanding of the challenges faced by commissioners trying to meet service user need, operate transparently and conduct fair tendering exercises with much reduced budgets.

## What does good commissioning look like? Recommendations

Good commissioning to support rehabilitation and the desistance process involves services users and their advocates throughout the commissioning cycle. The following steps need to be taken by commissioners to engage voluntary sector organisations in all phases of the commissioning cycle:

- ✓ Provide flexible but systematic routes for all voluntary sector organisations (not just service providers) to share intelligence about emerging needs, pitch ideas and advocate for service improvements.
- ✓ Involve service users throughout the commissioning cycle, and provide commissioning and procurement teams with the opportunity to meet directly with service users.
- ✓ Commissioners from different departments and agencies should meet regularly to share what they are commissioning, collaborate on needs assessments, and develop opportunities to co-commission; and voluntary sector organisations should be proactive in proposing new and more collaborative commissioning models.
- ✓ Involve service users and voluntary sector organisations in equality impact assessments for people with protected characteristics under the Equality Act, throughout the whole commissioning cycle.
- ✓ Carefully consider the impact of contract size on market diversity, and wherever possible break large contracts into smaller lots.
- ✓ Ensure that the procurement process is proportionate to the scale of the service being commissioned.
- ✓ Integrate social value into commissioning decisions, for example by purchasing from organisations that improve reintegration of ex-offenders by tackling the stigma of criminal convictions.
- ✓ Always consider both grants and contracts in the procurement of services, rather than using contracts as a default position. Use grants to support innovation and invest in the capacity of organisations to deliver services in the future.
- ✓ Ensure all potential providers have clear information about procurement processes and reasons for decision making, give advance notice of intentions to tender, and hold 'provider days' to facilitate partnership development and inform the specification.
- ✓ Carefully consider the effects of competitive tendering processes on local relationships, referral pathways and sharing of good practice.
- ✓ Where subcontracting is desired by commissioners, it should be made clear that bids will be selected and performance managed on the basis of a good supply chain, and how that will be measured.
- ✓ Maintain dialogue with subcontractors to ensure a direct line of communication with smaller providers.
- ✓ Support the development of formal and informal partnerships by providing technical support and capacity building grants.
- ✓ Ensure that decommissioning processes are carried out with good advance notice and that bidders, providers, service users and communities are provided with clear information about re-tendering and decommissioning decisions.

# Appendix: Descriptions of the interviewees

**B**elow is a description of each interviewed organisation's activities and financial situation. It includes any significant changes over the course of the interviews, between financial years 2012-13 and 2013-14. All material is presented anonymously in this report to allow for frank discussion of what can be sensitive issues.

## Organisation A

This organisation expects an annual income of £110,000 in 2013-14, which is 2.5 times its income from the previous financial year. The organisation delivers a specialist programme in several prisons, and has two full-time equivalent staff members and five volunteers. Organisation A has limited experience of commissioning and procurement, although the interviewee felt their knowledge was increasing. The organisation has seen an increase in both grants from charitable foundations and government contracts. For its government contracted work, Organisation A charged half of the cost in 2012-13 as it was piloting a new service, and has now increased this to cover the full cost of the service. However, the organisation reports that its income is very uncertain for the coming financial year, and it has nothing yet secured beyond March 2015, and commented:

"It has been a very unstable environment in which to work."

## Organisation B

This organisation has an annual income of £300,000 to £400,000, and is a subsidiary of a multi-million pound charity. It has nine full-time equivalent staff and approximately 25 volunteers. Organisation B provides specialist services in prisons and is developing services in the community; its work is focused mainly in one region with some national reach. This organisation has no contracts, and is funded by grants from a mixture of statutory and charitable sources. One statutory grant makes up about 50% of the organisation's income. The annual income increased by 20% between 2012-13 and 2013-14, as a result of securing additional grants. However, at the time of the final interview in January 2014, Organisation B had no funding secured for the coming financial year:

"We've been in similar positions before, but not quite as stark as this one – on some of our big bids we won't know right until the last minute."

Organisation B was also looking at the possibility of its parent organisation providing interim funding to bridge the gap but this was not confirmed. They reported finding it difficult to access funding because smaller funders are put off by

the high level of income in the current financial year, whilst some larger funders have said that the group of offenders Organisation B works with are "not as needy as this other group".

