

# Probation Services and the Voluntary and Community Sector

A Strong and Effective Relationship

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## 1. Introduction

Position papers produced by the Probation Institute are intended for a wide audience including practitioners, academics, policy leads and senior managers across the justice sector. This paper has been prompted by our wish to help to locate the relationship between the Probation Service and the voluntary and community sector (VCS) in a strong and enduring set of arrangements. To do this we provide some background and both the early and recent history of this relationship. We can see that, at times, Probation has viewed the VCS as encroaching on its core activities, whilst the VCS has seen itself as marginalised and underfunded. Our hope is that we can contribute to ways of moving beyond these challenges towards a genuine meaningful partnership in which both parties, located in communities as far as possible, feel secure about their critical contribution to rehabilitation.

The paper is produced at a time of significant change resulting from the Government's decision to fully re-integrate the National Probation Service from June 2021, thereby bringing to a close seven years of partial privatisation; and anticipating the formal engagement of the VCS through a Dynamic Framework operating regionally. The paper sets out principles to guide practitioners, managers and policy makers in Probation and the VCS as they seek to build consistent and constructive partnerships for the future.

## 2. Principles of Partnership

1. The core functions of the National Probation Service must be plainly articulated in order to enable the roles and responsibilities of different organisations to be clear. In our view these are case management and the delivery of core interventions requiring enforcement on behalf of the courts. It seems that this principle has been accepted by Government as of June 2020.
2. The VCS is very diverse in structure and focus. Organisations working with offenders, victims and their families make a vital contribution to reducing offending, rehabilitation, resettlement and supporting people from desisting from crime. This contribution deserves to be better articulated and valued more highly including by probation practitioners.
3. To increase stability of funding, grants or contracts used to fund voluntary and community organisations to work in partnership with the Probation Service should be for a minimum of two years with suitable break clauses. The funding mechanism should be grants wherever possible.
4. Probation practitioner training should include the benefits of partnership work and good practice in collaboration and co-production.
5. Probation managers' training and performance outcomes should include the effective development and maintenance of strong relationships with the VCS, particularly awareness of successful partnerships and ways that Probation can work in partnership with the voluntary and community sector to co-produce supporting services.
6. Grants and contracts for work by the VCS in criminal justice must include provision for appropriate levels of staff training.
7. The views of probation practitioners and of the voluntary and community sector should be regularly sought on gaps in provision that the VCS is well placed to meet and on the

effectiveness of existing local partnerships.

8. Commissioning with the VCS should be at a sufficiently local level to enable small and medium sized organisations to provide services that meet the needs of particular communities.
9. Commissioning or engagement of the VCS should be jointly developed by agencies working with Probation in the community responsible for issues including: housing; education, training and employment; and physical and mental health. Police and Crime Commissioners have an important, but not exclusive role, in commissioning.
10. Clear protocols should exist for information sharing between the VCS and the statutory agencies.
11. Basic risk training in common with probation practitioners should be accessible to VCS practitioners, some of whom work with individuals who pose a risk of harm. Training must include how to protect staff and when to alert Probation of risk behaviours.
12. Both the VCS and the Probation Service must be accountable for their practice in a transparent and accessible form which is able to demonstrate the appropriate assessment and management of risk.
13. The resources and capacity of small voluntary and community organisations offering niche local services to undertake repeated tendering for work must be recognised and supported. There is a particularly strong argument in favour of grant funding for small VCS organisations.
14. HMIP working with Clinks should inspect the effectiveness of partnership between Probation and the VCS and establish good practice benchmarks, methods of identifying unmet needs and a clear focus on diversity and vulnerable groups.
15. The Level 3 Apprenticeship for probation practitioners should be reviewed at the earliest possible date to include the skills, knowledge and behaviours required in the VCS.
16. The Independent Regulatory Body which will be introduced by MOJ for the recognition and registration of probation practitioners must seek ways to also include as a minimum those VCS practitioners who work in partnership with the National Probation Service, addressing the resourcing implications.

