**‘PENAL DRIFT’ AND THE VOLUNTARY SECTOR**

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**Abstract**

This paper explores the concept of ‘penal drift’ - the gradual adoption of criminal justice culture, language and working practices - in voluntary sector organisations (VSOs) commissioned to deliver services to offenders. It identifies increases in coerced attendance, obligations to report non-compliance, targets to reduce re-offending, and contracts to ‘process’ high caseloads, as factors behind such drift, which can jeopardise relationships with service users and the sector’s traditional ‘value-driven’ approach. It is concluded that most VSOs have so far managed to resist these threats and to balance contractual obligations with adherence to core values. However, this comes at a cost in staff time and energy and is difficult to sustain. There are concerns that the longer term effects may be quite damaging to the sector.

**Keywords** Voluntary sector - offender management - criminalisation of social policy - penal drift – Transforming Rehabilitation

**Introduction and background**

For some years, social scientists have been drawing attention to a phenomenon broadly described as the ‘criminalisation of social policy’ (Rodger, 2008a,b), whereby social problems are increasingly redefined and responded to as problems of crime and justice. Related observations are encapsulated in concepts such as Foucault’s (1977) ‘carceral archipelago’, Garland’s (2001) ‘culture of control’, Simon’s (2007) ‘governing through crime’ and Wacquant’s (2009) ‘penalization and punishment of the poor’. Rodger (2008b:18) writes:

‘The criminalizing of social policy involves two key processes. The first is boundary blurring, …. the adoption of principles of operation which obscure the purpose of social intervention such as that between welfare and punishment, and the second is displacement of goals, as the objectives of social policy subordinate issues of welfare to those of crime prevention.’

In this paper we explore a particular variant of such processes: the diffusion of criminal justice related values, practices and dispositions into the sphere of voluntary sector organisations (VSOs).i We have referred to this elsewhere as ‘penal drift’ (Maguire, 2016; Corcoran et al. 2017, 2018), indicating its affinity to ‘mission creep’ or ‘mission drift’ - a familiar concept in the voluntary sector literature, signifying the migration of charitable organisations away from their founding principles and priorities (Poole, 2007).

Concerns about penal drift intersect with broader long-standing concerns about the ‘capture’ or co-option of welfarist or humanitarian ‘third sector’ agents by state funders, and their incorporation into what Wolch (1990) called a ‘shadow state’: an emerging body of proxy state actors increasingly engaged in the direct delivery of public services. This issue has become more salient in recent years, as the increased presence of corporate as well as state interests in the development of ‘penal service markets’ has created a more complex, fluid and precarious environment for the voluntary sector (Corcoran, 2011; Singh, 2012; Goddard, 2012; Hallett, 2017). Evers (2005: 738) contends that the ‘traditional clear-cut separation of market based, state-based, and civil society…service units has become increasingly insufficient’ for understanding contemporary inter-organisational relationships at the macro level of the design and delivery of welfare. Rather, we need to conceptualise all ‘service systems and institutions’ as undergoing greater or lesser degrees of ‘hybridisation’, inasmuch as their relationships are ‘shaped simultaneously by all three possible sectors, their values and their steering mechanisms’ (Ibid).

At the meso level, it has further been argued, a rising trend for partnership and collaborative inter-agency work has created a conducive framework for exchanges in cultures, outlooks, methods and practices across different occupational groups and across statutory, business and voluntary sectors (Sarkis and Webster, 1995; Mawby et al., 2007: Corcoran and Fox, 2012). However, the close proximity of different sectors generates a tendency towards ‘elite isomorphism’ (Poole, 2007) or forms of organisational cloning driven by senior management, whereby the weaker (usually voluntary sector) partner relinquishes elements of its mission, occupational practices, structures and/or ethos to those of more dominant partners.

Valuable as these debates have been to understanding the broad features of ‘capture’, they only take us some way towards appreciating the micro-dynamics by which such changes are occurring in the contemporary penal voluntary sector. This paper draws on findings from a large-scale empirical research projectii to examine such processes more closely, exploring concrete examples of, and stakeholders’ views about, the penetration of working practices, mindsets, language and organisational cultures associated with criminal justice agencies into the world of VSOs.

A major factor in the emergence of this phenomenon in England and Wales, it is argued, has been an expansion in the ‘outsourcing’ of the delivery of criminal justice services – to some extent to voluntary organisations - through the process of competitive commissioning. Clearly, the involvement of the third sector in work with convicted offenders is nothing new (Mills et al., 2011; Tomczak, 2014) and it has often involved referrals to VSOs from probation agencies, paid for through ‘partnership’ contracts (as in the 1990s, when probation committees had to spend a minimum proportion of their budget on such contracts: see Dominey, 2012). What is mainly being discussed here is an increasing trend for VSOs to be commissioned to deliver specific services or interventions which offenders are required by the courts and/or their (probation) offender manager to attend. VSOs are thereby often more directly involved in the ‘delivery of punishment’ than in the past, including an obligation to report non-compliance. Moreover, as a price for operating in a regulated and competitive market, their working practices tend to be more tightly prescribed and constrained, with pressure to focus more sharply on the aims and outcome targets of the criminal justice system (especially the reduction of re-offending). These developments sit uneasily alongside the general disposition and goals conventionally promoted by the sector, such as improving clients’ well-being and self-efficacy, or the promotion of social justice.