## Organisation C

This organisation provides services to children and young people within one local authority area, and has an income of approximately £300,000. It has eight salaried staff, several sessional workers and 100 volunteers. Its funding is currently almost all from statutory sources, with about 60% in the form of spot purchasing, and the remainder mainly commissioned with a very small proportion of grant funding. About 5% of its funding is from spot purchasing from non-statutory organisations including academies and individual families (mainly with personal budgets). The organisation previously had funding from non-statutory sources, but has recently found charitable funding harder to secure, although it received a small grant from a local foundation in 2013-14. At the time of the first interview Organisation C was bidding for the recommissioning of a service making up a third of its income. By summer 2013 it had secured this contract so its income level remained the same.

## Organisation D

This organisation had an income of around £200,000 at the time of the first interview, made



up mainly of a contract as a subcontractor to a larger charity. The organisation had eight staff and five volunteers, and delivers specialist services to offenders in prison and the community in one local authority area. It had previously received grant and lottery funding.

By the time of the second interview, Organisation D's main contract had been recommissioned and the organisation had not been selected as a subcontractor, so it was facing the loss of the majority of its income, and TUPE and redundancy of its staff. By the end of 2013-14, Organisation D had four staff, with some of its salary cost covered through reserves.

This organisation had been trying to diversify its income through grants prior to this contract loss, but had found that there were fewer large grants available than in previous years. Whilst they had received small grants of £10-30,000, there were not enough of these, or larger grants, to sustain the organisation.

### **Organisation E**

This organisation has an income of around half a million, with 15 staff and 120 volunteers. It provides holistic specialist services to a specific client group in one local authority area. The majority of its income is from non-statutory sources, with just

under half from grants and 35-40% from other fundraising including donations from the public. Less than a fifth of its funding is from public sector sources, which is from contracts rather than grants, and 1% spot purchasing from a private sector lead contractor in the most recent financial year.

Organisation E had a reduction in income of 20% between the two financial years (2012-13 and 2013-14), and has a deficit of £50,000 in its 2013-14 budget. This loss was due to a significant reduction in donations from the public and a drop in non-government grant income, which they report is getting more competitive and harder to secure. The organisation had a small increase in income from public sector contracts.

### **Organisation F**

This organisation has an income of £450,000 and has 20 staff and 30 volunteers. It works mainly with young adults, and its work covers several different local authority areas spread over two regions. Two thirds of its income is from contracts from a range of statutory agencies, and the remaining income is from grants by charitable trusts and foundations. There had been a small reduction in income between 2012-13 and 2013-14, which was due to a shift from grants to contracts resulting in 'streamlining' and delivering services on reduced cost.

### **Organisation G**

This organisation has an income of £1.5 million, 40 staff and 80 volunteers. It provides housing and criminal justice services mainly in one local authority area, with all of its criminal justice services being commissioned by statutory agencies. It has been required to make a 30% cut in its criminal justice service funded by Supporting People. Organisation G has had no major financial changes since the time of the first interview, but has completed a merger with a smaller organisation. It is actively seeking other partnership or acquisitions of organisations that have been decommissioned in the area.

### **Organisation H**

This organisation's annual income is approximately £1million, and it has 50 full-time equivalent staff and 25 volunteers. It provides a range of housing, criminal justice and training and employment related services in a few neighbouring local authorities. Organisation H's income is made up of about 40% contracts, 10% grants from statutory sources, and the remaining half of its income from non-statutory sources (a third from grants, 15% donations and about 5% income from trading). There have been no major changes in its situation since the first interview, but the organisation is facing significant income loss next

financial year as one of its local authority funders is asking it to make cuts of 50% to its contract.

The organisation also has a trading arm which it established as a vehicle to generate profit to donate to the charity, whilst providing employment for ex-offenders. However Organisation H has found the trading arm's turnover significantly decrease from £600,000 at its peak two years ago to under £150,000 now, as its customers bring services in-house rather than outsourcing them.

## Organisation I

This organisation's income has halved between January and August 2013, from £3m to £1.5m, with a similar reduction in staffing from 100 to 50 full-time equivalents, and a slight increase in the number of volunteers to around 50. The organisation works in one local authority area, with 90% of funding from statutory sources, mainly contracts. The loss in income was due to one large contract being recommissioned and awarded to a new provider, but the organisation has diversified its funding and activities through other additional contracts since then, and reported that it has: "never been so stable".

