

The penal voluntary sector in England & Wales: adaptation to unsettlement and austerity

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Introduction

The orthodox picture of relationships between the state and the voluntary (third) sector from the post-war period is generally one of mutual dependence and a balanced ‘partnership’ in which, occasional conflicts notwithstanding, governments generally refrained from arbitrarily restricting civil society actors.ⁱ In practice, the model largely applies to ‘service providing’ charitable and philanthropic agencies which carry out various welfare and public service functions on the state’s behalf. Concurrently, academics, policy commentators and activists have warned of the potential incorporation of charities into a ‘shadow [penal] state’ⁱⁱ to the detriment of the sector’s distinctive, humanitarian, relatively autonomous and publicly legitimate standing.

But whereas this commentary has focused on the potential subornment of the voluntary sector by the *state*, we are witnessing more complex and challenging formations arising from the growing influence of private capital in public services. The field of criminal justice has been no exception to the wave of privatisation and outsourcing in a mixed market where for-profit and voluntary sector providers contract to augment, or replace, state penal and rehabilitative services. Consequently, the voluntary sector is supposedly being pulled further towards market competition, state patronage and induction into the criminal justice apparatus. The state-voluntary sector dyad is rapidly evolving into fluid, tripartite arrangements comprising private capital, statutory bodies and charities. This poses some fundamental questions with respect to the power relations which inhere in these combinations, the further blurring of their functions, and the extent to which private (non-state) agencies ought to be accountable as public entities.

This article draws on some findings from a research project which investigated penal voluntary sector adaptation to the mixed market in criminal justice services.ⁱⁱⁱ The first section will reprise the dominant trends in aligning state relationships with the voluntary sector from the 1980s to the present. The second half of the article will outline some of our main findings about the contemporary adaptive experiences, situations and practices of the voluntary sector in criminal justice resettlement. The evidence shows that the (i) the voluntary sector either outwardly complies with, or in a minority of cases, actively embraces, competitive marketised models; (ii) that the sector increasingly normalises organisational efficiency and greater alignment with bureaucratic practices, and (iii) most VSOs reported conflicts between prioritising long-term financial viability with their founding ‘ethos and values’. We conclude that while many voluntary sector organisations have successfully adjusted to market and bureaucratic norms, aspects of that repositioning have been at a cost

to its traditions of relative autonomy, localism and distinctiveness, to the possible detriment of a vigorous civil society.

State-voluntary sector relationships: incorporation or semi-autonomy?

Despite its indispensable place in social welfare and penal structures, the voluntary (third) sector has intermittently featured as an aspect of academic interest or political relevance.^{iv} For the most part, charities and voluntary organisations have been hiding in plain sight from political (as well as criminological) attention, except during recurrent intervals when the voluntary 'sector' is projected as a singular, institutionalised entity and invested with a policy functionality which renders it into a purposeful vehicle for the policy agendas of the day. Accordingly, the charitable sector in Britain has been thought of by both political Right and Left as having great potential for aligning the civic resources of society with programmes for modernising the criminal justice system or bringing about efficiencies and cost reductions to public services.

Indeed, an 'emphatically British' form of cooperation between state and voluntary agencies has evolved which may be thought of as utilitarian and pragmatic. There are some notable features to this relationship where 'historically, the voluntary sector has had far closer links to the apparatus of the state than is the case for other countries'.^v In the UK, a close interconnection between 'private philanthropic effort and state control' can be traced back at least to the Fabians and Beveridge who designed a role for charitable agencies into the architecture of the burgeoning welfare state. At the peak of the welfare state, the attitude of central government tended, if often by benign default, to accept the distinctive and (semi) autonomous role of the charitable sector. Even during this period, concerns were being raised that the voluntary sector was being incorporated into a shadow penal state wherein crime control agendas migrated beyond state agencies to community level and civic actors.

The debate has been amplified by the inter-penetration of the voluntary sector, the criminal justice system and capital markets, which now resembles a tripartite formation. Accordingly, voluntary organisations are said to be increasingly caught in a triple force field, buffeted by the influence of commerce, state patronage and induction into the criminal justice apparatus. That development goes back to the 1980s in the context of political crisis about crime control, overcrowding in prisons, the restructuring of the welfare state and an intellectual enthusiasm shaped by the New Right for reforming public services. Privatising public services, in particular, linked economic goals for achieving a lean state with responsabilising different branches of government and local authorities to develop responses to crime, crisis in prisons and stubbornly high rates of reoffending. Moreover, these activities ought to create cost-savings ('efficiency') and demonstrate tangible outcomes.