### **3. Background and context**

The Probation Order was initially conceived as a voluntary arrangement based on trust. 'The probation service has its roots in the voluntary sector and throughout the 20th century voluntary sector organizations have contributed to work with offenders in the community. Some of the activities originally located in the voluntary sector were, with the establishment of the welfare state, subsumed by an expanding public sector, for example the work of the Discharged Prisoner's Aid Societies became the after-care responsibility of the probation service in the 1960s.<sup>1</sup>

<sup>1</sup> Dominey J (2012: 340) 'A mixed market for probation services: Can lessons from the recent past help shape the near future?' *Probation Journal* 59(4) 339-354

The extent and quality of partnerships between Probation and the VCS has ebbed and flowed over the last 50 years.<sup>2</sup> Often these changes have been a reflection of the strength or otherwise of personal relationships or local infrastructure.

Probation practitioners recognise the value of social and human capital in reducing reoffending. It is essential that they have the time to develop pro-social professional relationships with the people they supervise and that they support service users in the development of the wider relational aspects of their lives. Strong relationships with the VCS, who also support the needs of service users, help to manage risk and promote desistance.

#### 4. What's the difference?

The answer to this question - what is the difference between Probation and the VCS - seems very obvious. Probation is a statutory function accountable directly to government and the courts and enshrined in legislation in which roles and responsibilities are prescribed. VCS organisations largely perform work that is philanthropic, social and non-profit making although they may work in partnership with statutory functions and may be contracted to perform some services that are required by legislation e.g. Through the Gate Services. In general however, the VCS does not get involved in sentence delivery but supports people to address underlying issues that in turn support them to complete their sentence.

The further consequential differences are also very significant:

- The National Probation Service which will be responsible for all case management, unpaid work and behavioural change programmes is fully funded by government. Community Rehabilitation Companies (CRCs) - currently in place until mid 2021 - are funded by government on a contractual basis. VCS organisations have no consistent funding and rely on grants, contracts and fund raising - all of which have the potential to marginalise the primary aims of the organisations
- The VCS is governed by Boards - mainly of Trustees - to whom the organisations are accountable. Trustees of charities are accountable to the Charity Commission to ensure that the Charity works in pursuance of its own charitable objects and values. The National Probation Services is accountable in a similar way for adherence to policy set by the Ministry of Justice.
- As non-state entities the voluntary and community sector can engender greater trust than statutory agencies.
- Whereas the Probation Service can offer permanent contracts with job security, the majority of VCS organisations cannot offer the same level of security of employment so there is generally less stability in the VCS.
- Probation practitioners have a required and funded training regime which includes a range of specific qualifications. Training in the VCS varies considerably and is often on a

<sup>2</sup> See, for example, Clinks (2019) *The State of the Sector* <https://www.clinks.org/publication/state-sector-2019>  
 HMIP (2018) *Probation Supply Chains* <https://www.justiceinspectorates.gov.uk/hmiprobation/inspections/supplychain/>  
 Mills A and Meek R (2020) 'The role of third-sector organizations in supporting resettlement and reintegration' in P Ugwudike et al (eds) *The Routledge Companion to Rehabilitative Work in Criminal Justice*

needs led basis. Many organisations in the VCS invest in training for their own staff and/ or provide aspects of specialist training for statutory organisations. The VCS has neither a requirement for specific training nor is it specifically funded to train staff or volunteers.

- The VCS is able to focus on charitable aims and outputs which may include practical support, mentoring, help with addiction, housing, education, training and employment. The objectives of Probation are to reduce re-offending and to protect the public. Successful probation work relies on services provided in the community, but Probation is not resourced to provide these directly.
- The VCS is able to operate with greater flexibility, speed of change and innovation in response to service user need, partly due to funding drivers. VCS organisations have worked increasingly to involve their service users in service delivery and governance. The value of this has only recently been recognised within probation policy making.
- VCS organisations can be very specific in their focus and develop in depth knowledge and specialism - for example working only with BAME people, women, substance users, with foreign nationals or young people. The Probation Service must work with all those sentenced by the courts who fall under its remit.
- The strength of the VCS often derives from its specialist expertise and particularly on local or regional focus. Few VCS organisations have national reach, whereas Probation must offer the same services throughout England and Wales.
- The culture and language that has grown up in the VCS is different from the commercial and management culture that has become a characteristic of many public sector and current private sector probation organisations, although it is the case that larger VCS organisations have also adopted a commercial culture. Proposed changes to the ways in which probation services are delivered offer the opportunity to review and realign both culture and language.

