

Contestability

Last month in his first major speech on penal reform Home Secretary Charles Clarke said that the voluntary sector has a much bigger role to play in reducing reoffending and indicated that he is going to push forward with the introduction of “contestability” or competition to criminal justice interventions. This briefing looks at what contestability is all about, why it is so controversial and what it might mean for treatment providers in the future.

What did the Home Secretary have to say about contestability?

In a major speech billed in advance at a Prison Reform Trust event in September, Charles Clarke said: “I am personally committed to the creation of a vibrant mixed economy with NOMS. I believe that particularly within the voluntary and community sector, there is a large untapped resource which is keen to help us achieve reductions in reoffending... A strong structure of commissioning and contestability in prisons and probation will create a wider range of appropriate interventions and raise the quality of offender management services across the country.”

What’s the background to this?

Contestability or opening up prison and probation services to market forces was recommended in the Carter report published in December 2003. Overseen by Patrick Carter, the founder of private healthcare provider Westminster Healthcare, this 48-page report put forward a series of recommendations to improve the overloaded, underperforming and hugely expensive offender management system. He recommended that prison and probation services should be brought together under a new body, and that their services should be opened up to competition. This was in line with wider Government plans for driving up standards in the public sector - the introduction of a competitive market place where services once provided by the public sector would be put out to tender to public, private and voluntary providers. The Home Office quickly adopted the recommendations.

What was the reaction?

The announcement of the setting up of the National Offender Management Service (NOMS) and introduction of contestability provoked a furious reaction from prison and probation

staff concerned about their future and angered about the lack of consultation on what were after all radical changes. Though in favour of increased partnership working with for example drug treatment providers, they contend contestability will be driven by the lowest cost denominator and will worsen pay and conditions for staff. They also fear it will lead to the wholesale privatisation of prison and probation services and that the “competition” so-called will wipe them out. The Government disputes this saying value for money and not low cost is behind the reforms and it wants a “mixed economy” of services. Prison



BRIEFING

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reformer have been sceptical. The Howard League for Penal Reform said the changes amount to “rearranging the deckchairs on the Titanic”.

Progress so far?

The NOMS project has had its fair share of teething problems. Apart from considerable external opposition, it is believed there are significant differences of opinion within the Home Office and Government about the workability of the project. There is concern that the reforms are attempting to achieve far too much too quickly and that the Home Office and NOMS lack the expertise to put in place a new commissioning framework. Ten regional offender managers have been put in place, including London’s Steve Murphy, who it is planned in the future will start commissioning prison and probation services. The Home Secretary is also expected at time of writing to introduce legislation abolishing local probation boards, which currently run probation services, overcoming one significant obstacle in the way of contestability.

Implications of contestability for treatment providers?

It is by no means certain that given the current difficulties, the NOMS project will proceed as its proponents would like. It is likely however that there will be increased opportunities for treatment services providing wrap around services along the pathways outlined in the London Resettlement Strategy. The Home Office has also set up a project Partners in Reducing Reoffending (PiRR), to build the capacity of voluntary sector providers, and consortiums to put together joint bids for contracts. There are differences of opinion as to the desirability of anything more radical. One senior manager involved in criminal justice interventions said drug treatment providers were well placed to compete in a new climate of contestability given that the provider/purchaser split exists already in the sector, and that he was “rubbing his hands” at the prospect of competing with the prison service to run prisons. He said drug treatment providers were well equipped to do this given the mostly shared client group and that they would be more focussed on treatment and rehabilitation. Others are more cautious. Apart from the fact this would significantly change the role of drug workers, and relationships with clients, they point to the ongoing rapid pace of change within DIP and need to integrate and make effective these before introducing anything else. The NTA’s Effectiveness Strategy will also demand a considerable workload of providers and the likelihood is there will be no new money afterwards. But perhaps most critically, there are large doubts about whether a sector acknowledged to be lacking in resources, training and management expertise is really geared up to cope yet in a much harsher climate. “I can’t get overly excited,” said another senior figure asked about contestability. “We have quite enough on our plate already”.