The policy background to the current situation lies in a series of government initiatives over the past three decades, aimed at creating a ‘mixed market’ in the delivery of public services (Corcoran, 2011; Hucklesby and Lister, 2018). These have often included efforts to encourage greater involvement from the voluntary sector and to enhance VSOs’ capacity to compete ‘on a level playing field’ with private sector bidders (see, for example, Deakin Commission, 1996; Home Office, 1998; Futurebuilders, 2007; Alcock, 2010; Cabinet Office, 2010, 2012; Dominey, 2012; Maguire 2012). Even so, until fairly recently - with the important exception of the growth of private prisons - outsourcing of major services remained relatively limited in the criminal justice arena, with voluntary agencies playing only a small role. However, over the last five years, such outsourcing has become more extensive, particularly through the ‘Transforming Rehabilitation’ (TR) initiative (Ministry of Justice, 2013), under which most probation work was taken over by 21 ‘community rehabilitation companies’ (CRCs). The basic setup in CRCs is for a ‘prime’ – usually a large private company or consortium – to subcontract packages of rehabilitative or resettlement work (in prisons and/or the community) to a supply chain of ‘second or third tier’ service providers, mostly VSOs. Although the involvement of the voluntary sector has been much less than anticipated (HMIP, 2018), it has not been insignificant: the Ministry of Justice reported that 225 voluntary sector organisations were involved in supply chains following the award of contracts (see Clinks, 2018:16), while in 2018 HMIP identified a total of 126 contracts to 90 providers, over half of them worth more than £100,000 (HMIP, 2018: Appendix 3). As CRCs are funded by government partly on a ‘Payment by Results’ basis, they are obviously keen for subcontracted work to be strongly focused on achieving the outcome which triggers extra payment, namely reduced re-offending. They also have to meet demanding ‘process’ targets set by government contract managers (such as timely completions of assessments, or numbers of meetings with supervised offenders), some of which they pass on to the lower tier providers. This often results in close monitoring of VSOs and pressure upon them to work in ways that the prime considers most likely to meet both kinds of targets - in many cases akin to the work methods and patterns expected of probation staff (Corcoran et al., 2017).

This combination of factors, it will be argued here, has been driving changes (sometimes quite quickly and starkly, but in many cases gradually and even unnoticed) in the culture, priorities and working practices of VSOs, and has the potential in the longer term to undermine their relationships with clients. While recent government announcements (see Ministry of Justice, 2018) suggest that the system introduced through TR may before long be radically overhauled or dismantled, it is not likely that this would entail a shift away from the competitive commissioning of justice services, so similar pressures may persist for some time.

The paper begins with a brief description of the methodology used in the study on which it is based. Findings are then presented on the impact of coercing clients to participate in interventions and the consequent obligation on VSOs to report non-attendance or unacceptable behaviour to offender managers. We then explore interviewees’ perceptions and experiences of ‘penal drift’ in their own organisation or the sector more widely, with particular attention to changes in language, organisational culture or working practices. The paper ends with a short discussion of the main findings and their implications.

**Methodology**

The research on which this article draws was designed primarily to explore responses of voluntary sector organisations that work with offenders to the challenges posed by numerous changes in the environment in which they operate, including the widespread marketisation of public services, a decline in grant giving combined with an increase in competitive commissioning, and the more general problems caused by ‘austerity’. A particular focus of the inquiry was on the concept of ‘resilience’ – the exceptional ability attributed to VSOs by some scholars to adapt pragmatically to adverse circumstances, while still retaining their core values (see for example Salamon, 2013: 3 and 60-61).

The study was based mainly on interviews with a total of 205 individuals from 110 different organisations. Most were either senior managers or front-line staff from VSOs ranging widely in size, length of existence, geographical spread, kinds of services provided, and level of experience in working with offenders. Based on NCVO definitions, 34% of these were small or medium sized organisations, 40% were large, and 26% were ‘major’ or ‘super major’. The remaining interviews were held with a variety of other stakeholders, including politicians, policy-makers, commissioners, and managers of public sector agencies.iii In addition, we undertook an electronic survey of CEOs (which received 57 responses), contributed questions to one of Clinks’ ‘TrackTR’ surveys,iv and gathered observational and documentary material to allow us to prepare ten case studies of individual organisations. However, in this paper, we draw mainly on the interviews with VSO managers and staff.