## 5. What does the Voluntary and Community Sector do in Criminal Justice?

Many of the VCS organisations working in the criminal justice system in England and Wales today have their roots in 19th century philanthropic and often religious organisations.<sup>3</sup> Their histories were significantly influenced by the Poor Law Amendment Act in 1834 which facilitated charitable poverty relief. Following the founding of the Welfare State in 1948 an understanding emerged that philanthropy had a continuing major role to play in post war society. By the late 1970s massive changes in populations and lifestyles resulted in new charitable organisations and in many of the traditional charities rethinking their role and purpose to meet more complex and diverse needs.

An important group of voluntary organisations working in criminal justice have their origins in human rights movements and are predominantly campaigning organisations seeking to improve the political and operational environment of criminal justice. This paper is particularly addressing those voluntary and community organisations whose purpose is the delivery of a rehabilitation service to people caught up in the criminal justice system, but recognises the benefits to the justice system that campaigning organisations are able to make.

<sup>3</sup> See, for example, Nellis M (2007) 'Humanising justice: the English Probation Service up to 1972' in L Gelsthorpe and R Morgan (eds) *Handbook of Probation*

The range of activities carried out by voluntary and community organisations delivering services has continued to change and expand, and increasingly has tended to specialise. In its 2019 report on the State of the Sector, Clinks, the charity that supports, promotes and represents the VCS working with people in the Criminal Justice Sector, reports that:

- The majority of VCS organisations in the justice sector are small; roughly 30% have budgets less than £100,000 per year compared to only 14% in the wider VCS.
- The majority of referrals to the VCS come from prisons; there is a roughly even split between VCS organisations working in the prisons and those working in the community.
- Service users' needs are ever more urgent and complex.
- There is increased evidence of trauma, self-harm, mental ill health, violence and lack of both financial means and housing.
- There is substantial work ongoing with families and with victims of abuse.
- The VCS works with significant numbers of BAME service users.
- Increasing range of education and employment organisations.
- Voluntary organisations rely heavily on volunteering to delivery their services.
- Smaller and voluntary organisations are more reliant on funding from charitable trusts and foundations (meaning that smaller organisations are more likely to be providing a "free" service to the Probation Service by taking referrals but not being directly funded it).
- The VCS in the justice sector is increasingly financially vulnerable for the reasons documented and has fewer reserves than the wider VCS.

Research studies have explored the relationship between the VCS and the Probation Service. Common themes that emerge include the importance of positive working relationships between practitioners from different agencies, the need for clear communication, and the benefits of co-location to certain organisations.<sup>4</sup>

The impact of an increasingly contractual and competitive environment on the funding, values and independence of the criminal justice voluntary sector has also been studied, with concerns raised about the risks to the autonomy and distinctiveness of the sector.<sup>5</sup> The writing about the sector acknowledges its diversity,<sup>6</sup> and discusses whether all work in partnership with probation and prison is inevitably about control as well as help.<sup>7</sup>

<sup>4</sup> See, for example, Senior P, Wong K, Culshaw A, Ellingworth D, O'Keeffe C and Meadows L (2011) *Process Evaluation of Five Integrated Offender Management Pioneer Areas* Ministry of Justice Research Series 4/11

Page G and Gelsthorpe L (2012) *Final Report on the IOM Project: Stockport, Greater Manchester* Cambridge: Institute of Criminology HMIP (2020) *The role of community hubs in helping to deliver probation services and support desistance*

<sup>5</sup> Corcoran M, Williams K, Prince K and Maguire M (2018) 'The Penal Voluntary Sector in England and Wales: Adaptation to Unsettledness and Austerity' *Political Quarterly* 89 (2) 187-196