Under the Conservative government, the Home Office published the White Paper, *Punishment, Custody and the Community* (1988), outlining the potential of adopting US-style privatisation for the remand custody and prison systems, alongside the extended utilisation of private and voluntary sectors providers for community-based treatment and resettlement settlement. Three years later, the *Criminal Justice Act* (1991) provided the enabling

legislation for outsourcing the management of prisons to private sector providers as well as stipulating that Probation services contract community-based drug and alcohol support services to the voluntary sector.

The New Labour government (1997-2010) saw the sector through the lens of its Third Way agenda, associating it with a renewed sense of participatory citizenship as well as an agent for steering public services towards competition, choice and performance-based incentives and motivations. Despite some clear continuities with their Tory predecessors in seeking to 'demonopolise' state public services, New Labour regarded the voluntary sector as the missing link in a mixed welfare landscape which, alongside commercial providers, could invigorate contestability in public services. Finally, involving the charitable sector was a politically palatable and attractively modern project, neither statist nor market fundamentalist, which garnered enthusiasm from state reformers and the voluntary sector alike. As Jeremy Kendall commented:

'In the contest over ideas, New Labour could paint the Conservatives as continuing to cleave to a reactionary, 'exhausted' two sector model build around narrow neo-liberal (as opposed to broader, historically evolved British New Liberal) or market fundamentalist tenets with apparently little or space for a third sector'.^{vi}

The nature of governmental-voluntary sector partnership in this era is best illustrated by the *Compact on relations between Government and the Voluntary and Community Sector* (1998), which endorsed a series of undertakings by government departments to have regard for the independence of the sector and to consult early on policies affecting the sector. In return, the voluntary sector agreed to greater transparency, to consult and include 'stakeholders' (policy makers, funders and service users) and to support governmental initiatives to extend to disenfranchised social groups. In criminal justice, Lord Carter's Report (2003) *Managing Offenders - Reducing Crime* proposed that supply chains involving third-, private- and public-sector providers, which were to be coordinated along managerialist lines of 'offender management', were the best way to reduce reoffending. Concurrently, work was underway by the Cabinet Office and Treasury to professionalise voluntary sector organisations by building their capacity to undertake public service contracts. 'Capacity building' was aimed at developing those traits which the voluntary sector was thought to lack and which must be adopted from the private and public sector - managerial and executive skills, business promotion and practices, marketing, IT and data-gathering skills, report and evaluation capacity, human resources management, meeting 'skills deficits', and leadership.

On the regulatory front, the *Charity Act* (2006) extended tax exemptions and charitable status to a variety of new for-profit/charitable hybrids such as social enterprises or community interest companies. In criminal justice, the *Offender Management Act* (2007) was arguably the keystone legislation for advancing a mixed market in criminal justice by making space for voluntary sector organisations to enter as potential bidders alongside statutory and private competitors. Ministers of Justice were also empowered to direct the privatisation of 'failing' probation trusts, as well as to specify the proportion of the statutory services' budgets that

were to be spent on outsourcing. The Act continued the process of transforming probation trusts and prisons from direct providers to contractors of services. In 2009, the *National Offender Management Service's* strategic management plan (2009-2011) structured around prison expansionism, greater competition and increased 'efficiency', offered promising potential to new providers.

Under New Labour, the voluntary sector was held close by government as a 'partner' and source of expertise and 'voice', as well as a representing a potential pool of competitors in mixed-sector quasi-markets in public services. Sections of the voluntary sector enthusiastically reframed the sector's *raison d'être* in terms of its 'fit' with Labour's modernisation agenda. This was reinforced by the self-characterisation of voluntary sector organisations as exemplary market players - 'flexible', 'efficient', competitive, and centred on user choice. A notable example of such lobbying was that undertaken by the Association of Chief Executives of Voluntary Organisations (ACEVO) which promoted the outsourcing of public services (although criminal justice functions were not specifically or separately discussed), and produced a manifesto for 'replacing the state' (2003) with commercial/charitable consortia. Such enthusiasm for the 'level playing fields' of the competitive market appears somewhat hubristic in the light of subsequent and highly disadvantageous outcomes for the voluntary sector in criminal justice.