It is in advanced discussions with a larger organisation about a merger, in which Organisation I would remain an independent charity but with

the larger organisation as its only member. This is expected to facilitate joint work and open new opportunities for both agencies, and provide infrastructure support to Organisation I.

## Further resources

The following are other Clinks resources on commissioning and procurement, for commissioners and for voluntary sector organisations, available at [www.clinks.org/support/commissioning](http://www.clinks.org/support/commissioning)

### **Strengthening Community Safety and Reducing Crime: Commissioning from Voluntary, Community and Social Enterprise providers – a guide (2013)**

This guide was produced based on discussions with a number of PCC offices, policy officials within the Ministry of Justice, Directors of Public Health, Probation Trusts, Assistant Chief Constables and Safer Future Communities network leads. It aims to assist PCCs to create local relationships with VCSE organisations and develop commissioning strategies that enable PCCs to take advantage of the wealth of experience in developing and delivering services within the Sector.

[www.clinks.org/sites/default/files/commissioningvcseguideFINAL.pdf](http://www.clinks.org/sites/default/files/commissioningvcseguideFINAL.pdf)

### **Voluntary sector experience of criminal justice contracting: a series of case studies**

Case studies to identify and promote examples of good commissioning, including procurement and subcontracting.

- Sustainability in a challenging environment
- The impact of payment by results contracts
- The transition from grants to commissioning
- Women's Wisdom Job Deal subcontract with Serco

[www.clinks.org/resources-case-studies/vcs-experiences-criminal-justice-contracting-series-case-studies-0](http://www.clinks.org/resources-case-studies/vcs-experiences-criminal-justice-contracting-series-case-studies-0)

### **Tools and resources for voluntary sector organisations about commissioning**

- Rights and complaints procedures for health and care services: a guide for the voluntary sector working with offenders (2014)  
[www.clinks.org/resources-guides-toolkits/rights-and-complaints-procedures-health-and-care-services](http://www.clinks.org/resources-guides-toolkits/rights-and-complaints-procedures-health-and-care-services)
- Subcontracting: A guide (2014) is a legal guide to subcontracting under Transforming Rehabilitation, produced with Russell-Cooke solicitors.  
[www.clinks.org/support-legal-support-and-advice/subcontracting-guide](http://www.clinks.org/support-legal-support-and-advice/subcontracting-guide)

- Signposting to commissioning resources (2013) is a handy guide providing links to commissioning guides, research, opinion and think pieces, technical guidance, and tools.  
[www.clinks.org/resources-guides-toolkits/signposting-commissioning-resources](http://www.clinks.org/resources-guides-toolkits/signposting-commissioning-resources)
- Finance for contracts readiness checker (2013) will help your organisation understand the financial competencies and management systems required to be contract ready.  
[www.clinks.org/resources-guides-toolkits/finance-contracts-readiness-checker](http://www.clinks.org/resources-guides-toolkits/finance-contracts-readiness-checker)
- Take your temperature (2013) is a tool that helps you to assess your organisation's strengths and weaknesses.  
[www.clinks.org/resources-guides-toolkits/take-your-temperature-july-2013](http://www.clinks.org/resources-guides-toolkits/take-your-temperature-july-2013)
- Presentation and accompanying notes for Clinks' and NAVCA's training course 'Commissioning and Collaboration' (2012) – an interactive training day exploring how collaboration could help you succeed in the new criminal justice commissioning environment.  
[www.clinks.org/support/commissioning#navca\\_notes](http://www.clinks.org/support/commissioning#navca_notes)

### **Competition, commissioning and the VCS (2011)**

This made a series of recommendations to the Ministry of Justice (MoJ) on improving commissioning practice to address the key issues, on which Clinks continues to lobby.  
[www.clinks.org/sites/default/files/RR3%20Competition%2C%20Commissioning%20and%20the%20VCS.pdf](http://www.clinks.org/sites/default/files/RR3%20Competition%2C%20Commissioning%20and%20the%20VCS.pdf)

### **Harnessing Voluntary and Community Sector resources to help reoffending in Gloucestershire – a framework for commissioning (2011)**

This framework provides guidance on how the resources of the Voluntary and Community Sector (VCS) can be harnessed to help reduce reoffending through improved and joined-up commissioning between the Integrated Offender Management (IOM) partners in Gloucestershire.  
[www.clinks.org/sites/default/files/Harnessing%20VCS%20resources%20-%20a%20commissioning%20framework.pdf](http://www.clinks.org/sites/default/files/Harnessing%20VCS%20resources%20-%20a%20commissioning%20framework.pdf)

### **What works in local commissioning? (2009)**

This report summarises four pieces of research commissioned by Clinks to establish how a variety of services are commissioned for those leaving prison and serving sentences in the community.  
[www.clinks.org/360-commissioning](http://www.clinks.org/360-commissioning)

# End notes

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# Glossary

This glossary has been included as an explanation of some of the technical terms in this report for those unfamiliar with commissioning.