**Coerced participation and the reporting of non-compliance**

The involvement of VSOs in the delivery of sentences raises questions about ‘coercing’ offenders into specific forms of rehabilitation or treatment: in other words, requiring them to participate, with the threat of sanctions (including imprisonment) for non-compliance. The argument against coercion is based partly on ethical principles (Day et al. 2004; Seddon, 2007; Powell, 2012; Canton, 2014). It also reflects the widely held belief that the effectiveness of rehabilitative work depends heavily on service users’ motivation and willingness to genuinely engage with the intervention and those delivering it: coerced participation, it has been argued, is likely to be perceived primarily as punishment, reducing their motivation and making them more likely to simply to ‘go through the motions’ rather than commit to a change process (Raynor and Vanstone, 1994; Farrall, 2002). However, there is little concrete evidence to suggest that coerced treatment is either more or less effective than voluntary treatment (Brecht et al., 1993; Stevens, 2012). As Powell (2012) makes clear, the relationship between coercion and motivation is not straightforward; and as Stevens et al. (2005) demonstrate, a motivated and coerced client may do better than an unmotivated volunteer (see also Weaver and McNeill, 2010).

Until the 1990s, relatively few rehabilitative interventions in England and Wales were directly coerced by the courts.v For example, the principle of ‘voluntarism’ was followed in relation to substance misuse treatment (Hunt and Stevens, 2004). However, a change was signalled in 1998 with the introduction of the Drug Treatment and Testing Order, a sentence which (as the name suggests) required offenders to undertake both treatment and testing for drugs in their system. The generic community sentences introduced under the Criminal Justice Act 2003 widened the scope of coerced rehabilitation by empowering courts to require attendance at specific kinds of intervention, including drug, alcohol or mental health treatment, and cognitive-behavioural programmes.vi This was taken a stage further in 2015 with the introduction of Rehabilitation Activity Requirements (RARs), under which the ‘responsible officer’ (probation practitioner) supervising the offender can require him or her to take part, for a maximum number of days set by the court, in selected rehabilitative interventions. RARs are now included in over a third of all community sentences (HMIP, 2017).

Delivery of some of these requirements – as well as interventions for prisoners released on licence - is competitively commissioned by the Community Rehabilitation Company (CRC) covering the local area (HMIP, 2018).vii As a result, an increased number of VSOs now find themselves running activities (some of which they previously provided to probation clients through voluntary referrals) at which attendance is compulsory. This has potentially important consequences for their relationships with both service users and criminal justice agencies. It means that VSOs become involved in the ‘policing’ of offenders’ obligations to comply with court orders and/or probation decisions. The usual expectation is that they will report to their probation supervisor those who fail to attend or refuse to comply with formal conditions – actions which can lead to breach proceedings and in some cases custody. They may also be expected to report back information that clients disclose about current criminal activity or intentions, or indeed evidence of more general ‘risky behaviour’. In other words, VSO staff are sometimes drawn into playing an integral role in the delivery of surveillance and punishment.

These expectations raise both practical and ethical questions for the voluntary sector. We found a variety of views about them among our interviewees, to some extent dependent on their own role and their organisation’s history of working with offenders and the justice system.

First of all, virtually all our interviewees acknowledged the value of voluntary engagement, and some saw compulsory attendance as a significant barrier to client engagement. For example:

‘The other issue is that this isn't a service that people engage with because they want to, they engage with it because they have to. And that will always be a massive barrier to service user integration within this particular service.’

(Manager, Tier 2 Justice Services Provider)

‘It’s not support, you know, it’s a checking in, it’s a social control rather than support’.

(CEO, women’s services agency).

However, the majority view was that such problems could usually be overcome by staff skills and experience in building personal relationships with clients and by making clear to them that the VSO role is different to that of probation officers. For example:

‘The offender manager might have some statutory responsibilities to enforce the court order, but we can be much more flexible and creative in terms of how we approach and outreach, and are assertive and encourage and motivate the women to engage with the service.’

(Middle Manager, Supported housing)

Perhaps surprisingly, too, few VSO managers (and not many front-line staff) expressed significant qualms about reporting either non-attendance or concerns about behaviour to offender managers – practices which, though sometimes resented by the individuals affected, were said to have relatively little effect on relations with clients as a whole. The most common view among managers seemed to be that such actions are compatible with the role of a VSO, with the strongly emphasised proviso that service users should be given clear information and advance warnings about ‘the ground rules’. It was claimed that, provided the position was discussed openly with them, most would accept it without any damage to their trust in the organisation or staff. For example:

‘And for us, that is about being very clear with the offender what we will do with information that they tell us. So the first intervention we have with somebody, we contract with them and we say, you know, if you tell us anything that we feel your offender manager needs to know, we will tell them, we don't make any apology for that; and if you can't work with us because of that, that's your choice, but that's the starting point for us.’

(Manager, resettlement charity)

A minority of the managers were not at all apologetic about such actions, stating explicitly that their role was concerned with crime prevention and criminal justice goals. One stated:

‘I tell them there and then, cards on the table, *that we work closely with the police and probation*, and we’re here for the *prevention of crime as well*, you know. So I’m open and honest with them on that, just so they know. I’d say [that] 99 per cent say ‘yeah, that’s what we want, you know, we’re happy with that’

(Manager, supported accommodation)

He also expressed satisfaction in the VSO (at last) being ‘taken seriously’ as an equal partner by statutory agencies, with whom it was working more closely in collective efforts to reduce crime and re-offending:

‘People like probation, police, drug and alcohol agencies are working more closely with us because they need us more, which is a good feeling to have because, you know, it’s nice to feel that you’re valued in what you’re doing really.’