In hindsight, the first decade of the century probably represented a high point for governmental-voluntary sector interaction. Despite the transient glow of David Cameron's *Big Society* project, the relationship has conspicuously hardened both in direction and tone. In terms of direction, the Coalition government (2010-15) utilised fiscal reduction and the broader 'austerity agenda' as an adventitious opportunity for further outsourcing custody and resettlement services.^{vii} Since then, the clear message from government is that voluntary sector participation in the services market is conditional on their playing by the now predominant market rules. The goals have shifted from 'welfare pluralism' to 'mixed markets', in the process placing greater stress on the voluntary sector to be more commercially oriented and less reliant on public funding.

In terms of tone, the tenor of exchanges between government and charities has become frostier. It was widely noted by the sector leaders, heads of Trusts and Foundations, and some politicians who participated in our study, that there was no major speech or initiative involving the voluntary sector after the departure of Michael Gove as Minister of Justice in 2016. Equally, several of our interviewees cited examples where senior NOMS personnel undermined or actively discouraged critical commentary from reaching Ministers. The deteriorating relationships between the voluntary sector and government also reflects a traditionalist conservative view of the 'private' nature of philanthropy, allied with a greater intolerance towards public advocacy, or what government regards as illegitimate criticism or lobbying by the charitable sector.

Adaptation in a time of turbulence

The following discussion reprises some of the findings of a major research project on voluntary sector adaptation and resilience in a mixed penal services market from 2015-17, a highly disruptive and unsettled period for the wider social economy.^{viii} The origins of the project are initially to be found in the bigger story of the evolution of the voluntary sector in the face of systemic changes which have been widely observed in many countries as well as in England & Wales. Writing originally in 2004 and later in 2015, Lester Salamon, an authority on the international voluntary sector, wrote that ‘nonprofit America’ had undergone a quiet revolution in the previous four decades which had led to ‘a massive process of reinvention and re-engineering which was still ongoing’.^{ix} The ‘non-profit’ sector, he argued, was reshaped by significant external changes most particularly associated with shifts from a social democratic to neoliberal political climate. These ‘field altering influences’ included the rise of the ‘post-industrial’ economy, new demographic trends in the volunteer and staff base, the transformative capacity of technology, and the growing influence of private wealth and competitive markets. In apparent contradiction, Salamon concluded that while the sector had responded ‘brilliantly and resiliently’ to several dominant pressures, significant components of the sector had ‘moved far from the sweet spot that has historically earned the sector public trust’.

This project set out to empirically test these propositions against evidence that was systematically gathered from the field, that is, by researching how actors in the voluntary sector, criminal justice, policy and finance domains, for example, were shaping as well as being influenced by events. We focused on the specific, specialist field of criminal justice, which, in addition to experiencing the structural changes identified by Salamon, was also affected by stubborn problems such as a rising prison population, high levels of reoffending, sentence inflation, and the apparent ineffectiveness of soaring expenditure in tackling crime. As the research sought to gauge possible degrees and forms of ‘subornment’ by more powerful political or economic interests, it was important to pay close attention to the tensions between theories of incorporation and potentially more nuanced, complex realities on the ground.

Methodology

The research took place in England and Wales between April 2015 to March 2017. Data were gathered to allow systematic analysis of the conditions under which ‘elite’ individuals in the voluntary sector and related fields (policy, contracting and commissioning, criminal justice administration) interpreted their environment, planned for exigencies and shaped their organisations’ responses to changing conditions.

A mixed method approach was utilised as the most appropriate methodological approach for capturing complex, responsive social and organisational movements.

Academic, policy and evaluative research relevant to the voluntary sector in criminal justice resettlement was systematically reviewed. Statistical data were gathered from surveys of CEOs or managers, (57 responses), and to volunteers and staff in our case study organisations (24 responses). The surveys were administered electronically. A subset of questions salient

to this project was also included in Clinks' *State of the Sector* surveys covering the years 2015 and 2016, to broaden our sweep and to track significant movements over the research period.^x

Substantial data were collected from a series of individual and group interviews. Respondents came from one of three groups: (1) 141 senior voluntary sector managers, directors and trustees; heads of grant-making trusts; (2) 31 service commissioners, politicians, civil servants, executive level staff in Community Rehabilitation Companies, the National Probation Service, the judiciary, prison service and Police and Crime Commissioners, and; (3) 33 staff working in direct delivery of services and some volunteers. Altogether we spoke to 205 individuals from 110 organisations.