**Commissioning:** The process by which government and other public bodies decide how to spend their money to get the best possible services for local people. It involves anticipating future needs and expectations, rather reacting to present demand.

**DAAT / Drug and Alcohol Action Team:** Multi-agency partnerships that are responsible for delivering drug and alcohol strategies at local level (usually upper tier local authority).

**Desistance:** The gradual and individual process of ceasing and refraining from offending, which often leads to the person's integration back into the community.

**Due diligence:** A formal phase of procurement involving financial checks on bidders, to meet the duty of the purchaser to assess risks involved in a particular contract.

**IOM / Integrated Offender Management:** A system that provides all agencies involved in local criminal justice with a single coherent structure for the management of prolific offenders.

**Joint Strategic Needs Assessments:** JSNAs analyse the health needs of populations to inform and guide commissioning of health, well-being and social care services within local authority areas. They underpin the Joint Health and Wellbeing Strategy. The NHS and upper-tier local authorities have had a statutory duty to produce an annual JSNA since 2007.

**KPIs / Key Performance Indicators:** KPIs are tools which help purchasers to measure the performance of suppliers against their contractual obligations. KPIs are normally detailed in the service specification document.

**Multiple and complex needs:** People with multiple and complex needs are those who face multiple problems including homelessness, mental ill health, drug and alcohol misuse, offending and family breakdown; and who have ineffective contact with services and are living chaotic lives.

**PbR / Payment by results:** A payment mechanism under which providers are paid on the basis of the results they achieve rather than the activities they carry out. Often, the PbR payment makes up a small proportion of the overall payment.

**Personalisation:** An approach developed in social care whereby every person who receives support, whether provided by statutory services or funded by themselves, will have choice and control over the shape of that support in all care settings.

**Personal budgets:** An identified sum of money for an individual's social care needs, and they are sometimes paid directly to the individual to manage and purchase services themselves (direct payments).

**PQQ / Pre-qualification Questionnaire:** A document which forms the basis of the first or selection phase of the tendering process. The PQQ forms the gateway to the tendering process. Failure to submit a successful PQQ and therefore succeed at the selection stage means that the tenderer is excluded from the process and cannot proceed to the award stage.

**Procurement:** The purchase of goods and/or services by publicly funded bodies at the best possible total price, in the right quantity and quality, at the right time generally via a contract. The functions of procurement are a) ensuring legal compliance; b) purchasing supplies or services; c) entering into contracts.

**Spot purchasing:** Procuring on an 'as and when needed' basis rather than planning the procurement strategy that might achieve the best value for money.

**Subcontract:** A contract in which one ('lead' or 'prime') organisation who holds a contract passes down elements of the contracted work to another organisation to deliver. This organisation is subsequently known as the 'subcontractor', and is under contract to deliver to the 'prime' or lead' organisation.

**Tender:** A written offer submitted by organisations bidding to win the delivery of a contract. The tender gives details about the organisation, the cost of delivering the services, and detail on how the service will be delivered. Successful tenders result in the award of a contract to deliver the goods or services specified.

**Theory of change:** A theory of change is a map of how a service or project intends its intended outcomes and the evidence need to assess whether this has happened. See Clinks guide at <http://www.clinks.org/support-evaluation-and-effectiveness/demonstrating-outcomes>

**TR / Transforming Rehabilitation:** The Ministry of Justice's proposed outsourcing of probation supervision of low to medium risk offenders announced in 2013. It involves re-organisation of probation services to form 21 Community Rehabilitation Companies and a National Probation Service. The Community Rehabilitation Companies will be run by private or voluntary sector organisations bidding in a competitive tendering process, who will also manage resettlement services in some prisons.

**YOI / Young Offender Institution:** YOIs are designed for offenders aged 18 to 20, but can in some instances hold juvenile offenders, or those aged 15-17. A YOI can be a standalone institution or be co-located within the grounds of an adult prison.



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