Front-line staff were generally less receptive than managers to the idea of VSOs playing a direct part in the monitoring or control of clients, and some reported feeling uneasy about passing on information about non-compliance or criminal behaviour. Even so, few objected strongly. More commonly, they saw it as a task, albeit an unwelcome one, that they were obliged to perform in order to comply with management instructions or recording practices:

‘Not so much breaches, more like behaviour. If we thought there was any kind of offending going on, or if they were using drugs or something here…*Within 24 hours we have to say* whether they’ve come, whether they haven’t come; *if they have, what have they done,* what have they said. *And all that gets put on the probation system.’*

(Staff: Supported housing and community supervision: emphasis added)

At the extreme, there were a small number who had no concerns at all in passing on such information, even to the police. Although the numbers are not large enough to generalize, most of these were recent recruits with little voluntary sector experience, taken on to undertake TR-related resettlement work. An interesting aspect of this, which merits further exploration, is the increased presence in VSOs of staff who previously worked for probation or prisons. These include some who decided not to work for the new probation companies when TR was implemented, and some – particularly those now working in prison-based resettlement teams managed by VSOs – who were transferred from the prison service to their new employer under TUPE regulations.viii Such staff, of course, have already imbibed criminal justice sector cultures and practices, which they may bring to their new workplace.

More generally, many of the responses we received to questions on this topic provide evidence that opinion and practice have shifted significantly over recent years. For example, the long serving CEO of a VSO with many years experience of substance misuse work with offenders noted that attitudes in his organisation had changed markedly since the mid-2000s. He recalled that for several years they had been contracted by the Probation Service to provide interventions both to offenders attending on a voluntary basis and to those on Drug Treatment and Testing Orders (subsequently Drug Rehabilitation Requirements), but that, even in the case of court-ordered attendance, they had frequently declined to report to participants’ probation officers on how they were doing or whether they had disclosed information related to criminal behaviour, arguing that this was ‘confidential’ material. In fact, they had made little or no distinction among their client group between non-offenders, offenders who attended voluntarily, and offenders on statutory orders, regarding all equally as people who needed their services. This had led to several battles with the Probation Service at the time. Now, however, they treated statutory service users as a distinct category of client, and accepted the principle that if they accepted funding to deliver what amounts to part of a sentence passed by a court, this created an obligation at the minimum to report non-compliance – a change which the CEO agreed was a clear example of ‘penal drift’.

Most managers of VSOs with previous experience of working with offenders were well aware of such issues and currently took a similar view. However, despite stating that the current situation caused them few problems, several expressed concerns about *long term* risks to the culture, values and ethos of their own organisations and indeed the sector as a whole. For example:

‘And that leads in the end to lack of trust. It doesn't mean to say they totally don't trust, because I think most offenders know what your position is. But inevitably if you get linked with authority in the sense that you mustn't do this or I'll report it, or even worse, you actually get to almost do the breaching yourself, you're not in the CRC but some voluntary agencies are becoming more like probation actually and ultimately they could be given power over people. And that ultimately could undermine the basis of voluntary work, which is, it is voluntary, it's open, it's trusting and all the great things about the voluntary sector.’

(Manager, VSO subcontracted to a CRC)

‘Other agencies want to use us. I’ve talked about mental health teams putting a client in, similarly withdrawing, or the police wanting us to go to their meetings so they can get information out of us. We have to be careful. So that’s kind of how it feels to me, really. And years ago, it wouldn’t have happened like that, you know’

(Manager, supervised accommodation)

In summary, the general picture seemed to be that practices which only a decade ago would have aroused a considerable amount of unease or resistance among VSO staff were now quite widely regarded as an acceptable price to pay for receiving government contracts, thereby indicating that a fair degree of ‘penal drift’ has taken place. However, while it was generally agreed that the potential negative impact on staff-client relationships of coerced attendance and reporting of non-compliance was in most cases avoided through skillful communication with service users, some serious concerns were expressed about possible longer term consequences of the voluntary sector’s ever closer involvement with punishment and criminal justice. We explore some of these further in the next section.

**Culture, language and practice**

Claims have often been made about the ‘distinctiveness’ of the voluntary sector: for example, that it is uniquely ‘value driven’, or that it is exceptionally good at engaging difficult clients (Blake et al. 2006; Jochum and Pratten, 2008). While such claims have sometimes been questioned as exaggerated or strategically manufactured (see Macmillan, 2012), it was clear from our interviews that many VSO staff had a strong sense of, indeed pride in, working in a sector with its own culture and values.