Additionally, 10 organisations participated in an in-depth study, allowing us access to their documentation, to attend and observe boards, training programmes, service user forums and operations. Interviews were conducted with trustees, board members, senior managers, staff and volunteers. The identities of participants and organisations are anonymised.

Findings

For the purposes of analytical clarity we identified a number of drivers influencing organisational responses, analogous to 'force fields' or field-altering influences that proved to be unusually disruptive to the voluntary sector and resettlement fields. These drivers are: marketisation, professionalisation, penal drift and (dis)embeddedness. They are not meant to be exclusive or exhaustive categories which capture every aspect of the forces shaping the voluntary sector. Rather, they encapsulate highly fluid and rapidly-changing conditions which are shaping the opportunities, constraints and available options in the criminal justice field.

- **Marketisation**

Marketisation refers to the set of principles, rules procedures and technologies (such as the law and contracts) that are informed by a political project, neoliberalism. That project seeks to radically reduce state ownership and control over public services by reconstructing the social economy on the basis of localised responsibility, citizen consumer-choice, deregulation, de-unionisation, and competitive selection by outsourcing or privatisation. Several Coalition, and later, Conservative policies specifically impacted on the voluntary sector. The *Transforming Rehabilitation* [TR] programme, which split the probation service in England and Wales and contracted out most of their assets and personnel to 21 Community Rehabilitation Companies, had a largely disruptive impact on local service networks, but initial interest from the voluntary sector fell away as the much-vaunted subcontracting model failed to materialise. A second factor entailed the 'downwards shift' in governance onto meso-level authorities such as elected Police and Crime Commissioners or 'autonomous' prison governors with responsibility (and much reduced budgets). A third factor was shift from grant funding to competitive contracting. Although central governmental contract spending rose, contracts were for fewer, higher value, single area tenders which benefitted large charitable providers. It transpired from our findings that austerity was by far the most

disruptive factor to funding. Contracting out to the voluntary sector fell from an overall peak of 12.1 billion GBP in 2009-10 (under the last New Labour government) to 1.1 billion GBP in 2011, and continued to fall under the Coalition government. This confirmed ‘a turning of the tide [which] relegated the third sector to a second-tier partner’.^{xi} Smaller and medium-sized charities were doubly jeopardised both by the decline in grant spending and swingeing cuts to local government spending, which is their principal source of funding. In the light of such uncertainty in the funding climate, our participating organisations adopted the following strategies to maintain funding levels:

- **Market scoping and competitive entrepreneurialism**

The majority of senior managers reported that a more explicitly commercialised and competitive environment prompted them to become more ‘market savvy’ and entrepreneurial. This manifested in strategies for diversifying their core services into specialisms offered by ‘growth’ areas of funding such as young offenders, offenders with mental ill-health or addictions, and military veterans. Others expanded into new ‘markets’ and ‘territories, which both took them out of their original area as they geographically expanded into adjoining regions. Whereas, this entrepreneurialism supported ‘scaling up’ for smaller and medium-sized charities, it also displaced other charities from their original locales and beneficiary group. Indeed, charities were both vulnerable to displacement by ‘outsiders’, as well as migrating into others’ ‘territories’ in pursuit of contracts:

The work is getting larger scale and more regional, so that the local networks are getting left out, and that’s a pity (CEO, Victims’ Services).

We’ve had experience of losing contracts to people who have come in with no knowledge of the area – both of the geographic area and the actual service you’re working - and they have messed it up. This has happened even with things we have developed (CEO, Offender Support).

- **Mergers and acquisitions as a growth strategy**

Although the ‘supercharity’ phenomenon is not as evident in criminal justice as in the generic voluntary sector, some were able to grow rapidly and expand to a national scale. The main trends were mergers between medium-sized entities or absorption with larger ones, and secondly, VSOs entering commercial partnerships with the private sector. Expansion was largely driven by the pursuit of economies of scale and commissioners’ preferences for large-scale, single area contracts. Some ‘mergers’ more closely resembled ‘takeovers’ allowing the bigger party to acquire capabilities, assets, specialist expertise and competitive advantage in new territories.

‘We did three mergers in a year. We actively sought out mergers to move us into new geography and new markets ...And they took us into the southern market ..because unless you’re in London, you can’t break into the London market’ (CEO, Large charity).