<sup>6</sup> Tomczak P (2017) 'The Voluntary Sector and the Mandatory Statutory Supervision Requirement: Expanding the Carceral Net' *British Journal of Criminology* 57 (1) 152-171

<sup>7</sup> Tomczak P and Thompson D (2019) 'Inclusionary control? Theorizing the effects of penal voluntary organizations' work' *Theoretical Criminology* 23 (1) 4-24

The research also provides evidence to support the argument that the VCS is able to work in ways which are effective, different from the statutory sector, and valued and appreciated by service users.<sup>8</sup>

## **6. Benefits of effective relationships between Probation and the Voluntary and Community Sector**

The Probation Service has never been a monopoly provider of rehabilitation support. The problems faced by many of Probation's service users are best addressed within the community where they live and where there is the range of services that will continue to support them. Probation will always need to rely on partnership with others, both statutory agencies and the VCS, to help to reduce re-offending. Voluntary and community organisations add significantly to the resources accessible to service users, particularly in areas not appropriate for statutory provision. In some instances, the VCS is also able to supplement wider welfare services in the community and to offer help more quickly - for example in alcohol or substance misuse cases. The resources also include mentors, counselling, preparation for education, training and employment, family support, funding for individual needs, shelter and advice. Probation staff are well placed to guide service users to appropriate VCS organisations and to broker their services but are not always sufficiently well informed, trained, motivated or managed to do so to best effect.

## **7. Funding and recent developments**

The statutory Probation Service expanded in the early 1980s following the introduction of Parole, Community Service and Suspended Sentence Supervision Orders from the mid-1970s. The contribution of the VCS came more clearly in to view. There was never a golden age of funding, but practitioners with many years' probation experience recall more positive and collaborative relationships with the VCS. Some probation areas were heavily involved in funding and working in partnership. Others had very little formal relationship. Good partnership work often relied on local relationships at management or even practitioner level. Support for the VCS was sometimes through grant funding or assistance in kind (e.g. staff secondments) rather than through service contracts.

Pressures in Probation funding (unfunded increasing workloads and management systems) began in the mid-1990s and produced concern for the long-term sufficiency of funding. In this context possible threats to Probation were seen to be the use of "unqualified practitioners", electronic monitoring, privatisation and the transfer of work to the VCS. Between 2008 and 2015 probation funding was reduced broadly in line with wider criminal justice cuts. The increasing focus on commercial business practice in Probation Areas, and subsequently Probation Trusts, moved the relationship with the VCS onto a more contractual basis. For a time in the 1990s and 2000s Probation Areas were given a target to spend a fixed percentage of their budgets on VCS partnerships. This mirrored the direction that the VCS had already been pushed in its relationships with other statutory providers especially Local Authorities and Health Services. However, there was limited commissioning knowledge or expertise within the probation world and little integration with other, much larger, commissioning structures.

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<sup>8</sup> Dominey J (2019) 'Inside or Outside the Criminal Justice System? The Example of Community Chaplaincy' *Howard Journal of Crime and Justice* 58 (3) 313 -328

Vennard J and Hedderman C (2009) 'Helping Offenders into Employment: How far is voluntary sector expertise valued in a contracting-out environment?' *Criminology and Criminal Justice* 9 (2) p225-245

Radcliffe P and Hunter G (2016) 'It was a safe place for me to be': Accounts of attending women's community services and moving beyond the offender identity' *British Journal of Criminology* 56 (5) 976-994

In 2015, the Government initiative “Transforming Rehabilitation” brought the long-anticipated part-privatisation of Probation. There was an expectation that some of the MOJ contracts for the CRCs would be won by the VCS. It was fully expected that the CRCs would contract with the VCS and work collaboratively. Indeed, the CRCs were given the “budgets” and contractual powers for all probation contracts with the VCS. The National Probation Service was (and at the time of writing remains) unable to contract directly. This situation now looks set to change in the light of the recent announcement on the future of the Probation Service. In reality the use of funded partnerships by the CRCs was very limited although it is important to state that the picture has varied between CRCs. If the VCS was presented as an incentive to the private providers this failed to materialise. A report from Clinks in 2018 “Under Represented, Under Pressure and Under Resourced” showed that Transforming Rehabilitation had created a situation in which the “voluntary sector’s role in Probation services is unsustainable”.<sup>9</sup>

As a consequence, a new generation of probation practitioners have decreasing experience of working in effective partnerships with the VCS. Changes made under the Offender Management Act 2007 removed the requirement that offenders be supervised by those qualified as Probation Officers thus reducing opportunities for time during training to develop skills and understanding in effective partnership working.