Despite their acceptance of some of the coercive aspects of delivering criminal justice services, as described above, most front-line staff were keen to underline the much greater salience in their day to day work of what they saw as ‘traditional’ voluntary sector ways of relating to service users. For example, several stated explicitly that they did not make judgements about clients’ behaviour:

‘We're non-judgemental. So it's very much about inclusiveness and equality. … looking after marginalised people’

(Front-line worker, community safety)

‘… helping people … not judging people …’

(Front-line worker, women’s service)

More generally, they tended to emphasise the trusting personal nature of the relationships – sometimes described as friendships - they developed, in some cases drawing direct contrasts with probation. Typical comments were:

‘Clients, they often see us as slightly different because we are the people that are trying to help them out of a situation. Whereas probation staff are not always their friends … it’s about supporting people… to live happier lives. So it’s about enabling people….’

(Front-line worker, housing and support)

‘I work for the client, not the state… The clients are central ….. they trust me… more than they trust their probation officer.’

(Front-line worker, large organisation, housing and support)

Of course, many probation officers would dispute this rather stereotypical view of their profession, but there are evident differences between the two agencies in formally stated aims and priorities, in standard working practices, and in language and terminology, which support the assertion that there are important contrasts in how VSO and probation staff perceive and relate to the people they work with. Most obviously, the primary focus of the probation services (and of their performance measures) is on reducing re-offending, while the mission statements of VSOs tend to prioritise aims such as reducing social exclusion or increasing the well-being of disadvantaged or vulnerable people. Consequently, whereas probation officers’ supervision plans are built around assessments of risk and addressing the ‘criminogenic needs’ of those they supervise, those of VSO staff tend to emphasise the provision of advice and support. Again, while probation officers normally refer to those they supervise as ‘offenders’,ix virtually all the VSO staff we interviewed (at all levels) routinely used terms such as ‘clients’ or ‘service users’; similarly, while ‘non-compliance’ and ‘breach’ are standard terms in the probation world, VSO staff were more likely to refer to people ‘not engaging’. These kinds of semantic differences carry with them information about the nature of the relations between the people concerned. ‘Non-compliance’ can be interpreted as attributing blame to the person being worked with, implying wilful resistance to what is required of them: the lack of response is their fault and they can face consequences (punishment) for their failure. ‘Not engaging’ is a more neutral term which does not imply blame: it simply suggests that the relationship is not working, for whatever reason.

In short, our findings suggest that the concept of ‘traditional voluntary sector’ values or culture has salience and meaning in the eyes of VSO staff, and is reflected to some extent in day-to-day practice. However, we also found evidence that organisational changes undertaken to facilitate the delivery of criminal justice contracts were having an effect – albeit often subtle and gradual - on language, priorities, working practices, and interactions with service users, within a substantial number of VSOs. In this section we present some of this evidence and the views of interviewees about it.

First, our interviews revealed a growing tendency within VSOs – particularly in the larger organisations and those which rely heavily on funding from sources such as HM Prison and Probation Service (HMPPS) - to categorise and discuss what to do with clients within the framework of their assessed level of *risk* (particularly that of re-offending). Of course, risk assessments are fundamental to decision-making in criminal justice agencies, the ‘resources follow risk’ principle having been promoted by the Ministry of Justice for many years.x Examples were given of pressure to follow a similar principle. For example:

‘We're going to now start pretty much leaving a lot of people to just get on with it and we're only going to concentrate on those we consider to be very high risk of whatever. The rest of them, they can put a fingerprint on a screen and then sod off, you know.’

(Manager, small/medium social enterprise)

More generally, some interviewees complained that the concept of risk was creeping into all aspects of their work and acting to reframe clients in criminal justice terms rather than in terms of need. This was regarded as detrimental to client-worker relationships:

‘And if I hear that word ‘risk’ some days, I think, “oh, I don't want to hear it again, everything's risk-risk-risk-risk-risk”. We can do this because it comes under risk, we can do that because it comes under risk. No, he's not going to be given a choice because he's a risk and he's going to be told he's going to be on basic if he doesn't do this. And that is so alien to everything that I've ever known previously’

(Middle manager, resettlement agency).

Some, indeed, expressed a worry that staff could begin to perceive and treat clients simply as faceless offenders with a set of problems to be addressed (seeing them, as one informant put it, as ‘*bundles of risk factors*’), rather than first and foremost as unique individuals.

Secondly, reflecting many previous research findings (e.g. Corcoran, 2011, Meier et al., 2016), it was often said that VSOs – particularly the larger organisations - were gradually becoming more like businesses, more ‘corporatised’, or alternatively, more ‘bureaucratic’ or ‘managerialist’. This was seen as leading to more impersonal relationships with clients and, in some eyes, threatening the highly individualised relationships that they considered one of the key strengths of the voluntary sector. Clients, it was said, were increasingly treated as ‘cases’ to be dealt with in a relatively standard way:

‘What people need is somebody's time, somebody to listen to them, somebody to let them know they're not alone, somebody to care, somebody to encourage, somebody to motivate them, somebody to help them believe that they can do it, their lives can be different. And, of course, a tick in a box doesn't do any of that, does it?’