The quote above is taken from an organisation that had rapidly expanded from a base in one region and in core housing support to becoming a major social enterprise with national reach. On the other side of the equation, this VSO sought out a merger because its survival had become parlous as a consequence of taking on contract commitment which had led to significant losses: *'It was very, very clear that we were not going to be able to withstand that loss. So, the board started looking for merger partners and openly going out to do that'* (Director, Employment charity).

A combination of shrinking funding sources and contract competition created incentives to emulate growth strategies from the business sector in order to maintain a competitive edge. One charitable director explained that their joint contract with a large private sector corporation enabled them to compete with *'... the big boys, if you like, you know, we're bidding against giants you might say, that is always a risk. And in some ways, it can monopolise the market that you see the usual suspects at the table all the time'* (Director, Community Rehabilitation Company partner)

However, mergers and acquisitions provoked concerns that 'predatory' and 'corporatist' behaviour was driving cultural change in the sector. Whilst some organisations were criticised for mercenary and opportunistic behaviour, those expanding or taking over organisations defended the strategy on the grounds that growth was not only necessary for reaching greater levels of need, but brought investment for innovation, helped struggling services survive, and injected necessary business realism into the sector. These claims sounded hollow in other quarters. On closer examination, however, we found that most charity managers believed that altruistic and business oriented approaches could work in tandem, rather than aligning neatly into moral or ideological opposites.

- **Professionalisation**

'Professionalisation' has accelerated in a climate in which commercial ability and technocratic performance are paramount. Professional capacity and skills have existed in the voluntary sector for decades if one references the specialist knowledge and 'case work' and social work approaches that have long featured in voluntary services. However, working more closely alongside statutory and commercial agencies has stimulated a demand for the qualities that enable charities to operate in competitive and bureaucratically demanding criminal justice services. For analytical clarity, the different components of professionalisation were investigated separately, albeit slightly artificially, at the level of *organisational efficiency*, and secondly, at the level of *practice and service* delivery.

Most of the directors and senior managers of voluntary sector organisations had significantly invested in areas such as business systems, financial management, data gathering and informational technology. They generally concurred with rationales that linked 'efficiency' with the effective use of public funds. Nevertheless, 'delivering to contract' in supply partnerships encouraged frequent and disruptive demands for voluminous data which were related to contract performance and audit purposes which bore little relationship to the reality of their work and its potential impact:

'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, Housing Support).

Expert professionalism materialised in changes to practice and service delivery as staff were nudged towards 'objective' and 'distanced' dispositions towards 'clients', 'customers' or 'service users'. This shift was attributed to the adoption of more 'criminogenic' interventions such as treatment, diagnostic and risk-based models which obtain Ministry of Justice accreditation (and hence are more attractive on the contract market). Staff were encouraged to adhere to formal rules, regulations and procedures more explicitly. Many viewed these as deskilling trends which dispensed with their experience and judgement in favour of depersonalised case-processing. Deskilling tended to be more pronounced where the terms of contract obliged organisations to deliver truncated and simplified versions of their full, original programmes for cost efficiency purposes. In the view of a senior manager in a charitable arm of a Community Rehabilitation Company: *'A lot of our staff who have been involved in the previous models have said that it feels like a watered-down version ... This passionate staff group that we've developed and trained, all of a sudden, they're faced with a model that doesn't quite go as far as it used to'*.

- **Penal drift**

The general phenomenon of 'mission drift', whereby VSOs are pulled into the orbit of the priorities, values, reference groups or approaches of more powerful state or commercial funders, is widely understood. We reformulated this concept into 'penal drift' to adapt it to the peculiar imperatives of the criminal justice field, which differs from most other public service fields in that it carries responsibilities for discharging sanctions passed by the courts. This obligation was legislatively underlined in the Crime and Courts Act 2013 (sch. 16, part 1), which directs that 'all community sentences must have a punitive element'. For VSOs, this creates legal and ethical quandaries as it introduces coercive elements into their methods and relationships with clients. Penal drift encapsulates intersecting governing imperatives. The first is that VSOs themselves *become subjects* of audit regimes. Secondly, and as a consequence, they must adopt monitoring regimes and practices as statutory duties. Thirdly, in practice, attitudes, language and approaches to clients are reformulated in more 'criminogenic' terms. Fourthly, that practices, methods, information sharing and other practices increasingly reflect criminal justice priorities and values.