At the time of writing, it is anticipated that the newly re-integrated National Probation Service will have a budget of £100 million per year dedicated to funding for partnership work with the VCS and wider independent organisations. This funding is to be managed regionally through the Probation Dynamic Framework from 2020 and will seek to contract for the provision of services including education, training and employment, accommodation, mentoring and counselling. There are continuing concerns that these arrangements and a preference for contracts over grants will favour the larger voluntary organisations and that commissioning will not be local enough to engage smaller organisations closer to communities. The impact of Covid-19 on the VCS is not fully understood at the time of writing but emerging evidence from Clinks is showing that organisations financial sustainability has been significantly impacted and this will also need to be taken into account in future funding arrangements.

It is anticipated that there will be joint work with Police and Crime Commissioners in commissioning. This should build on the existing examples of good practice where justice has been devolved e.g. in Greater Manchester.

## **8. Commissioning and Engaging**

Securing funding is an exacting and resource intensive activity for the VCS. Whether for grants or for a contract, the process for engaging the VCS needs to be accessible and achievable. The process for grant funding is a more accessible process. Funding arrangements that last for a short period are particularly demanding and insecure; therefore we recommend a minimum of two years with break clauses. The VCS should be engaged in the full commissioning cycle from service design to delivery. Many of the services provided by the VCS are within the overall remit of wider public services including health, housing, education, wider justice agencies. Multi agency commissioning leading to shared provision can bring greater understanding of local priorities, needs and risks. It can make better use of resources offering a normalising experience for service users. Examples are found in women’s centres, youth justice and health and wellbeing boards.

<sup>9</sup> Clinks (2018:7) *Under represented, under pressure and under resourced* [https://www.clinks.org/sites/default/files/2018-10/clinks\\_track-tr\\_under\\_final-web.pdf](https://www.clinks.org/sites/default/files/2018-10/clinks_track-tr_under_final-web.pdf)

## 10. Confidentiality and protocols

The exchange of information between Probation and the VCS is very important and is the responsibility of both parties. Information is vital to assessing and managing the risks that may be presented by service users and also to understanding their needs.

Protocols that set out the arrangements for the recording and sharing of information within a partnership should always:

- Safeguard appropriate confidentiality for service users.
- Enable risk assessment and risk management processes.
- Comply with data protection legislation.

## 11. Professional Development and Professional Status

It is recognised that the majority of voluntary sector organisations have skilled and experienced staff and volunteers but are not always able to access formal qualifications and accreditation due to resource constraints.

The absence of dedicated funding or a specific requirement for training and skill levels for work in the VCS is an ongoing challenge not only for practitioners in these organisations but also for Responsible Officers, who are qualified either through the Professional Qualification in Probation (a Level 6 qualification) or a Level 3 qualification, and who understandably question the disparity in qualifications between sectors.

The Apprenticeship model encourages sector wide development and design of shared assessment standards where there are skills and knowledge in common. Such a development through the Apprenticeship Institute would offer the VCS access to funding to train practitioners to a consistent, recognised standard. It could also strengthen confidence in the statutory sector to support collaboration and partnership.

The Probation Institute is open to all practitioners working in rehabilitation and our view, clearly on record, is that recognition and registration of practitioners should extend across all practitioners and managers working with service users subject to formal court orders, in both statutory and voluntary organisations.

## 11. Conclusion

The Probation Institute will continue working with organisations representing the VCS and with the National Probation Service. We hope that the Principles set out in this paper will contribute to a stronger relationship between Probation and the VCS benefitting both service users and the wider public.