(Senior Practitioner, Substance misuse agency)

‘[Large VSO] I feel is becoming quite corporate. And I've noticed that change also in offender services, particularly since TR. …Suddenly it's about business. … I think the client can be lost.’

(CEO, Resettlement service)

There was also a drift away from ‘client led‘ approaches - in which service users are encouraged to ‘drop in’ or get in touch when they feel in need of support, and where meetings sometimes take place in public places or on home visits - towards systems of contact based almost entirely on formal appointments in offices at set times.

The main reasons behind this were said to be, on the one hand, the pressure of having to deal with the large caseloads that were a common feature of criminal justice contracts, and on the other, insistence from commissioners on VSOs undertaking specific tasks with all service users and keeping full and accurate records of activities.

Growing caseloads was a frequent theme in interviews, with some – especially those working in prison resettlement teams contracted under TR - expressing concern that their job involved primarily the volume ‘processing’ of clients rather than quality interventions:

‘Because of the way commissioning has evolved over recent years, I think there are incredible constraints really. Probably the best example I could give of that is that when I set up complex needs resettlement at the young offenders’ prison, I was given a totally open remit. I was told, [you have] “small caseloads, complex needs, so do whatever you need to do to make this work”. I didn’t have to work with more than 12 people at any one time. I could see people every day. I could spend six months getting to know someone. That doesn’t happen anymore’

(Manager, resettlement service)

‘We know that we're promising lower numbers than some others. But if they really understand our model … so that people understand that 60 clients for one full time post is a really good achievement. That's not low numbers, they're numbers we should be proud of… Targets need to be set based on the realism of our model, not based on a need to impress the donor, if you see what I mean.’

(Director, small rehabilitation VSO)

Concerns were also expressed about requirements from commissioners to provide regular detailed statistical reports on, for example, the number of clients worked with, what has been done with them, how many of a set of target outputs or outcomes have been achieved, and so on. While almost all VSOs had always collected some information of this kind, the amount of data demanded, particularly in criminal justice related contracts, was said to have escalated sharply in recent years. Moreover, different commissioners often required different kinds of information in different formats.

Most interviewees fully appreciated the need for specific forms of data, and that these were often needed more in the case of offenders than non-offenders. For example:

‘There is a definite benefit… because we do get calls mainly from the police and maybe social services. If there's a case where there's nobody…and if they don't put the notes in and if somebody rings in, …. if there's a welfare check and they can't find them, the police'll ring and find out when we last spoke to them and all that information. So if it's not there, we can't give it to them, so they don't have anywhere to sort of start.

(Senior administrator, women’s service)

However, the extra demands were creating what could be substantial administrative burdens on both office staff and front-line workers, and in some cases were impacting negatively on morale. This was particularly the case when they considered that what was being measured was unnecessary or wrongly focused, and/or was distracting them from working with clients:

‘So why are we capturing reams of information on someone, that takes us hours, admin becomes just the core function then, instead of actually the job being face to face talking’

(Manager, large housing and support agency)

Such complaints were prominent in VSOs which were working as lower tier providers in a supply chain:

‘We’re working as a subcontractor… the day to day operations are affected because we’re regularly inspected… We spend too much time on keeping records and sharing records with the bigger organisation.’

(CEO, medium-sized housing and support agency).

While the increase in managerialism is an important issue in itself, and a trend identifiable across many fields of voluntary sector work, the interest here is the way in which commissioners’ demands for ‘business-like’ efficiency and ‘professional’ practice are contributing to what we have called ‘penal drift’. What may appear at first sight as simply improvements in organisational efficiency – which most VS managers would aspire to anyway - may also play a part in propelling a charity (to some extent unwittingly) towards a more ‘criminal justice’ way of working, directed increasingly towards more control of service users and a greater focus on targets concerned with re-offending.

It was pointed out by some interviewees that recording systems could increase surveillance over staff, reducing their opportunities to use discretion and making it difficult for them to skirt round rules or practice guidelines that they felt could be damaging to clients or their relationships with them. For example, when asked whether she always reported non-attendance, a front-line worker explained that the IT system took this decision out of her hands:

‘If they've been sent to see me, it's not a matter of telling the probation officer whether they've breached or not, it becomes obvious. Because on the system, once I’ve entered the data, it's clear whether they attended or didn't attend.’

(Front-line worker, large housing agency)

It was also expressly claimed by one respondent that the ‘prime’ in the chain – a private company - was demanding detailed process information about contacts with service users primarily in order to monitor and ‘micro-manage’ the work patterns of the VSO workers, with the ultimate aim of getting them to work in a less flexible way and to focus more on quantity and less on quality.

Nevertheless, despite pressures to work differently, we found many examples of resistance by VSO staff – in some cases supported by managers - to what were described as attempts to turn them into ‘bureaucrats’ or ‘office workers’, governed by rules about when and with whom they could work in what way. For example, it was frequently emphasised that staff were willing to support clients even if they were not technically included in the contract, or to support them in ways which were outside their formal ‘remit’:

‘At a housing meeting a woman told me that she had a substance misuse problem …. I arranged support for the woman and then told the CRC officer.’