These were matters on which interviewees were divided along the lines of responsibility, especially between frontline workers and management. Workers in the sector are used to working with service users on an entirely consensual basis, and some felt that that imposing compulsory attendance under the threat of 'breaching' a client was detrimental to the trust relations with service users.

'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' (Service Manager, Justice Services Org).

By contrast, senior managers tended to take the view that in taking on contracts to deliver aspects of court sentences they had a duty to act, albeit indirectly, as an agent of the criminal justice system. Some of these rationales might be regarded as 'techniques of neutralisation' by which individuals (or organisations) direct responsibility for ambivalent or contentious problems to external forces or causes. Many pointed to the plethora of safeguarding procedures and risk-assessment strategies passed down from statutory authorities or funders which putatively protected clients' interests. Others emphasised that they had voluntarily obtained written consent from service users which gave permission to report breach of their terms of supervision to the authorities. A minority of organisations chose not to accept 'responsible agency' status. For example, one CEO who had doubts about this aspect of the work had sought clarification from a CRC as what the obligations of a 'responsible agent' were. She had been told that there was no issue of conflict here as being returned to custody was ultimately the offenders' personal responsibility: '[I was told that] *the Prime doesn't breach an individual: she breaches herself*' (CEO, women's service). This organisation withdrew from negotiations.

- **Dislocation and the muting of voice**

Our findings point to the waning sense of an assured identity and standing as a respected entity in civil society, which is believed to be under attack or weakened as a relatively autonomous sphere by political and market interests. In practice, there have always been conflicts in reconciling mutually conflicting affinities as voluntary bodies align with their diverse constituencies with their differing demands, such as the state, other sectors, the public, and policy-makers. In the past, the voluntary sector has legitimately, and adroitly, adopted a 'Janus-faced' strategy in order to operate on many fronts. Nevertheless, it may be argued that a cluster of recent developments is placing greater strains on these certitudes. This process has been likened to a 'great unsettling' for the voluntary sector where 'resources, relationships, approaches and understandings' that existed previously are increasingly 'called into question'.^{xiii} To this insight we add an 'unsettling', or splitting, of the state-voluntary sector consensus as the social democratic model of public welfare makes a transition towards a marketised model.

As previously illustrated, the 'force fields' to which voluntary organisations are exposed are taking many in sometimes irreconcilable directions. This is reflected in the predominantly functionalist characterisation of the charitable/voluntary sector in policy discourse as synonymous with 'service providers' willing to undertake contracted work for the state. The rest of the sector – advocates, legal reformers, critics of government policy, those promoting alternative approaches to punishment or imprisonment – have not only been placed on the periphery of this relationship, but advocacy itself has become a source of conflict and contention. That was exemplified by the *Transparency of Lobbying, Non-party Campaigning*

and Trade Union Administration Act (2014). Enacted to tackle corruption, the Act draws charitable campaigning into its orbit on the same basis as corporate lobbying. Equally, measures such as the ‘anti-lobbying clause’, which prohibited VSOs from using ‘taxpayer funds’ to engage in public advocacy or advertising, seemed to be aimed at disciplining the sector as much as protecting the use of public funds. This was later ‘paused’. Recent, highly-publicised closures generated a sense of diminished confidence in the sector about speaking out, prompting many individual VSOs to focus on reputational safeguarding.

I think also what happened, unfortunately, with Kids Company and Age Concern very recently, even on the grant side, there’s probably going to be change (CEO, Justice Services).

The practice of inserting confidentiality- or non-disclosure conditions into service contracts is now more common in criminal justice service commissioning. One CEO reflected on his response when offered a contract with stipulations against ‘damaging the reputation of the [CRC] prime’:

I guess on one level, the fact that we’re in contract negotiations, the whole process has to be wrapped up in a lot of confidentiality, it means that we’re not free to speak out in a more campaigning way (CEO, Addiction services).

These misgivings were not entirely shared, however. Other CEOs opined that the perception of risk posed by some of these clauses was greater than the reality:

There’s absolute power in the third sector, but the third sector’s not brave enough to exercise it. And that’s a disappointment to me’ (CEO, large charity).