(Front-line, large housing and support agency)

Even so, concerns about contracts and funding streams were often prominent in their thinking, and sometimes restricted what they could do. The same worker also stated:

‘Someone just randomly …rang through … I couldn’t say I’ll make you an appointment... because if he [his probation officer] wasn’t going to say yeah we’ll pay for it, I couldn’t …’

(Front-line worker, medium-sized housing agency)

The very format of reporting and recording systems, particularly those used as part of performance measurement, can also change the nature of meetings with clients. As VSOs adopt more prescriptive tools for records of meetings, such as a spreadsheet which only allows limited types of responses, so they may tailor their work to fit those responses. For example, in one VSO the adoption of a recording system which seemed to weight equally different modes of contact (face-to-face (home), face-to-face (office), phone, e-mail, text, etc.) was said to have influenced workers into using quicker means of contacting clients, even though this was likely to alter the character and impact of the contact. Similarly, listing a limited set of types of support in the spreadsheet led some workers to believe that they should offer only those on the list, and so caused them to narrow the options open to clients. In a nutshell:

‘The systems have made it more difficult to use ingenuity in working … because of the data that's got to be entered.’

(Front-line worker, large resettlement agency)

Such concerns are reminiscent of arguments about the rapid growth of ‘managerialism’ in the newly centralised probation service in the early 2000s, which was said to have resulted in a significant decline in service users’ trust in and engagement with probation officers - who were aptly renamed ‘offender managers’ (Senior et al., 2005; Raynor, 2006).

A final aspect of ‘penal drift’ worthy of mention is a trend towards efforts to ‘professionalise’ VSO staff through education and training in theoretical and practical knowledge about the causes of offending behaviour and theories and techniques of change. One senior manager of a large VSO explained that this had formed an important element of their strategy of moving into what had been for them a new ‘market’ of work, namely services to offenders:

‘We recognised we were moving into a space where people had studied for a number of years, for example, to become a probation officer, so we recognised we needed to skill people. And there are the OASys courses, the offender supervisor foundation courses, etc., that we put people on. But we also developed our own caseworker training package, because we recognised you need the skills behind understanding why we complete an assessment, why we complete a support plan, how it needs to start, how it needs to be reviewed, how to prioritise risk and need … we're currently in the process of looking to get that accredited and roll that out widely, you know, making it available to partners.’

(Manager, national VSO)

Others felt that in dealing with offenders, staff responses should move beyond the traditional emphasis placed by the voluntary sector on developing trusting and supportive relationships with their clients, and develop skills and techniques for challenging criminal attitudes and denial, as well as formulating and implementing coherent plans to help people change. For example, the ‘Business Development Officer’ of a medium-sized charity stated:

‘It's a case of, yeah, it's not enough to be having a chat, is it. It's not enough to be just saying, well, how are things going with you. It is about that putting in place an action plan. And I think a lot of staff resent it because they feel ‘I know what I'm doing’. But it's a difficult skill to have to sort of be in a room with one person, in terms of…so yeah, how do we challenge people or how do we break down those walls of denial.’

(Senior manager, large substance misuse agency)

It should not be concluded from these kinds of remarks that VS staff and volunteers as a whole lack knowledge, skills and training: on the contrary, many are highly qualified. The important point for our purposes here is the specific focus on offending-related knowledge and techniques, which can subtly change the nature of contacts and relationships between staff and service users: once again, arguably a form of ‘penal drift’.

**Discussion and Conclusions**

Owing to its huge diversity, general conclusions about developments in the voluntary sector are notoriously difficult to draw, and those about the nature, extent and significance of ‘penal drift’ are no exception. Nevertheless, on the basis of our large number of interviews with managers and staff, there is little doubt that such a phenomenon exists, and that it has potentially important implications both for individual VSOs and for parts of the sector over the longer term. An increase in the competitive commissioning of criminal justice related services in recent years – boosted by changes in community sentence requirements, the advent of Transforming Rehabilitation, and the creation of Police and Crime Commissioners – has not only opened new opportunities for VSOs to bid for service delivery contracts in this field, but has involved some of them more closely, albeit indirectly, in what can be termed the ‘delivery of punishment’. An obvious element of this is an increase in coerced attendance, with formal requirements on service users to attend appointments, and contractual obligations on VSOs to report non-attendance or non-compliance (which, as they are well aware, may lead to breach proceedings and in some cases imprisonment). However, our interviews suggest that this is only one of a combination of factors which, albeit in many cases gradually and subtly, are leading to changes in organisational culture, values, priorities, language and working practice in at least some of the VSOs which take on contracts from commissioners in the criminal justice sphere.

Among the factors we have identified as directly driving such ‘penal drift’ are the following. Of course, as pointed out in the introduction, practice in VSOs which work with offenders is also affected by macro-level pressures which are driving broader change across the voluntary sector as a whole, but our focus here is mainly on policy-related factors affecting a specific kind of service provision.

* As mentioned above, an increase in coerced attendance and associated obligations to report non-compliance.
* A greater focus on formal risk assessment and increasing use of risk language.
* Effectiveness increasingly judged in terms of criminal justice targets rather than e.g. improvements in well-being or ‘distance travelled’.
* Pressure from commissioners and subcontracting companies/agencies – monitored and increasingly ‘micro managed’ through detailed recording systems – to ‘process’ service users more efficiently, working through regular office appointments and only while they remain under statutory supervision.
* Similar pressures to allocate resources to individuals on the basis of formal assessments (such as OASys scores)xi of risk or ‘criminogenic need’, rather than of clients’ self-defined needs.

Our findings indicate that some VSOs have taken firm steps to resist change in this direction, others have embraced it enthusiastically, but probably the majority have tried to adapt to external pressures without seriously compromising their principles. The general view seemed to be that ‘penal drift’ potentially constituted a long term threat to traditional voluntary sector values and practice, including their particular strengths in engaging clients, but that, at least up to now, most VSOs had managed to balance contractual obligations with value-driven approaches to their work. This provides support for Salamon’s (2013) argument that the voluntary sector is often characterised by high levels of ‘resilience’, including an ability to adapt successfully to change without compromising core principles. Where coerced attendance and the reporting of non-compliance are concerned, many said that their staff’s personal qualities and good communication skills normally prevented this from undermining the quality of relationships with individual service users, and indeed had often persuaded reluctant attenders to genuinely engage. Where they faced pressure to deliver only limited services at set times to large volumes of clients (particularly where the type and levels of attention allocated were determined by assessments of their risk of re-offending), it was common for VSO staff to willingly taken on considerable amounts of extra work not covered by contracts in order to meet individual needs (such as encouraging ‘drop ins’ in addition to set appointments, or continuing to work with clients after their statutory supervision had finished). It was also widely pointed out that this was how workers in voluntary agencies had always approached their job.

However, there were also some serious concerns expressed. One was that a powerful minority of VSOs – particularly some large organisations sometimes described as ‘quasi-businesses’ – were ‘hoovering up’ contracts in the criminal justice field, regardless of what they were required to do, often by cutting corners to undercut other bidders, thereby depriving clients of the services of VSOs which might provide a more personal and caring service. A broader concern was that, while the damaging effects of ‘penal drift’ had so far been staved off quite successfully, this comes at a cost in staff time and energy and will be difficult to sustain in the longer term.

**Notes**

1. Such organisations, which are set up under a variety of governance arrangements, are referred to in the literature by a number of names, including ‘third sector’, ‘not-for-profit’, ‘voluntary and community’ or ‘voluntary, community and social enterprise’ organisations. There is no generally agreed definition, but one of their main defining characteristics is that they do not make profits for shareholders (Salamon, 1992; Alcock, 2010). For convenience and brevity, we use the acronym VSO to cover the full range.
2. The ‘Voluntary Sector Resilience Project’, based in Keele University and funded by the Leverhulme Trust. Details can be found at <https://www.keele.ac.uk/resilienceproject/>
3. In more detail, the interviewees comprised:
   1. 141 senior VS managers, trustees and members of grant-making trusts;
   2. 31 commissioners, politicians, civil servants, executive level staff in Community Rehabilitation Companies, National Probation Service, the judiciary, prison service and Police and Crime Commissioners; and
   3. 33 staff and volunteers working in the direct delivery of services.
4. Clinks is an independent organisation that represents and supports VSOs working in the criminal justice arena in England and Wales. It has recently published the results of its third survey of members on their experiences of Transforming Rehabilitation (https://www.clinks.org/sites/default/files/basic/files-downloads/clinks\_track-tr\_under\_final-web.pdf).
5. There are a few earlier examples of coerced rehabilitative interventions, including powers given to the courts under the Criminal Justice Act 1982 to require attendance at probation day centres to undertake ‘specified activities’, including treatment for drug and alcohol problems, but these were not used on a large scale.
6. Participation in rehabilitative programmes in prison still remains voluntary - though, of course, prisoners with indeterminate sentences have a huge incentive to participate, as it can have a major impact on their chances of parole.
7. As noted earlier, HMIP (2018) identified 90 different VSOs subcontracted to supply rehabilitative services.
8. The Transfer of Undertakings (Protection of Employment) Regulations 1981 preserve employees’ terms and conditions for a defined period when a business is transferred to a new employer.
9. It should however be pointed out that several prisons have recently been instructing staff to avoid using words such as ‘offender’ and ‘cell’ as part of efforts to ‘normalise’ life in custody as much as possible (Mann et al., 2018).
10. For example, the principle played an important part in the design of the NOMS Offender Management Model, which placed offenders into four risk-based ‘tiers’, the higher levels receiving a wider range of interventions (NOMS 2006).
11. OASys is the standard offender assessment tool used by probation services in England and Wales.

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