Conclusion

The article has presented findings from the first phase of the research relating to the necessary adaptive repositioning that has taken place within individual VSOs in criminal justice, which in turn reflects broader sector-wide adjustments to a period of exceptional and unusual turbulence. We found environmental and ‘field-shaping’ changes deriving from the rising role of markets both as cultural and economic forces in society at large under late capitalism. Far from liberating providers from red-tape, marketisation generates new forms of scrutiny as the state demands public accountability for taxpayer’s money, while investors require detailed micro-data on the performance of their investments. Hence, the explosion of bureaucratic, managerialist effort in criminal justice ‘delivery’, following that in health, education, and social care, for example, seems to be aimed at fulfilling the economists’ rule that ‘perfect markets require perfect information’. Well-intentioned policies for bringing the voluntary sector into the ‘mainstream’ have revealed a tendency towards instrumentalism, of both state-building or market-building kinds. Successive governments have been unable to get to grip with the complexity of relationships between the voluntary sector, business, and government and, therefore, revert to bureaucratic and regulatory default positions. More disturbing are the signs that political parties, once in government, reveal an authoritarian

impulse to curb or discipline civil society actors through manipulation of the purse strings, legislation, marginalising dissent or equating malpractices in some areas with those of the entire sector. More positively, despite meeting unprecedented changes, the data also show that many in the sector act according to principles, approaches and philosophies that they deem to be indispensable to the notion of doing good the voluntary sector way. Our next step will be to identify, analyse and explain resilience and pushback from the sector, despite its weakened status in many respects. That research is aimed at identifying the ‘core conditions’ relating to the voluntary sector contribution to social justice where it impinges on criminal justice, and where its boundaries ought consensually to be drawn. Until these issues are explicitly addressed, the prospect of plural and diverse public services which are the common responsibility of all interests in society remain distant.

ⁱ We refer to ‘the state’ when referring to points where voluntary sector organisations engage with state apparatus e.g. government departments, statutory bodies or local authorities. ‘Government’ is used to mean relationships between the voluntary sector and the governing part(ies) of the day.

ⁱⁱ See for example, Wolch, J. (1990) *Government and voluntary sector in transition*. New York: The Foundation Center. Seddon, N. (2007) *Who cares? How government funding and political activism change charity*. Civitas: London. Civil Exchange (2014) *Making Good: The future of the voluntary sector*. London: Civil Exchange.

ⁱⁱⁱ Kindly funded by the Leverhulme Trust (Grant reference RPG-2014-149).

^{iv} This category of agencies has gone under several names such as the voluntary sector, third sector, the charitable sector, not for profit, or community and voluntary sector. The Charities Act (2006) permits profit-making /charitable hybrids such as mutuals, social enterprises and Community Interest Companies to obtain charitable status. Furthermore, many charities run separate profit-making arms. The term ‘voluntary sector’ is used here as the most commonly understood reference to the sector as a whole.

^v Dacombe, R. & R. Morrow (2016) ‘The voluntary sector and public services: context, continuity and change’ in Hucklesby, A. & M. Corcoran (eds.) *The Voluntary Sector and Criminal Justice*. Basingstoke: Palgrave Macmillan, p73. See also: Deakin, N. & J. Kershaw (1996) *Meeting the Challenge of Change: Voluntary Action into the 21st century: Report of the Commission on the Future of the Voluntary Sector* NCVO: London, pp 3, 45.

^{vi} Kendall, J. (2009) *Losing political innocence? Finding a place for ideology in understanding the development of recent English third sector policy*. Third Sector Research Centre working paper 13: Birmingham: University of Birmingham, p7.

^{vii} Corcoran, M.S. (2014) ‘The trajectory of penal markets in an age of austerity: The case of England and Wales’, *Sociology of Crime, Law and Deviance*, special edition on ‘Punishment and Incarceration: A Global Perspective’, Deflem, M. (ed) 19, 53-74.

^{viii} Corcoran, M., Williams, K. Maguire, M. and Prince, K. (2017) *The voluntary sector in criminal justice: a study of adaptation and resilience. Summary of early findings*. Staffordshire: Keele University, pp1-32.

^{ix} Salamon, L. (2015) *The Resilient Sector Revisited: The new challenge to Non-profit America*, Washington: Brookings Institute pp19, 3-44.

^x Clinks (2017) *The State of the Sector*. London: Clinks & NCVO.

^{xi} Association of Chief Executives of Voluntary Organisations (2014) *Remaking the State*, London, ACEVO. See also ACEVO (2003) *Replacing the state: the case for third sector public service delivery*. London: ACEVO.

^{xii} MacMillan, R. & Taylor, R. (2013) ‘Change on the ground’ SRA/TSRC seminar series ‘The Third Sector in transition’ London, 9th May, 2013.